**GARY M. BERNE**, OSB No. 774077
Email: gberne@stollberne.com
**STEVE D. LARSON**, OSB No. 863540
Email: slarson@stollberne.com
**MARK A. FRIEL**, OSB No. 002592
Email: mfriel@stollberne.com
STOLL STOLL BERNE LOKTING
& SHLACHTER P.C.
209 S.W. Oak Street, 5th Floor
Portland, OR 97204
Telephone: 503/227-1600
503/227-6840 (fax)

Liaison Counsel

[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

| | |
|---|---|
| In re VESTAS WIND SYSTEMS A/S SECURITIES LITIGATION | Case No. 3:11-cv-00585-AC |
| | CLASS ACTION |
| This Document Relates To: | SECOND AMENDED COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS |
| ALL ACTIONS. | DEMAND FOR JURY TRIAL |

## SUMMARY OF THE ACTION

1. Lead plaintiff, Plumbers and Pipefitters Local Union No. 630 Pension-Annuity Trust Fund (the "Pension-Annuity Trust Fund" or "plaintiff"), brings this action on its own behalf and on behalf of all persons who purchased or otherwise acquired the ADRs and common stock of Vestas Wind Systems A/S ("Vestas" or the "Company") in U.S. domestic transactions between February 11, 2009 and February 9, 2012, inclusive (the "Class Period"). The action is brought against defendant Vestas for violations of §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"). Defendant's false and misleading statements about Vestas' financial performance and outlook caused Vestas securities to trade at artificially inflated prices throughout the Class Period. The prices of the Company's securities dropped when Vestas disclosed the reasonable foreseeable consequences of its Class Period fraud – *i.e.*, that the Company was not in compliance with International Accounting Standards, had improperly booked billions in Euros of revenue, and could not hit revenue and earnings due to IFRIC 15 revenue recognition, cost overruns and product quality problems.

## INTRODUCTION

2. Plaintiff has alleged the following based upon the investigation of its counsel, which included a review of U.S. Securities and Exchange Commission ("SEC") filings by Vestas, as well as Danish regulatory filings and the Company's competitors' regulatory filings. Plaintiff's counsel's investigation included review of the Company's publicly available financial statements, securities analysts' reports and advisories about Vestas, press releases and other public statements made by the Company and its directors and officers, and information known by and events witnessed by Vestas employees. Plaintiff believes that substantial additional evidentiary support will exist for its allegations after a reasonable opportunity to conduct discovery.

3. Vestas has recently regained its claim as being the world's largest manufacturer and seller of alternative energy wind turbines and wind power systems. The Company was founded in 1898 and in 1987 began focusing on the production of wind turbines. Vestas is headquartered in Aarhus, Denmark and its securities began trading publicly in 1998. One of the Company's wholly owned subsidiaries, Vestas Americas, is headquartered in Portland, Oregon.

4. Throughout the Class Period, Vestas gave investors the misleading impression that the Company reported its financial results in as clean a manner as it promoted its purportedly "green" energy products. Indeed, Vestas made the following solemn pledge to all stakeholders, including the Company's current and prospective investors:

> Trustworthiness and thoughtfulness are the foundation for Vestas' growth. The aim of Vestas' communication strategy is to support our trustworthiness in all respects and thereby to create value to our customers, shareholders, employees and other stakeholders.
>
> In order to ensure treatment of all stakeholders, we do not differentiate between internal and external communication. All communications from Vestas must strengthen the company's overall image, its goals and its culture. All communications must serve Vestas' best interest.
>
> Vestas' communication strategy must ensure that information about and from Vestas is:
>
> - timely (relevant in terms of time)
> - adequate (correct, relevant, clear and not misleading)
> - simultaneously disseminated (equal treatment of all stakeholders)
> - open
> - easily accessible.

Defendant Vestas also assured the investing public that "[t]he only thing that matter[s] to us [is] compliance with applicable accounting standards."

5. Unfortunately for unwitting investors around the globe, Vestas failed to conduct itself in a trustworthy, correct, clear and not misleading manner. In fact, during the Class Period, defendant improperly booked billions of Euros in revenue and hundreds of millions of Euros in earnings in violation of International Accounting Standards and European Union ("EU") law. During the Class Period, moreover, Vestas provided revenue and earnings guidance that lacked a reasonable basis because it did not account for critical changes in revenue recognition standards imposed by the International Accounting Standards Board ("IASB") and the European Commission. Defendant also failed to disclose that it was sitting on over €1.0 billion in scrap wind-turbine inventory that would hamper timely delivery of product to customers.

6. When Vestas disclosed its wrongful conduct to the market, the value of the Company's stock suffered devastating drops on August 18, 2010, October 26, 2010, November 22, 2010, January 4, 2012 and February 8, 2012.

## DEFENDANT'S UNLAWFUL SCHEME

7. Between 2005 and 2009, as prices for fossil fuels and demand for viable alternative energy solutions increased dramatically, Vestas' revenues nearly doubled from €3.6 billion to €6.6 billion. At the same time, Vestas went from generating a €116 million operating loss to reporting a €1.0 billion operating profit. Leading up to 2009, however, the wind-energy industry was becoming fiercely competitive, with conglomerates such as General Electric, Siemens AG and the Spanish wind turbine manufacturer Gamesa SA vying for the top spot in the alternative energy market dominated by Vestas. In fact, by 2010, Siemens AG had surpassed Vestas in annual global wind-turbine revenue.

8. To mollify investor concerns that increased competition would stunt the Company's rapid revenue and earnings growth, in 2009 the Company publicly unveiled its new long-term

financial goals referred to as the "Triple 15." Triple 15 promised investors Company earnings of "15%" and "€15.0 billion" in revenue by "2015" and was repeatedly touted by Vestas and its officers and directors to assure current and prospective investors that the Company would maintain its dominant position in the wind-turbine industry. In order to meet this aggressive goal, however, Vestas would have to sustain an upward trend in growth of double-digit earnings. Should the Company miss the earnings trajectory it had been promising the market, the consequences for shareholders would be devastating. Indeed, as Vestas noted in its 2009 Annual Report: "In the years ahead, large, experienced and financially strong companies will join the [wind power] race, having realized that Vestas' vision, Wind, Oil and Gas is about to become a reality. . . . [It] is paramount for us [therefore] to accomplish Triple 15." In addition, consistently delivering double-digit earnings and making the Triple 15 a reality was critical to ensure that Vestas and its customers could obtain project financing for the sales of the Company's wind turbines.

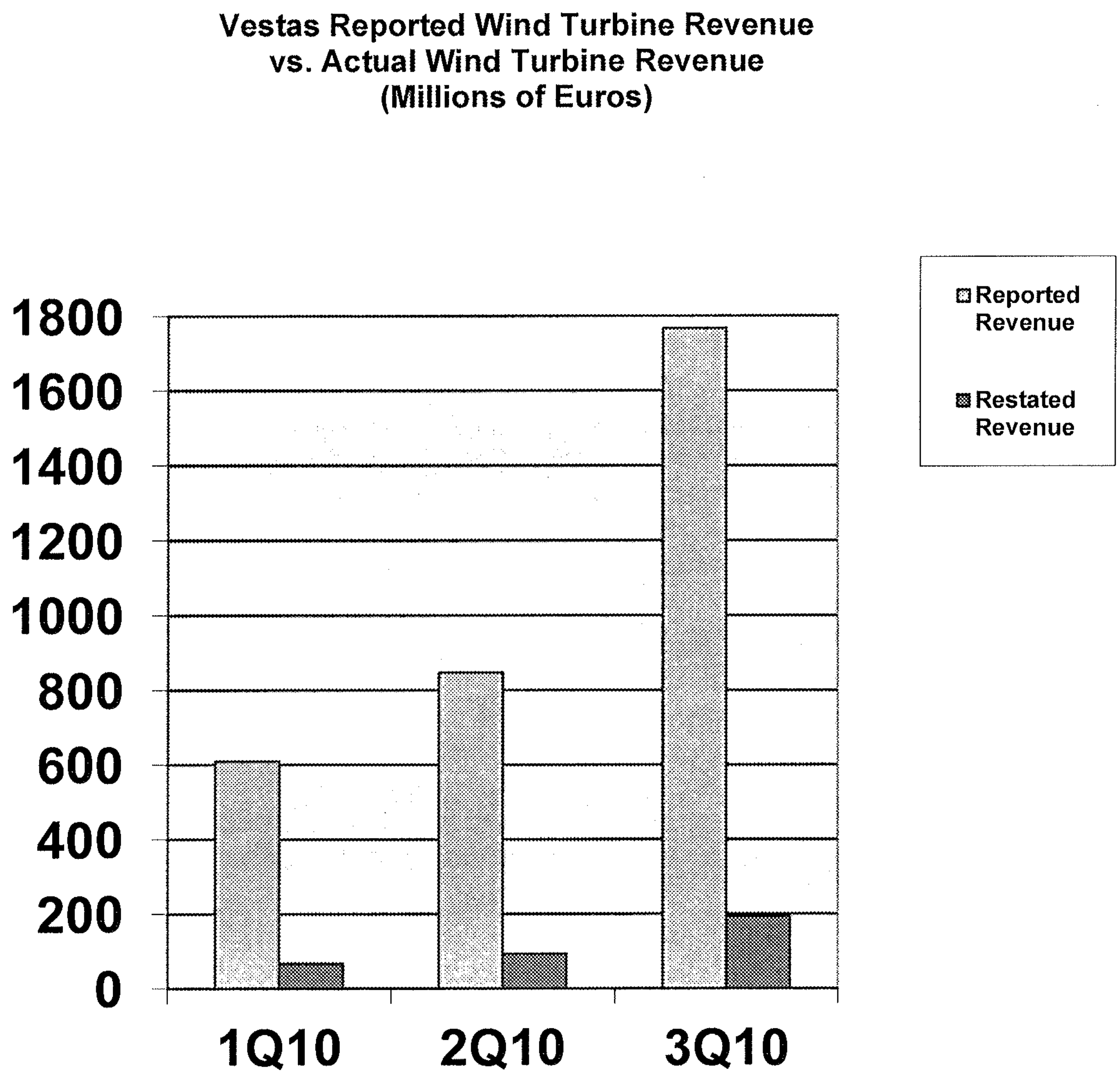
9. While Vestas repeatedly assured investors that its meteoric revenue and earnings growth would continue in 2010 and beyond, the Company was fully aware that the IASB had issued new revenue recognition guidance – *i.e.*, International Financial Reporting Committee's Interpretation 15, *Agreements for the Construction of Real Estate* ("IFRIC 15") – which would have a dramatic impact on how the Company reported the quality of its revenue and earnings. Further, Vestas provided aggressive revenue and guidance throughout the Class Period, all the while knowing it had not appropriately addressed and implemented the new accounting principle. Specifically, IFRIC 15 held that revenue and earnings from Vestas' "supply-and-installation" contracts, which accounted for well over 50% of the Company's total revenues throughout the Class Period, could only be recognized when the project was complete. The Company, however, continued to recognize

revenue during the Class Period for supply-and-installation transactions that were neither complete nor fully delivered to customers, despite the revenue of recognition prerequisites of IFRIC 15.

10. In July 2007, the International Financial Reporting Interpretations Committee first released a draft of IFRIC 15. The new interpretation was controversial and widely seen as reflecting a dramatic shift in the rules governing the way publicly traded entities could recognize revenue for a broad range of sales, including for complex machinery such as wind turbines. In July 2008, after prolonged deliberations and receipt of over 50 comment letters from various constituents regarding this sweeping revenue recognition reform, including from Vestas' auditors, the International Financial Reporting Interpretations Committee issued the final version of IFRIC 15. In February 2009, therefore, Vestas informed investors that it had assessed IFRIC 15 and assured the market that the Company's accounting practices were then in compliance with the new principle. Because the Company's supply-and-installation contracts allowed customers to specify only minor variations in the design of Vestas' standard wind turbine products, IFRIC 15 indicates that Vestas' use of "percentage-of-completion" revenue recognition is improper. Accordingly, in order to maintain the illusion that Vestas was steadily delivering double-digit earnings, the Company misled the market to believe that it was already in compliance with IFRIC 15.

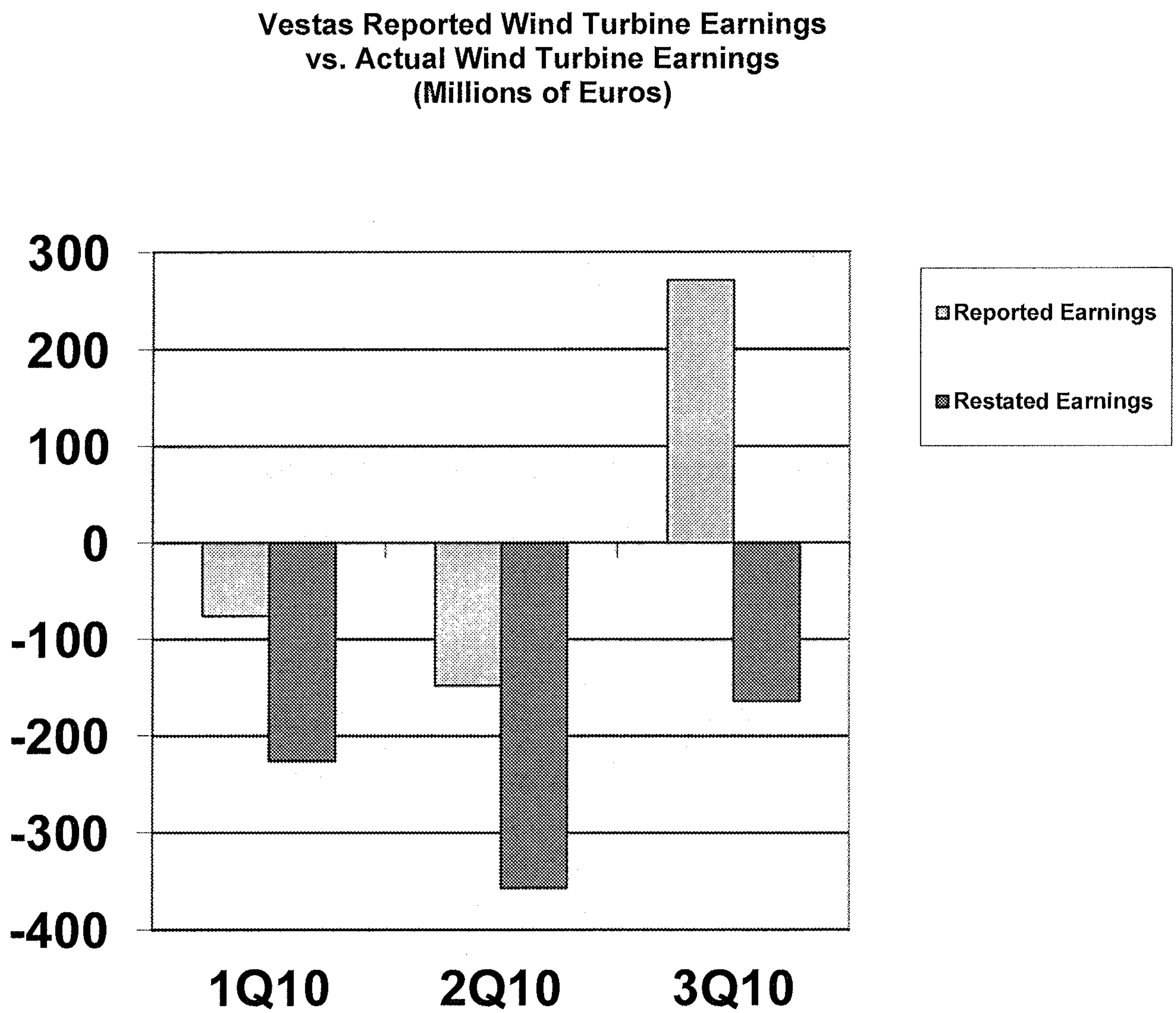
11. Then, in July 2009, the European Commission ordered all publicly traded entities within the EU, including Vestas, to implement IFRIC 15 by no later than January 1, 2010. Rather than comply with the European Commission's order, the Company made a deliberate decision to ignore the law and mislead investors. Specifically, to maintain the façade of sustained growth and operational health, Vestas continued to misrepresent that its accounting policies and 2010 wind-turbine revenues were presented in conformity with IFRIC 15. As ultimately admitted by Vestas and its auditors, however, the Company knew and/or recklessly disregarded that its Class Period

financial statements were not presented in conformity with International Accounting Standards at the time those assurances were made. As a consequence, during the Class Period, the Company improperly inflated its wind-turbine revenues by €2.8 billion, or 89%. The chart below demonstrates the falsity of Vestas' wind-turbine revenue as originally reported during the Class Period:




12. Vestas' failure to implement IFRIC 15 on January 1, 2010, despite the Company's assurances to investors that it already had done so, resulted in the Company materially

misrepresenting its earnings during the Class Period. In fact, Vestas admitted it overstated earnings for the first three quarters of 2010 by €794.0 million as a result of failing to implement IFRIC 15. The chart below demonstrates the falsity of Vestas' earnings as originally reported during the Class Period:




13. Rather than be honest with investors regarding the fact that the Company's revenues and earnings had not been reported in compliance with International Accounting Standards, Vestas repeatedly assured market participants that IFRIC 15 would have no material impact on the Company's operating results, it would meet 2010 revenue and earnings guidance and would deliver

on its "Triple 15" commitments. The Company's false and misleading Class Period statements regarding compliance IFRIC 15 included:

- "Vestas correctly classifies its contracts according to the guidance in [IFRIC 15]";
- "[IFRIC 15] was approved in the third quarter of 2009 after which it was implemented by Vestas. The interpretation is not expected to have a material effect on Vestas' financial reporting";
- "[IFRIC 15] . . . was implemented by Vestas [and] . . . does not have a material effect on Vestas' financial reporting"; and
- "With effect from 1 January, 2010, Vestas implemented . . . IFRIC 15 . . . ."

As alleged herein, the public record establishes that Vestas made many of these false statements after being warned by its auditors that Vestas was not in compliance with IFRIC 15 and while knowing it had been recognizing revenue for wind-turbine contracts in violation of IFRIC 15.

14. Vestas' statements regarding 2010 revenue and earnings guidance are no less egregious in terms of their misleading nature. They include: "In 2010, Vestas expects to achieve an EBIT margin of 10-12 percent and revenue of EUR 7-8bn"; supply-and-installation contracts executed in 2010 were consistent with or "do[] not affect" the Company's previously reported 2010 revenue and earnings guidance; and "to summarize the year 2010 . . . [Vestas will generate] EBIT margin of 10% to 11%." During 2011, moreover, Vestas had projected that the Company would generate €8.0 billion in revenue. The Company's statements concerning 2010 and 2011 guidance were made without a reasonable basis and are actionable for the simple reason that Vestas was fully aware it had not accounted for the fact that IFRIC 15 precluded the Company from recognizing billions of Euros of that projected revenue and because the Company had still not informed investors of the material effect IFRIC 15 would have on future revenue and earnings.

15. Vestas' false and misleading Class Period statements artificially inflated its stock price, allowing the Company to raise €850 million in equity capital, and to privately place €600

million in debt financing, to cover up the Company's declining dominance in the alternative energy industry and conceal the fact that Vestas was only half as profitable as it had previously informed investors. The Company's refusal to comply with legally mandated International Accounting Standards also allowed its senior-most executives to maximize incentive-based compensation and provided the Company's Chief Financial Officer ("CFO") the opportunity to sell virtually all of his personal holdings of Vestas stock before the first partial disclosure of the alleged fraud.

16. Publicly available documents and facts establish that the Company was fully aware that IFRIC 15 would materially impact its reported Class Period financial results. Throughout the Class Period, the Company's Chairman of the Board, Chief Executive Officer ("CEO"), and CFO signed the Company's reported financial results and participated in conference calls with investors and securities analysts, which included discussion and disclosure regarding the contribution of "supply only," "turnkey" and "supply-and-installation" contracts made to the Company's total revenues. For example, prior to the Class Period, the Company reported that approximately 10% of its wind-turbine revenue was generated through "turnkey" projects, while approximately 30% of its wind-turbine revenue was associated with "supply only" projects. Historically, therefore, "supply-and-installation" contracts made up 50% or more of the Company's total wind-turbine revenue. During the first three quarters of 2010, however, supply-and-installation contracts grew explosively to make up over 89% of the Company's total wind-turbine revenue.

17. Publicly available facts establish that Vestas knew or recklessly disregarded that its Class Period statements were false and misleading when made. On February 11, 2009, the Company publicly represented to investors that it had conducted a "preliminary assessment" of the financial implications of IFRIC 15 and assured investors that its existing accounting policies were then in compliance with the accounting principle. By August 2009, and based on a "preliminary

assessment" of IFRIC 15, Vestas assured investors that IFRIC 15 would have no material impact on the Company's financial results. In 2009, however, the Company's auditor, PwC, warned Vestas that it was not in compliance with IFRIC 15 and that it must conform its revenue recognition practices to the new accounting principle. The public record further confirms that PwC again warned Vestas prior to the Company's March 17, 2010 Annual General Meeting that it was not in compliance with IFRIC 15. In late 2009, Executive Management of Vestas – *i.e.*, the CEO and CFO – complained to the Company's sales force during a private meeting that IFRIC 15 would have a material negative effect on the Company's 2010 financial reporting. Publicly, on the other hand, Vestas and senior management painted a completely different picture by informing investors that 2010 would be a banner year and that IFRIC 15 was of no concern.

18. Throughout the Class Period, Vestas' CEO also openly discussed his knowledge of the Company's accounting policies concerning the recognition of revenue of wind-turbine contracts. For example, the CEO remarked:

> [W]hen we are delivering a project to customers, we recognized revenue depending on which type of project it is, meaning that when it's a supply-only project, we deliver the full revenue when the final turbine is delivered to the customers . . . .
>
> For the other two types of projects we are running, both turnkey and supply-and-install, we recognize revenue as we ship and as we complete the project.

19. Publicly available documents and facts confirm that Vestas had intimate knowledge – *i.e.*, "What We See is What you Get" – of the details of all major wind-turbine contracts, including the payment patterns, risks, and earnings impacts associated with "supply-and-installation" contracts. As stated by the Company's CEO during the Class Period:

> What We See is What You Get. . . .
>
> All orders with a value above EUR15 million goes into the Contract Review, and that means we look at all parameters – risk, pricing, milestone payment, etc. And thereby . . . we make sure Vestas has a proper balance between earnings and risk.

* * *

And to our shareholders I would say, we really need to make sure what we see is what you get.

The Company's public documents also reveal that the Contract Review function reported directly to Vestas' CFO throughout the Class Period. The same documents establish that Vestas' CEO personally reviewed all contracts in excess of €15 million as part of the Contract Review process.

20. Publicly available facts and documents establish that the Company was fully aware of the financial ramifications of IFRIC 15 throughout the Class Period. As reported in the Company's annual reports, the Chairman of the Board was ultimately responsible for managing the Company's accounting policies, internal controls, financial reporting, and handling complaints regarding accounting and auditing irregularities. For instance, in February 2009, the Chairman and the Board of Directors performed a "preliminary assessment" of IFRIC 15. In late 2009, and again in connection with the Company's March 2010 Annual General Meeting, Vestas' auditor warned the Company's Board of Directors that Vestas was not in compliance with IFRIC 15. On November 22, 2010, the Company conceded that it had been fully aware of IFRIC 15 during the Class Period and compliance with the accounting provision "could, according to the effective date [sic] already have taken place from 1 January 2010."

21. At the same time PwC was warning defendant that compliance with IFRIC 15 was not optional and that compliance was required by no later than January 1, 2010, KPMG Denmark's engagement as the Company's co-auditor was terminated and the two lead engagement partners for PwC were replaced. As reported by Citigroup Global Markets, the termination of PwC's lead engagement partners occurred prior to the Company's March 17, 2010 Annual General Meeting:

[PwC] believed that accounting interpretation IFRIC 15, which took effect from 1 January 2010, required Vestas to change its revenue accounting policy. Vestas . . . [could not] continue with the existing accounting policy. It . . . [could not] delay the

> change to 2011. PwC advised this during 2010. However, [PwC's new engagement partner] took over . . . at the AGM [on March 17, 2010] so he was not able to provide details of previous discussions. . . . [The new engagement partner] confirmed this accounting change should have applied from 1 January 2010 . . . .
>
> * * *
>
> We note that Vestas decided to re-appoint only PwC as auditors at the AGM in March 2010; previously PwC and KPMG were the joint auditors. In addition, both audit partners from PwC seem to have changed. Messrs. Lars Holtug and Claus Lindholm Jacobsen of PwC signed as auditors reviewing the company's November 2010 announcement of the new policies, previously Messrs. Carsten Gerner and Soren Skov Larsen of PwC signed the 2009 auditors' report.

22. By August 2010, Vestas was eight months late in implementing IFRIC 15. At the same time, Vestas began the prolonged process of disclosing the natural and foreseeable consequences of the alleged fraud. On August 17, 2010, Vestas downwardly revised its 2010 financial outlook, admitting that hundreds-of-millions of Euros of revenue associated with unfinished wind turbine projects could not be recognized until future periods. As a result, the Company immediately lost nearly a quarter of its market capitalization. Specifically, on August 18, 2010, the Company's ADRs dropped $4.08 per share to close at $14.06 per share, representing a decline of 22.5%. The Company's ordinary shares trading in the United States and Denmark dropped $12.30 and 72.50 kroner, respectively, on August 18, 2010, representing one-day declines exceeding 23.1%.

23. Two months later, on October 26, 2010, the Company further stunned investors by announcing that it was considering whether it would even implement IFRIC 15. The market's dismay with this disclosure was logical: Vestas had previously informed investors it was already in compliance with IFRIC 15. In reaction to this news, Vestas' stock price sagged another 10%. Then, on November 22, 2010, the Company disclosed additional new information regarding the alleged accounting fraud by eliminating, *inter alia*, €2.8 billion in revenue and €784 million in earnings for

the first three quarters of 2010. As a result, the Company's stock price continued its downward slide.

24. On October 31, 2011, defendant disclosed that the Company would miss its 2011 revenue and earnings guidance as a result of further difficulties in delivering completed wind turbine projects to customers and Vestas' stock price again collapsed by 24%. As *Agence France Presse* reported on October 31, 2011, "Shares in Danish company Vestas, the world leader in the wind turbine industry, plunged by 20 percent . . . after the company issued a full-year profit warning over delays on several projects." The *Agence France Presse* article went on to state that the Company's downward revision to 2011 revenues – from €7.0 billion to €6.4 billion – were primarily due to "'challenges in relation to installation of turbines during the last months of the year'" and that additional delays may be possible. On the same day, *Dow Jones International News* reported that the Company admitted that it postponed several projects so as "'not to compromise on . . . quality.'"

25. On January 4, 2012, Vestas shocked investors with yet another downward revision in 2011 revenue guidance. *Agence France Presse* reported on January 4, 2012 that Vestas "announced late Tuesday that its sales for 2011 would be around 400 million euros . . . lower than expected a few months ago . . . '[d]ue to delays [of] . . . a number of projects under construction.'" As a result of this disclosure, the Company's stock price dropped by another 17% in heavy trading.

26. On February 7, 2012, after the securities markets in the United States and Europe had closed, Vestas announced that its CFO had resigned following a briefing to the Company's Board of Directors concerning "the conditions which during the last months have led to profit warnings" made to the investing public. As reported by *Reuters* on the evening of February 7, 2012, analysts cheered the resignation, "blaming [the CFO] . . . for dented credibility with investors."

27. On February 8, 2012, Vestas announced that actual revenue and earnings for 2011 were even worse than expected and that the Company's Chairman of the Board had resigned due to shareholder demands "'for renewal in Vestas' board,'" including by a Danish pension fund that held approximately 10% of the Company's outstanding shares. In reaction to the news of the CFO and Chairman's resignations, as well as a third negative announcement concerning the Company's 2011 revenue and earnings, the Company's stock dropped an additional 11%.

**JURISDICTION AND VENUE**

28. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the Exchange Act [15 U.S.C. §§78j(b) and 78t(a)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5].

29. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and §27 of the Exchange Act. Vestas ADRs and ordinary shares were actively traded in U.S. domestic transactions throughout the Class Period. On April 28, 2005, pursuant to Rule 12g3-2, Vestas claimed exemption from the periodic reporting requirements of §12 of the Exchange Act. To maintain its exemption, between April 28, 2005 and April 3, 2007, Vestas filed its annual reports with the SEC in English. Further, during the Class Period, Vestas made all of its press releases and financial reports available to U.S. investors on the Internet in English for the purpose of maintaining the exemption pursuant to SEC rules. To date, Vestas has not sought to eliminate its exemption or disavow its consent to the registration of its ADRs with the SEC for trading in the United States.

30. Venue is proper in this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b). Headquarters for Vestas' wholly owned subsidiary, Vestas Americas, is located in Portland, Oregon. Vestas maintains manufacturing facilities in the United States, through wholly owned subsidiaries, such as Vestas Blades America, Vestas Nacelles America, Inc. and Vestas

Towers, Inc. Vestas, Vestas Americas, and other of Vestas' wholly owned subsidiaries transact business within this District, including the sale, installation, commissioning and maintenance of wind turbines within Oregon. Vestas Shared Service America, Inc., for example, is registered to do business within the State of Oregon.

31. In connection with the unlawful conduct alleged in this Complaint, Vestas, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate communications, the Internet and the facilities of securities markets in the United States.

## PARTIES

### Plaintiff

32. By Court Order dated June 7, 2011, the Pension-Annuity Trust Fund was appointed as lead plaintiff in this action. The Pension-Annuity Trust Fund is a defined benefit plan established for the benefit of current and retired plumbers and pipefitter-welders. The Pension-Annuity Trust Fund purchased Vestas securities in U.S. domestic transactions during the Class Period as detailed in the certification filed with the Court on May 17, 2011 in support of its motion to be appointed lead plaintiff. As a result of the alleged unlawful conduct detailed herein, the Pension-Annuity Trust Fund purchased Vestas securities at artificially inflated prices and suffered damages when the Company revealed its wrongful conduct as alleged herein.

### Defendant

33. Defendant Vestas is in the business of developing, manufacturing and selling wind turbines that use the energy of the wind to generate electricity. Vestas is headquartered in Aarhus, Denmark, but maintains a broad manufacturing, research and development presence in the United States. Throughout the Class Period, Vestas securities, including its ADRs (under the ticker symbols

VWDRY and VWSYF), in addition to the Company's ordinary shares, were exchanged in U.S. domestic transactions.

34. Vestas is liable for intentionally and/or recklessly: (i) making false statements; (ii) failing to disclose material non-public adverse facts known to it; and (iii) failing to comply with International Accounting Standards. The Company's fraudulent scheme and course of business perpetrated on persons who purchased or otherwise acquired Vestas securities was a success, as it: (i) deceived the investing public regarding Vestas' prospects and operating results; (ii) allowed the top officers and directors of Vestas to obtain millions of Euros in salary and incentive-based compensation during the Class Period; (iii) allowed the Company's CFO to sell nearly all his Company stock at artificially inflated prices; (iv) allowed the Company to sell approximately €1.0 billion in stock in a private placement to purchasers around the globe, including in the United States; (v) allowed Vestas to obtain €600 million in debt financing in March 2010 at favorable interest rates; and (vi) caused plaintiff and other members of the Class to purchase Vestas securities at artificially inflated prices.

## IMPORTANT NON-PARTIES

### KPMG

35. KPMG Statsautoriseret Revisionpartnerselskab ("KPMG") is a member firm of KPMG International with its principal offices in Aarhus, Denmark. KPMG, along with PwC, audited Vestas' 2009 Annual Report and publicly attested that it reflected a true and fair view of Vestas' financial results, operations, cash flows and compliance with accounting policies. KPMG's engagement as the Company's auditor was terminated prior to the Company's March 17, 2010 Annual General Meeting. KPMG's engagement, moreover, was terminated while its co-auditor, PwC, was warning Vestas that compliance with IFRIC 15 was mandatory.

**PricewaterhouseCoopers**

36. PricewaterhouseCoopers Statsautoriseret Revisionsaktieskelskab ("PwC") is a member firm of PwC International with its principal offices in Copenhagen, Denmark. PwC audited Vestas' 2009 annual financial results and issued a "clean" or unqualified opinion that the Company's 2009 Annual Report reflected a true and fair view of Vestas' financial results, operations, cash flows and compliance with accounting policies. PwC engagement partners for the 2009 audit, Messrs. Carsten Gerner and Søren Skov Larsen, signed the 2009 audit opinion of Vestas and were then terminated as engagement partners prior to the Company's March 17, 2010 Annual General Meeting. As a result, PwC replaced Messrs. Gerner and Larsen with new lead engagement partners, Messrs. Lars Holtug and Claus Lindholm Jacobsen.

37. Between November 22, 2010 and November 29, 2010, Mr. Jacobsen spoke to a Jeffries & Company, Inc. equity analyst concerning the Vestas' restatement, with the permission and consent of the Company's senior management. Jacobsen informed the Jeffries & Company, Inc. analyst that PwC had first warned Vestas in 2009 that it must conform its accounting policies for the recognition of wind-turbine revenue to IFRIC 15.

38. Between November 30, 2010 and December 6, 2010, Mr. Holtug spoke to Citigroup Global Markets equity analysts concerning the Company's November 2010 multi-billion Euro correction of accounts with the permission and consent of the Company's senior management. During that interview, Mr. Holtug stated, *inter alia*, that Vestas should have implemented IFRIC 15 on January 1, 2010 and, thus, the Company's 1Q10, 2Q10 and 3Q10 revenues and earnings were inaccurate as originally reported. Mr. Holtug added that the Company's 2009 Annual Report failed to disclose, as required by International Accounting Standard ("IAS") 8, the expected financial impact of IFRIC 15. Mr. Holtug confirmed that PwC had advised Vestas' senior management prior

to the March 17, 2010 Annual General Meeting that Vestas must conform its accounting policies for the revenue recognition of wind-turbine transactions to IFRIC 15.

**IFRIC 15: THE DEMISE OF AGGRESSIVE ACCOUNTING FOR THE SALES OF GOODS**

39. Throughout the Class Period, Vestas generated virtually all of its revenue from three types of wind-turbine transactions. The first type, known as a "supply only" contract, required Vestas to manufacture and deliver wind turbines to its customers. The second type, known as an "EPC/Turnkey" contract, required the Company to deliver a complete customer-specific project comprised of highly customized wind turbines and "civil works." The third type of contract, known as a "supply-and-installation" contract, required the Company to manufacture, deliver and install the wind turbines for its customers. In essence, the Company's supply-and-installation contract reflected an agreement for the purchase of goods – *i.e.*, wind turbines – in addition to a customer's obligation to make payment to Vestas for labor associated with installation of the goods. IFRIC 15 governs how Vestas was to recognize revenue for these contracts.

40. In 2008, the IASB issued interpretation IFRIC 15, which addressed the appropriate timing of revenue recognition for real estate projects and the sale of completed machinery and equipment. While IFRIC 15 was mandatory for U.K.-based firms effective January 1, 2009, the new accounting provision would not become mandatory for companies in the EU until the European Commission endorsed it. On July 22, 2009, the European Commission did just that, ordering: "Each company shall apply IFRIC 15 . . . at the latest, as from the commencement date of its first financial year starting after December 31, 2009." The European Commission published its endorsement in the *Official Journal of the European Union* on July 23, 2009 and IFRIC 15, therefore, immediately carried the full force of law. Defendant, however, refused to comply with the European Commission's order knowing that it would have a material, if not massive, effect on the

Company's reported financial performance and would expose the fact that the Company was half as profitable it had previously informed investors.

41. The financial impact of the new accounting rule was material to the Company because it precluded Vestas from recognizing revenue for supply-and-installation contracts utilizing the percentage-of-completion method. In general, the Company's supply-and-installation transactions took approximately 18 to 24 months to complete from the execution of the contract to the "transfer of goods" to the customer. Under percentage-of-completion accounting, Vestas would recognize approximately 30% of the contract value upon execution of the contract and receipt of down payment. Over the course of the next two years, the Company would recognize the remaining revenues associated with delivery and installation of the wind turbines.

42. Pursuant to IFRIC 15, however, not a single penny of the Company's supply-and-installation revenue could be recognized until installation of the product was complete and the customer had accepted risk of loss. Indeed, Vestas' "supply-and-installation" contracts allowed customers only a limited ability to influence the design of the wind turbines sold (*i.e.*, the customer could select from a limited menu of products). Therefore, IFRIC 15 provided that the Company must account for its supply-and-installation contracts as sales of goods and that percentage-of-completion accounting was inappropriate.

43. In February 2010, a few months after first warning Vestas that it must comply with IFRIC 15, PwC issued accounting guidance confirming that the new rule applied to the Company's recognition of supply-and-installation contracts. To emphasize the point, PwC utilized pictures of the products that Vestas sold in its published guidance:

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44. PwC's February 2010 guidance explicitly provided that IFRIC 15 applies to the recognition of revenue for the products Vestas sold to its customers, *i.e.*, complex machinery and equipment:

> **Agreements for construction of real estate – IFRIC 15**
>
> IFRIC 15 was issued July 2008 in response to concerns over diversity in practice regarding revenue recognition for real estate construction agreements.
>
> The interpretation provides guidance on determining whether an agreement is within the scope of IAS 11, 'Construction contracts', or is for the sale of goods under IAS 18, 'Revenue'.
>
> *   *   *
>
> **Will the interpretation only impact the real estate industry?**
>
> No. Many entities might assume that the interpretation will not apply or will have minimal impact on their current recognition model.
>
> The interpretation clearly does apply directly to entities that enter into agreements for the construction of real estate. However, as the basis for conclusions indicates, the guidance may be applied by analogy to industries other than real estate.
>
> Other industries in which entities apply IAS 11 to the construction of complex machinery and equipment may be affected.

45. Prior to the Company's March 2010 Annual General Meeting, PwC again warned Vestas that it must comply with IFRIC 15. Again, Vestas refused to accept the advice of PwC. As a result, the Company issued materially false and misleading statements regarding its compliance with International Accounting Standards as well as the Company's revenues and earnings. While Vestas' failure to comply with IFRIC 15 enabled it to report misleading financial results bounding towards the "Triple 15," the Company's refusal to follow its auditor's advice also makes sense. Vestas knew PwC would not even perform review procedures of the Company's 1Q10, 2Q10 and 3Q10 financial statements to ensure whether Vestas had complied with PwC's advice.

46. Vestas' competitors, who were also subject to IAS, had timely implemented IFRIC 15 or were already in compliance with the accounting principle throughout the Class Period. For instance, Gamesa SA announced in its 2009 Annual Report that it had implemented IFRIC 15 as of January 1, 2010, and that the company's board of directors had concluded that "entry into force of this interpretation will not affect the [company's] consolidated financial statements since [Gamesa] has applied criteria which are consistent with those currently established in the interpretation." In addition, Siemens AG reported in its 2010 annual report that it recognizes product sales – *i.e.*, transactions within the scope of IAS 11 pursuant to IFRIC 15 – when "delivery has occurred . . . [and] the risks and rewards of ownership have been transferred to the customer."

47. Unfortunately for investors, and as detailed herein, not only did Vestas fail to timely implement IFRIC 15, but the Company failed to make the mandatory disclosures that would have put shareholders on notice that their investments were subject to heightened risk *vis-à-vis* the Company's competitors.

## FALSE AND MISLEADING CLASS PERIOD STATEMENTS

**February 11, 2009 False and Misleading Statements**

48. On February 11, 2009, Vestas issued its 2008 Annual Report. The Company's Chairman of the Board, CEO and CFO signed the 2008 Annual Report. With regard to IFRIC 15, the 2008 Annual Report made the following disclosure:

> The objective of [IFRIC 15] is to clarify the definition of construction contracts and the clarification of when a construction contract should be treated under IAS 11 or IAS 18 and to provide more guidance on how to account for revenue when the agreement for the construction of real estate falls within the scope of IAS 18. [IFRIC 15] is effective for accounting periods beginning 1 January 2009 or later. On preliminary assessment Vestas correctly classifies its contracts according to the guidance in the interpretation.

49. The Company's statement that "Vestas correctly classifie[d] its contracts according to the guidance" of IFRIC 15 was misleading when made because:

(a) The February 11, 2009 statement had the effect of assuring investors that the Company's accounting for supply-and-installation contracts was already in compliance with IFRIC 15, when, in fact, it was not;

(b) The Company's supply-and-installation contracts allowed customers only the limited ability to influence the design of Vestas' wind-turbine products, *i.e.*, request minor variations in the basic design from a limited menu of wind turbine models. Accordingly, the Company's supply-and-installation contracts should have been classified as a sale of goods and accounted for within the scope of IAS 18;

(c) Further, Vestas' supply-and-installation contracts permitted customers to choose only optional equipment that was pre-determined by the Company. Specifically, Vestas' supply-and-installation contracts contained "Optional Equipment" clauses that permitted customers to choose from a limited range of options determined by Vestas that were unrelated to the major structural elements of the Company's wind turbines. IFRIC 15 and IAS 18 are unequivocal that percentage-of-completion accounting is inappropriate under these circumstances. Specifically:

- IFRIC 15 provides: "[Where] buyers have only limited ability to influence the design of the real estate, [*e.g.*,] to select a design from a range of options specified by the [seller], or to specify only minor variations to the basic design [of the product], [the contract] is an agreement for the sale of goods within the scope of IAS 18."

- IAS 18, ¶¶14-15 provide: "Revenue from the sale of goods shall recognised when all the following conditions have been satisfied: (a) the entity has transferred to the buyer the significant risks and records of ownership of the goods . . . ."

Accordingly, Vestas had inappropriately classified its supply-and-installation contracts as highly customizable construction transactions and, therefore, the Company inappropriately utilized percentage-of-completion accounting pursuant to IAS 11;

(d) The Company's senior-most management, through their review of all material contracts on the Contract Review Board, knew that supply-and-installation contracts did not allow customers to customize Vestas' products; and

(e) On November 22, 2010, the Company admitted that it improperly classified supply-and-installation transactions as construction contracts within the scope of IAS 11.

50. As a result of defendant's February 11, 2009 misleading statements, the Company's stock price rose approximately 7%.

**April 28, 2009 False and Misleading Statements**

51. On April 28, 2009, the Company issued its interim financial report for 1Q09. The Company's Chairman, CEO and CFO signed the 1Q09 report, which stated:

**New accounting regulations**

The International Accounting Standards Board (IASB) has adopted the following new interpretations, not yet approved by the EU, which will take effect at 1 January 2009 or later and which are considered relevant to Vestas.

IFRIC 15 on agreement for the construction of real estate and similar construction contracts. The standard is expected to be endorsed [by the European Commission] in the second quarter of 2009 after which it will be implemented by Vestas.

52. The Company's statement regarding IFRIC 15 triggered a duty to disclose that the Company's supply-and-installation contracts were not correctly classified pursuant to IFRIC 15 because:

(a) The February 11, 2009 statement had the effect of assuring investors that the Company's accounting for supply-and-installation contracts was already in compliance with IFRIC 15, when, in fact, it was not;

(b) In choosing to speak about IFRIC 15 on April 28, 2009, Vestas was under a duty to inform investors of the material fact that the Company had improperly classified its supply-and-installation transactions as construction contracts within the scope of IAS 11; and

(c) On November 22, 2010, the Company admitted that it improperly classified its supply-and-installation transaction as construction contracts within the scope of IAS 11.

53. On April 28, 2009, the Company conducted its 1Q09 earnings conference call for analysts and investors during which Vestas' CEO participated. During the call, the CEO informed investors that Vestas was fully aware how it was accounting for its supply-and-installation contracts:

> [W]hen we are delivering a project to the customers, we recognize the revenue depending on which type of project it is, meaning that when it's a supply-only project, we deliver the full revenue when the final turbine is delivered to the customers, and there is the TOC or full delivery.
>
> For the two other types of projects we are running, both turnkey and supply-and-install, we recognize the revenue as we ship and as we complete the project.

> And in the first quarter this year why the revenue is up by 58% is due to the fact that the number of projects coming in those two categories are moving through the execution phase, but are not finally delivered.
>
> But we recognize it as part of the revenue, but they're not finally delivered to the customer. And this is why you have the discrepancy between delivery shipments and revenues in the first quarter.

54. As a result of the misleading statements made on April 28, 2009, the Company's stock price increased by 10% by the close of trading on April 29, 2009.

**False and Misleading August 18, 2009 Statements**

55. On August 18, 2009, Vestas issued its interim financial report for 2Q09. The Company's Chairman, CEO and CFO signed the financial report, which stated:

> **New accounting regulations**
>
> The International Accounting Standards Board (IASB) has adopted the following new interpretations, which will take effect at 1 January 2009 or later and which are considered relevant to Vestas:
>
> IFRIC 15 on agreement for the construction of real estate and similar construction contracts. The interpretation was approved [by the European Commission] in the third quarter of 2009 after which it was implemented by Vestas. The interpretation is not expected to have a material effect on Vestas' financial reporting.

56. The Company's statement that IFRIC 15 "is not expected to have a material effect on [the Company's] financial reporting" was false and misleading when made because:

(a) As detailed in ¶¶114-133, IFRIC 15 precluded Vestas from recognizing any revenue associated with supply-and-installation transactions on a percentage-of-completion basis;

(b) Vestas knew and publicly reported that supply-and-installation contracts represented well over 50% of revenues from period to period;

(c) On July 22, 2009, the European Commission ordered all publicly traded entities within the EU, including Vestas, to implement IFRIC 15 by no later than January 1, 2010; and

(d) Prior to August 18, 2009, PwC warned Vestas that it must conform its accounting policies for the revenue recognition of supply-and-installation contracts to IFRIC 15 by no later than January 1, 2010.

57. On August 18, 2009, Vestas conducted its 2Q09 earnings conference call for investors and analysts. The call was conducted in London and Vestas' CEO participated. During the call, the CEO informed investors that he had first-hand knowledge of each of the Company's major sales contracts for wind turbines, including the financial impact each transaction would have on the Company's financial results:

> What We See is What You Get.
>
> * * *
>
> If you go back, oh, to 2005 actually, in Q2, when we established the Contract Review Board, we wanted to make it very clear about how do we work with our contracts, and how do we want to secure the profitability at Vestas. All orders with a value above EUR15 million goes into the Contract Review, and that means that we look at all parameters – risk, pricing, milestone payment, etc. And thereby, also . . . we make sure that Vestas has a proper balance between earnings and risk.

58. As a result of the Company's August 18, 2009 misleading statements, the Company's stock price continued to trade at artificially inflated prices.

**October 27, 2009 False and Misleading Statements**

59. On October 27, 2009, Vestas issued its interim financial report for 3Q09. The Company's Chairman, CEO and CFO signed the 3Q09 report, which stated:

> **New accounting regulations**
>
> The International Accounting Standards Board (IASB) has adopted the following new interpretations, which will take effect at 1 January 2009 or later and which are considered relevant to Vestas.
>
> IFRIC 15 on agreement for the construction of real estate and similar construction contracts. The interpretation was approved in the third quarter of 2009 after which it was implemented by Vestas. The interpretation does not have a material effect on Vestas' financial reporting . . . .

60. The Company's statement that IFRIC 15 "does not have a material effect on Vestas' financial reporting" was false and misleading for the reasons stated in ¶¶114-133. Further, by asserting that Vestas had purportedly "implemented" IFRIC 15, it was under an obligation imposed by IAS 8 to disclose the expected financial impact IFRIC 15 would have on the Company's financial results. Vestas failed to make that material disclosure to investors.

61. The Company's October 27, 2009 3Q09 financial report also provided revenue and earnings guidance for fiscal 2010:

> Outlook for 2010
>
> In 2010, Vestas expects to achieve an EBIT margin of 10-12 per cent and revenue of EUR 7- 8bn. The revenue range reflects the uncertainty caused by the credit crisis in the short term. The slowing profitability improvement is due to the fact that Vestas in the near term will have a certain excess capacity and that it will consolidate its market leadership position through the recruitment of 600 additional R&D employees. The established markets are also in 2010 expected to represent the majority of the business. In Spain, the market is, however, witnessing uncertainty about future settlement schemes, which has brought parts of the market to a halt. Revenue of EUR 8bn, which calls for substantial progress in the US market, would open up for increased staffing and higher investments to ensure Vestas' growth after 2010 when the US market is expected to experience strong growth.
>
> * * *
>
> Although Vestas' underlying business is no longer characterised by major variations over the course of the year, most of the revenue and earnings in 2010 will once again be generated in the second half.

62. The Company's statements that it expected EBIT margin of 10%-12% and revenue of €7 billion and €8 billion for fiscal 2010 were made without a reasonable basis because:

(a) Supply-and-installation contracts represented over 50% of Vestas' revenues from period to period and IFRIC 15 precluded Vestas from recognizing any revenue associated with these transactions on a percentage-of-completion basis;

(b) In connection with the European Commission's July 22, 2009 order that each company in the EU apply and comply with IFRIC 15, PwC warned Vestas it must bring its accounting policies for supply-and-installation contracts in compliance with IFRIC 15 by no later than January 1, 2010; and

(c) Vestas knew the 2010 revenue and earnings guidance provided to investors did not account for the fact that IFRIC 15 precluded the Company from utilizing percentage-of-completion accounting for supply-and-installation transactions.

63. On October 27, 2009, Vestas conducted its 3Q09 earnings conference call for investors and analysts. The call was conducted in New York City and the CEO participated and reiterated the Company's erroneous 2010 guidance. During the call, the CEO reminded investors that continued double-digit earnings margins would ensure Vestas obtained critical project financing for the Company's wind-turbine contracts:

> And to our shareholders I would say, we really to make sure what we see is what you get. And our financial priorities remain unchanged. Namely, our first priority at EBIT; second priority, net working capital; and third priority, revenue. This is also important to ensuring that Vestas is bankable towards major project customers – or major customer's projects towards their banks. And we want to make sure that we share with you our long-term view, which we are doing with the Triple 15 . . . .
>
> * * *
>
> To sum it up, the Triple 15 I say to all of you, an EBIT margin of 15, revenue of EUR15 billion, no later than 2015. And it actually will mean that the wind, oil, and gas vision from 2005 will turn into reality.

64. As a result of these misleading statements made on October 27, 2009, the Company's stock price increased approximately 8%.

**February 10, 2010 False and Misleading Statements**

65. On February 10, 2010, Vestas issued its 2009 Annual Report. The Company's Chairman, CEO and CFO signed the Company's 2009 Annual Report. With regard to IFRIC 15, Vestas' 2009 Annual Report disclosed:

> **IFRIC 15 "Arrangements for the Construction of Real Estate"**
>
> The objectives of the interpretation is to clarify the definition of construction contracts and the clarification of when a construction contract should be treated under IAS 11 or IAS 18 and to provide more guidance on how to account for revenue when the agreement for the construction of real estate falls within the scope of IAS 18. The interpretation is effective for accounting periods beginning 1 January 2010 or later.

66. The Company's disclosure in its 2009 Annual Report concerning IFRIC 15 was misleading when made because:

(a) Pursuant to IAS 8, ¶¶30-31, Vestas was required to disclose the financial impact IFRIC 15 would have on the Company's future financial results or state that the expected impact was not known or reasonably estimable. The Company's auditor, PwC, has admitted that the Company's 2009 Annual Report omitted this required disclosure; and

(b) Vestas knew that well over 50% of its revenue, from period to period, was attributable to supply-and-installation contracts and had been warned by PwC that the Company's accounting policies were not in compliance with IFRIC 15. Accordingly, Vestas had more than a sufficient basis upon which to report to investors the approximate impact implementation of IFRIC 15 would have on the Company's financial results.

67. After releasing its fiscal year 2009 financial results on February 10, 2010, Vestas hosted a conference call for investors and analysts, during which the Company's CEO stated: "[W]e expect . . . [2010] revenue to be around EUR7 billion . . . with an EBIT margin of 10% to 11% . . . ."

68. Vestas' February 10, 2010 conference call statement concerning its 2010 revenue and earnings guidance was made without a reasonable basis for the same reasons stated in ¶62.

69. As a result of these misleading statements made on February 10, 2010, the Company's securities continued to trade at artificially inflated prices.

70. On February 11, 2010, SEB Enskilda, in an analyst report entitled "2009 is over; now for the tailwind," issued a buy rating on Vestas in response to the Company's February 10, 2010 remarks and noted:

> Vestas announced its first US order (99 MW) in 15 months, a positive trigger that was overshadowed by the [2009] results release. Also, management said that it had "good reason to believe that Vestas would see a steep increase in US orders in 2010" and that this view was "based on quite concrete knowledge from clients". In fact we estimate that Vestas already has 46% of revenue covered for 2010, based on the backlog, Q1 announcements and "spill-over revenue" from Q4 2009. Thus, Vestas needs only about 3,000 MW for 2010 delivery of the 8,000 to 9,000 MW order intake guidance.

71. On February 15, 2010, the Company's CFO sold virtually all of his Vestas stock. In the two years preceding the Class Period, the CFO did not sell a single share of Vestas stock. At the time of this insider sale, Vestas ADRs and common stock were trading at prices twice as high compared to when the Company fully disclosed the alleged fraud.

**April 26, 2010 False and Misleading Statements**

72. On April 26, 2010, the Company announced a firm and unconditional order with EDP Renováveis ("EDP") for the supply-and-installation of 1,500 megawatts of wind turbines representing approximately €2.0 billion in revenue, of which approximately 30% would be recognized upon contract execution and receipt of a down payment in 2010. According to the press release, physical delivery of the turbines would commence in 2011. The press release, issued by Vestas, further noted that the EDP order "does not affect" the Company's 2010 revenue and earnings guidance provided in February 2010.

73. The Company's statement that the EDP order was consistent with – *i.e.*, "does not affect" – Vestas' 2010 revenue and earnings guidance was false and misleading when made because:

(a) IFRIC 15 prohibited the Company from recognizing any revenue associated with the EDP contract, including at contract execution or upon receipt of down payment, until Vestas delivered all wind turbines to EDP; and

(b) As of April 26, 2010, the Company's 2010 guidance still did not account for the fact that IFRIC 15 precluded percentage-of-completion revenue recognition of any supply-and-installation transactions.

74. As a result of Vestas' misleading statements on April 26, 2010, the Company's stock price increased 5.6%.

**April 28, 2010 False and Misleading Statements**

75. On April 28, 2010, Vestas issued its interim financial report for 1Q10. The Company's Chairman, CEO and CFO signed the 1Q10 report. For 1Q10, Vestas reported €755 million in revenue and an earnings loss of €82 million. Of the €755 million in total revenue, €146 million was services revenue. With regard to IFRIC 15, the 1Q10 report stated:

> **New IAS/IFRSs implemented in the period**
>
> With effect from 1 January 2010, Vestas implemented . . . IFRIC 15 arrangements for the construction of real estate and similar constructions contracts . . . .
>
> Vestas evaluates the changes and interpretations not to be relevant to Vestas.
>
> . . .

The Company's 1Q10 interim report reiterated 2010 revenue and earnings guidance of €7.0 billion and an EBIT margin of 10%-11%.

76. Vestas' April 28, 2010 statement that it had "implemented . . . IFRIC 15" on January 1, 2010 was false when made because as the Company publicly admitted on October 26, 2010 and November 22, 2010 that it had not.

77. The Company's statement that IFRIC 15 was "not . . . relevant to Vestas" was false when made because:

(a) Supply-and-installation contracts accounted for over 50% of the Company's revenues and IFRIC 15 prohibited Vestas from recognizing any revenue associated with these contracts on a percentage-of-completion basis;

(b) Prior to making this statement, PwC had warned the Company at least twice that its compliance with IFRIC 15 was mandatory as of January 1, 2010; and

(c) As a result of IFRIC 15 becoming effective January 1, 2010, Vestas would be required to defer billions of Euros in 2010 revenue to future reporting periods and restate hundreds of millions of Euros in 2010 earnings.

78. Vestas' statement that it generated €755 million in revenue and a €82 loss in earnings was false and misleading because as the Company admitted on November 22, 2010, 89% of its 1Q10 revenue and earnings required deferral to bring the Company's books in compliance with IFRIC 15. If Vestas had implemented IFRIC 15 on January 1, 2010, the Company would have reported approximately €67 million in wind-turbine revenue and an earnings loss of €226 million for 1Q10, representing 89% and 197% overstatements, respectively.

79. The Company's April 28, 2010 statement concerning 2010 revenue and earnings guidance lacked a reasonable basis for the same reasons stated in ¶62.

80. After releasing the Company's 1Q10 financial results, Vestas' CEO participated in an interview with Bloomberg's Diedre Bolton. During the interview, the CEO reiterated that Vestas

expected to produce a 10% earnings margin for 2010 and assured investors that the Company's 2010 financial results would be supported by an increase in U.S. sales.

81. The Company's statement that Vestas expected 10% in earnings margin for 2010 was made without a reasonable basis for the same reasons stated in ¶62.

82. As a result of these misleading statements made on April 28, 2010, Vestas' stock price increased by 3% by the close of trading the next day.

**July 21, 2010 False and Misleading Statements**

83. On July 21, 2010, the Company announced another in a series of "record-setting" supply-and-installation contracts with Terra-Gen in California, slated for delivery beginning in late 2010. The press release, issued by Vestas, misleadingly stated that the Terra-Gen order was consistent with, *i.e.*, "does not affect," the Company's 2010 revenue and earnings guidance provided on April 28, 2010. The Company's CEO signed the July 21, 2010 press release.

84. The Company's statement that the Terra-Gen order "does not affect" its 2010 revenue and earnings guidance was false and misleading when made because:

(a) Prior to issuance of this press release, PwC had warned Vestas at least twice that the Company's revenue recognition policies must comply with IFRIC 15 by no later than January 1, 2010; and

(b) As of July 21, 2010, the Company's 2010 guidance still did not account for the fact that IFRIC 15 precluded percentage-of-completion recognition of supply-and-installation contract revenue.

**August 18, 2010 Partial Disclosure**

85. On August 18, 2010, Vestas issued its 2Q10 interim financial report announcing a 50% cut in 2010 earnings guidance, from 10%-11% to 5%-6%, and a €1.0 billion cut in 2010

revenue, from €7.0 billion to €6.0 billion. The Company attributed the cut in guidance to revenue associated with "not concluded orders for delivery [of wind turbines] to the [United States]" and other markets, the revenue for which would be recognized in future periods. The Company's downward revision in 2010 guidance was the natural and foreseeable consequence of the alleged Class Period fraud because IFRIC 15 required Vestas to defer revenue and earnings associated with all "not concluded" supply-and-installation contracts into future periods. The markets' reaction to the August 18, 2010 revision in revenue and earnings guidance was swift and punitive. By the close of trading on August 18, 2010, the Company's stock prices around the globe plunged approximately 23% on heavy volume.

86. On August 24, 2010, RBS criticized the Company for its lack of candor with investors during the Class Period:

> Vestas came on the roadshow with RBS following its 2Q10 results. One of the many questions asked of it was 'when did Vestas find out' [that a gigawatt of orders was significantly delayed]. . . .
>
> - In earlier meetings with management, Vestas said it was monitoring order activity by weekly contact with its sales force.
> - . . . Vestas has emphasised since the 2009 results announcement in February [2010] that production in 2010 would be heavily back-end loaded, and more than previously towards the fourth quarter. So production capacity would have been highly if not fully utilised in 4Q10 with previous guidance, and the 1GW of "late" orders could only have been scheduled for delivery in 2Q10 or 3Q10. This again suggests Vestas knew earlier, had taken its eye off the ball, or failed to make a proper assessment in its original [2010 financial] guidance.

87. The Company's August 18, 2010 explanation for the 2010 downward revision had little or nothing to do with customers "delaying" their orders. During Vestas' September 1, 2010 presentation for the Company's 2010 Capital Market Day it asserted:

- Vestas had captured more than 50% of firm orders in North America as of August 19, 2010;

- The EDP supply-and-installation contract would add to the Company's 2010 North America order book; and
- Vestas had executed 9 firm orders in North America for the sale of 596 wind turbines, totaling 1,359 mega-watts with Tera-Gen Power, RES Americas, WE Energies, Capital Power Corporation, Noble Environmental Power, TransAlta, International Power Canada, Inc., Algonguin Power and JK Scanlan between January and August 2010.

At no time during the Capital Markets Day did Vestas or any of its senior management suggest that any of these "firm" orders had been delayed.

**August 18, 2010 False and Misleading Statements**

88. On August 18, 2010, Vestas issued its interim report for 2Q10. The Company's Chairman, CEO and CFO signed the 2Q10 report. For 2Q10, Vestas reported €1.0 billion in revenue and an earnings loss of €148 million. Of the €1.0 billion in total revenue, €159 million was services revenue. The Company's 2Q10 revenue and earnings were false and misleading when made because Vestas had failed to appropriately implement IFRIC 15 on January 1, 2010. Accordingly, the Company should have reported only €93 million in wind-turbine revenue and an earnings loss of €357 million, representing 89% and 141% overstatements, respectively.

**October 26, 2010 Partial Disclosure**

89. On October 26, 2010, before the U.S. markets opened, Vestas issued a press release announcing it had failed to adopt IFRIC 15 as of January 1, 2010 and, consequently, its 2010 financial statements may require correction:

> After IFRIC 15 coming into force on 1 January 2010, Vestas' Board and auditors have evaluated that the Group should consider changing accounting policies for supply-and-installation contracts so that the treatment of these will be in accordance with the existing draft for IFRS' standard regarding recognition of revenue. This will imply that in future supply-and-installation projects will be recognised as revenue in the income statement when the risk has been transferred to the buyer. Supply-and installation projects are currently recognised in line with construction based on the rate of completion of each project. Following a potential

> change in accounting policies, such projects would be recognised . . . at delivery and [when] transfer of risk [is passed] to the customer.

In response to this news, the Company's ADRs and ordinary shares trading in the United States dropped another 10%.

90. On October 26, 2010, Vestas conducted its 3Q10 earnings conference call in Denmark and the Company's CEO participated. During the call, the CEO made the following statement regarding IFRIC 15:

> And why is this so important? . . .
>
> Today, when we are doing a supply and installation project, when we start to produce, to ship, to install the turbines, we recognize earnings and revenues as we go along. . . .
>
> This is the way we have been doing it.
>
> *    *    *
>
> But this decision [*i.e.*, whether to comply with IFRIC 15] we expect to be taken by the Board before the end of this year and if it happens, we will, of course, ensure a conference call where both myself and my colleague . . . will be present to go through all the consequences . . . [and] if it does happen we will make sure that the 2010 result will have to be according to the new policy.

The Company's October 26, 2010 admission that "if" the Company complied with IFRIC 15 it would have to correct its 2010 financial results is remarkable. It was the Company that affirmatively represented to investors in February 2009 that the Company's accounting policies were already in compliance with IFRIC 15. In addition, in April 2010, it was the Company that informed investors that the Company had, albeit falsely, already implemented the interpretation.

**October 26, 2010 False and Misleading Statements**

91. In the Company's October 26, 2010 press release, it reported €1.5 billion in wind-turbine revenue and €271 million earnings. The Company's statements regarding its 3Q10 revenue and earnings were false and misleading when made. If Vestas had appropriately implemented IFRIC

15 on January 1, 2010, the Company would have reported only €194 million in wind-turbine revenue and an earnings loss of €164 million, representing 89% and 161% overstatements, respectively.

**November 22, 2010 Partial Disclosure**

92. On November 22, 2010, the Company disclosed the details of the Company's required multi-billion Euro restatement, which fully exposed the financial impact of the Company's failure to comply with IFRIC 15. During the first three quarters of 2010, Vestas originally reported total revenue of €3.678 billion. Of that figure, the Company reported €454 million of service revenue resulting in a total of €3.224 billion of wind-turbine product revenue. As part of the Company's restatement, it deferred €2.871 billion in "supply-and-installation" revenue for the first three quarters of 2010. Accordingly, in its November 22, 2010 restatement of accounts, the Company deferred 89% of its 2010 total wind-turbine revenue (*i.e.*, €2.871/€3.224 = 0.89). In response to this previously undisclosed news, the price of the Company's stock dropped another 6%.

93. In the immediate aftermath of the November 22, 2010 disclosure, Vestas provided equity analysts unprecedented access to PwC audit personnel to discuss the reasons underlying the Company's multi-billion Euro restatement. On November 29, 2010, Jeffries & Company, Inc. reported:

> **Key Points**
>
> - **Accounting changes were mandatory**. We spoke with Vestas' auditor, Mr. Jacobsen, who explained the adoption of the new accounting principles was necessary to comply with IFRIC 15. The change was initiated on the advice of PWC with the first recommendation dating back to 2009.
>
> * * *
>
> - **Adjusting our numbers for accounting changes**. Vestas will now have to postpone revenue and earnings recognition of a project until the customer assumes the project risk. This will distort earnings on a quarterly basis as partial costs will be taken into the P&L prior to revenue

recognition. We thus change our revenue and EPS targets for 2010 and 2011 to €6.7b/€0.97 and €6.7b/€1.54 respectively.

94. Then, on December 6, 2010, Citigroup Global Markets reported on the Company's restatement after conducting a separate inquiry of a member of the PwC audit team:

**Alert: Vestas' Auditor Call Feedback.**

We have spoken to Vestas' auditor, Mr. Lars Holtug at PwC (with the company's permission), to follow up on our report last week on the company's recent changes to its accounting policies (*Brought to Account – Retain Sell*, dated 30/11/2010 https://www.citigroup.com/pdf/SEU68337.pdf). Key points of the call are detailed below:

- The auditors believe that accounting interpretation IFRIC 15, which took effect from 1 January 2010, required Vestas to change its revenue accounting policy. . . . It would not have been permitted to delay the change to 2011. PwC advised this [again] during 2010. However, Mr. Holtug took over as a Vestas auditor at the AGM in 2010 (17 March) so he was not able to provide details of previous discussions . . . on this issue. He confirmed this accounting change should have applied from 1 January 2010, i.e. affecting Vestas' interim results (Q1, Q2 and Q3 2010).

- The 2009 annual report did not disclose the expected impact of IFRIC 15 or include a statement if the impact was not known or reasonably estimable at the date (IAS 8 requirement), although the 2008 accounts stated that IFRIC 15 was expected to have no impact. Mr. Holtug could not explain why the 2009 annual report omitted this information as he was not the auditor at the time.

95. On November 29, 2010, *Reuters* reported:

Investor meetings held last week to try to explain the accounting change, announced on Nov. 22, failed to convince investors, analysts say.

"People have been nervous about the situation for their underlying operating profit margin in 2011," says Danske Bank chief trader Mads Zink.

Danske Equities says in a note to clients that the accounting change means Vestas is guiding for 550 million euros higher net working capital outflow than in its third-quarter report, suggesting markedly higher net interest bearing debt at year-end 2010. "We see increased risk of a capital increase," it says.

> Nordea says in a note to clients that Vestas' change in accounting practice "definitely was not the market's cup of tea" and adds that the timing was poor and leaves the impression the company has something to hide.

96. In the months following November 2010, the market continued to express its frustration with the magnitude of the Company's restatement as well as the fact that Vestas failed to timely implement critical accounting rules. As *Barron's* reported on May 23, 2011:

> There's no space here for a full explanation of the accounting change, but Exane BNP analyst Arnaud Brossard says, "The effect on past figures was massive. It's a sign that Vestas was probably not as conservative in the past as it should have been." Indeed, rivals and other companies instituted the International Financial Reporting Interpretations Committee's change, Rule IFRIC 15, as the start of the year as required, but Vestas waited until November.

**February 9, 2011 False and Misleading Statements**

97. On February 9, 2011, Vestas issued its 2010 Annual Report. The Company's Chairman, CEO and CFO signed the 2010 Annual Report. In the publicly available article accompanying the 2010 Annual Report, also published on February 9, 2011, Vestas stated: "The outlook for 2011 is revenue of around EUR 7bn with an EBIT margin of 7 per cent after an expected increase of approx[imately] EUR 100m in depreciations and amortisations. The EBIT margin is also affected by the fact that earnings on new products will only be generated in 2012."

98. The Company's February 9, 2011 statements concerning the Company's 2011 revenue and earnings guidance were made without a reasonable basis because:

(a) As of February 9, 2011, the Company had still not provided investors with the expected impact, or an affirmative statement concerning a reasonable estimate, of implementation of IFRIC 15 would have on the Company's 2011 revenues and earnings. On November 22, 2010, defendant assured investors: "It should be stressed that [IFRIC 15 could impact] the expected result for 2011 . . . which is why, as earlier announced, that the company will give a more thorough presentation of the expectations for 2011 . . . on 9 February 2011." However, on February 9, 2011, Vestas did not provide investors a more thorough presentation regarding the impact IFRIC 15 would have on the Company's 2011 revenue and earnings guidance;

(b) The Company had accumulated over €1.0 billion in scrap inventory that Vestas could not sell to customers and, as a result, numerous projects would be delayed during 2011. The risks the €1.0 billion in scrap inventory posed to the Company's 2011 revenue and earnings guidance were magnified by the fact that the Company was unable to deliver its new generation of wind-turbine products to customers until 2012 at the earliest; and

(c) The Company's 2010 Annual Report, made publicly available by Vestas on February 9, 2011, was materially false and misleading because, pursuant to IAS 8, ¶¶30-31, the Company was required to disclose the financial impact IFRIC 15 would have on the Company's future financial results or state that the expected impact was not known or reasonably estimable. However, the 2010 Annual Report, like the Company's 2009 Annual Report, omitted this required disclosure.

**May 4, 2011 False and Misleading Statements**

99. On May 4, 2011, Vestas issued its interim report for 1Q11. The Company's Chairman, CEO and CFO signed the 1Q11 report. In the report, Vestas reiterated its 2011 revenue and earnings guidance, as originally provided on February 9, 2011, as well as its "Triple 15" long-term guidance. Furthermore, the 1Q11 report failed to provide any estimated impact that the implementation of IFRIC 15 would have on the Company's future financial performance, as required by IAS 8.

100. The Company's statements in the 1Q11 interim report concerning 2011 guidance were materially false and misleading and lacked any reasonable basis for the same reasons stated in ¶62.

**August 17, 2011 False and Misleading Statements**

101. On August 17, 2011, Vestas issued its interim report for 2Q11. The Company's Chairman of the Board, CEO and CFO signed the 2Q11 report. In the report, Vestas reiterated its 2011 revenue and earnings guidance, as previously announced on February 9 and May 4, 2011, as well as its "Triple 15" long-term guidance. Furthermore, the 2Q11 report failed to provide any estimated impact that the implementation of IFRIC 15 would have on the Company's future financial performance, as required by IAS 8.

102. The Company's statements in the 2Q11 interim report concerning 2011 guidance were materially false and misleading and lacked any reasonable basis for the same reasons stated in ¶62.

## DEFENDANT'S KNOWLEDGE AND ADDITIONAL INDICIA OF SCIENTER

**Vestas' Knowledge of the Fraud**

103. Throughout the Class Period, members of the Company's senior management held themselves out to investors and the market as the persons most knowledgeable about the Company's wind turbine business, accounting, financial statements and operating results. The Chairman, CEO and CFO held the most senior positions at the Company and were placed under Company-imposed duties to direct and manage the Company's business, accounting and financial reporting. During the Class Period, the Chairman, CEO and CFO informed investors that they were responsible for ensuring that wind-turbine contracts were "properly authorised, and recorded truthfully and accurately [and] [e]nsure that all accounting follows . . . [generally accepted accounting principles]." In the face of allegations of fraud in this case concerning accounting shenanigans, Vestas publicly contended: "The only thing that matter[s] to us [is] compliance with applicable accounting standards."

104. The Company's senior management, as referenced in the Company's publicly available documents, each monitored and directed Vestas' business, financial reporting, and public statements as members of the Board of Directors and as members of the Company's Executive Management team. In each of Vestas' annual reports disseminated to investors during the Class Period, the Company represented the Chairman, CEO and CFO to be hands-on managers with intimate knowledge of the Company's internal affairs and day-to-day operations. Indeed, the Company's public documents assert that the CEO and CFO participated in monthly "Board of Directors" meetings with top Vestas management during which all material challenges and problems facing the Company were openly discussed.

105. The Chairman, CEO and CFO routinely communicated with analysts and investors during the Class Period and assured these stakeholders that they were fully informed of and knowledgeable about Vestas' business and finances, including the Company's accounting for wind turbine product sales. As alleged in ¶¶48, 51, 53, 55, 57, 59, 61, 63, 65, 67, 72, 75, 80, 83, 88, 90-91, 97, 99 and 101, the Company's Chairman, CEO and CFO participated in communications with the investing public. In connection with these communications, the Company's senior management presented information concerning Vestas' revenue growth, market outlook, accounting policies and adaption to changing market factors. At no time during which the Company's senior management made these representations did they ever inform investors they were not fully aware of the Company's financial results and accounting policies.

106. In February 2009, members of Vestas' senior management admitted they were aware of the implications of IFRIC 15 and informed investors that Vestas had purportedly "correctly" classified its supply-and-installation contracts under IFRIC 15. The Company's auditor has publicly admitted that it twice warned Vestas during the Class Period that the Company must bring its

revenue recognition policies for supply-and-installation contracts in compliance with IFRIC 15 by no later than January 1, 2010. Vestas ignored those warnings and the consequence was a multi-billion Euro restatement. As detailed below, there exists additional factual evidence supporting the Company's intent to deceive investors throughout the Class Period.

**€818 Million Private Placement**

107. Vestas' private placement of Company stock during the Class Period supports a strong inference of the Company's intent to deceive. On April 28, 2009, the Company announced the completion of a private placement of 18.5 million Vestas common shares through an accelerated book building process. The 18.5 million shares were placed with qualified investors around the globe, including in the United States, with Vestas receiving approximately €818 million (or $1.06 billion) in proceeds. According to the Company's CEO, over 30% of the Company's share capital was held by U.S. investors at the time. Thus, demand for shares of the private placement among U.S. investors was strong. In the two years preceding the Class Period, Vestas did not conduct any private placements for its common shares.

108. Vestas' April 2009 private placement was achieved at a share price over 91% higher than the Class Period low, as the Company disclosed the full financial effect of the alleged fraud. Further, Vestas' April 2009 private placement was finalized two months after it first assured investors that the Company's revenue recognition policies were in compliance with IFRIC 15 when, in fact, they were not.

**€600 Million Eurobond Placement**

109. On March 15, 2010, the Company announced it would be seeking additional capital through the private placement of €600 million in Eurobonds, with SEB Enskilda ASA, Nordea Bank

AB, Rabobank Group, Société Générale SA and UniCredit Group acting as managers and book-runners.

110. The Company's €600 million Eurobond placement represented the first time Vestas tapped public debt markets. The March 2010 Eurobonds were initially listed on the Luxembourg Stock Exchange on March 23, 2010. Prior to the listing, the Company's auditor, PwC, had warned Vestas twice that its financial statements must be presented to investors in compliance with IFRIC 15. The Eurobond prospectus, however, omitted to disclose the impact IFRIC 15 would have on the Company's financial results. Had the Company disclosed that it was not in compliance with IFRIC 15, Vestas would have either failed to complete the placement and/or would have been forced to pay investors a higher interest rate.

**False Financial Reporting and Violations of International Accounting Standards**

111. As detailed herein, the Company's violations of International Accounting Standards, the Company's multi-billion Euro restatement of its financial results and its admissions that the Company's financial statements were materially false are additional evidence of defendant's intent to deceive.

112. During the Class Period, the Company violated International Accounting Standards by intentionally delaying the implementation of IFRIC 15 and prematurely recognizing billions of Euros in revenue for supply-and-installation contracts. Specifically, during the first three quarters of 2010, Vestas improperly and prematurely booked €2.8 billion in revenue and €794 million in associated earnings for supply-and-installation contracts. Vestas intentionally delayed implementing IFRIC 15 and prematurely recognized revenue on supply-and-installation contracts for the purpose of giving the false and misleading impression that the Company would achieve its 2010 revenue and double-digit earnings guidance, as well as be in a position to achieve the "Triple 15." Further,

Vestas violated these accounting standards with full knowledge that its auditor, PwC, would not be auditing, let alone even reviewing, the Company's 1Q10, 2Q10 and 3Q10 financial statements for fairness of presentation.

113. International Accounting Standards are principles recognized by the accounting profession as the conventions and procedures necessary to define accepted accounting principles at a particular time. IAS 1 states: "The application of IFRSs [*i.e.*, International Financial Reporting Standards], with additional disclosure when necessary, is presumed to result in financial statements that achieve a fair presentation." As alleged herein, Vestas' Class Period financial statements violated IFRS and were not a fair presentation of the Company's financial position for various reasons, including:

(a) In violation of IAS 8 (*Accounting Policies, Changes in Accounting Estimates and Errors*), Vestas' 2009 Annual Report and 1Q10, 2Q10 and 3Q10 interim reports failed to disclose the known or reasonably estimable impact that IFRIC 15 had or would have on the Company's financial performance; and

(b) In violation of IFRIC 15, IAS 11, IAS 18 and the IASB Framework, Vestas, in its press releases, financial reports and during conference calls, overstated 89% of its revenue, as well as €794 million in earnings for the first three quarters of 2010.

**Applicable International Accounting Standards**

114. IAS 8 (*Accounting Policies, Changes in Accounting Estimates and Errors*) governs how publicly traded companies subject to International Accounting Standards are to report accounting policies, changes in estimates and errors to investors in financial reports. Several paragraphs of IAS 8 are relevant to this action:

(a) ¶5 provides: "Omissions or misstatements of items [in the entity's financial statements] are material if they could, individually or collectively, influence the economic decisions that users make on the basis of the [entity's] financial statements";

(b) ¶30 provides: "When an entity has not applied a new IFRS that has been issued but is not yet effective, the entity shall disclose . . . this fact; and . . . known or reasonably estimable information relevant to assessing the possible impact that application of the new IFRS will have on the entity's financial statements in the period of initial application"; and

(c) ¶43 provides: "A prior period error shall be corrected by retrospective restatement" and that such correction shall disclose "the period-specific effects . . . of the error."

115. The Company's financial statements violated IAS 8, ¶30 because Vestas failed to disclose the "known or reasonably estimable . . . impact" that application of IFRIC 15 would have on the Company's financial results. Throughout the Class Period, the Company assured investors that it had performed an assessment of IFRIC 15, that it reviewed all major supply-and-installation contracts for earnings and risk profile and disclosed knowledge of the accounting treatment applied to these transactions. Vestas also knew what percentage of total revenue supply-and-installation transactions would likely contribute to its total revenues. As such, a "reasonably estimable" impact could, and should, have been disclosed to investors in 2009 when Vestas conducted its assessment of IFRIC 15 and when the Company first asserted that it had "implemented IFRIC 15."

116. Vestas violated IAS 8, ¶43 because its November 22, 2010 restatement of accounts did not identify the "period-specific effects" of errors caused by the Company's failure to report its 1Q10, 2Q10 and 3Q10 interim financial results in compliance with IFRIC 15. Rather, Vestas improperly characterized its restated results as a voluntary "change in accounting policy" and presented the net effect of that "change" on each period. The Company's 1Q10, 2Q10 and 3Q10

financial statements were in error because according to Vestas' auditor, compliance with IFRIC 15 was mandatory effective January 1, 2010. Indeed, adoption of IFRIC 15 was not a "voluntary" change in policy. Thus, Vestas failed to identify the "period-specific effects" attributable to its failure to timely implement IFRIC 15 had on the Company's 1Q10, 2Q10 and 3Q10 financial statements.

117. IAS 11 (*Construction Contracts*) prescribes the accounting treatment of revenue and costs associated with construction projects and its primary purpose is to ensure the proper allocation of contract revenue and contract costs to appropriate accounting periods. Specifically, IAS 11 provides that when the outcome of a construction contract can be estimated reliably, contract revenue and contract costs associated with the construction contract may be recognized pursuant to the stage of completion – *i.e.*, percentage of completion – of the contract activity at the end of the reporting period. As alleged herein, and as admitted by the Company, it had been improperly recording revenue and costs associated with supply-and-installation pursuant to IAS 11 during the Class Period.

118. IAS 18 (*Revenue*) sets forth the criteria that must be satisfied for an entity to recognize revenue for the sale of goods such as wind turbines. IAS 18 provides that revenue shall be recognized only when all the following conditions have been satisfied:

(a) The entity has transferred to the buyer the significant risks and rewards of ownership;

(b) The entity retains neither continued managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;

(c) The amount of revenue can be measured reliably;

(d) It is probable that the economic benefits associated with the transaction will flow to the entity; and

(e) The costs incurred or to be incurred with respect to the transaction can be measured reliably.

119. Vestas' supply-and-installation contracts prior to and during the Class Period only allowed customers to choose optional equipment pre-determined by the Company. Specifically, Vestas' supply-and-installation contracts contained "Optional Equipment" clauses that only allowed customers to choose from a range of limited options pre-determined by Vestas that had no relation to the major structural elements of the wind turbines sold. Under these circumstances, IFRIC 15 and IAS 18 are unequivocal in their guidance that percentage-of-completion accounting is inappropriate:

- IFRIC 15 provides: "[Where] buyers have only limited ability to influence the design of the real estate, [*e.g.*,] to select a design from a range of options specified by the [seller], or to specify only minor variations to the basic design [of the product], [the contract] is an agreement for the sale of goods within the scope of IAS 18."

- IAS 18, ¶¶14-15 provide: "Revenue from the sale of goods shall be recognised when all the following conditions have been satisfied: (a) the entity has transferred to the buyer the significant risks and rewards of ownership of the goods . . . ."

Prior to and during the Class Period, Vestas' "supply-and-installation" contracts provided that transfer of title happened at the later of the date of delivery or the date upon which Vestas received payment in full for the wind turbines. Accordingly, IFRIC 15 was clear in that Vestas could not recognize revenue for these transactions under IAS 11.

120. On November 22, 2010, the Company admitted it had inappropriately applied IAS 11 to supply-and-installation contracts because those transactions were not highly customized. The Company explained that its supply-and-installation contracts did not provide customers with the ability to influence the design of Vestas' wind turbines, further admitting that the Company had not

"correctly classified" supply-and-installation contracts pursuant to IFRIC 15 as previously represented to investors at the beginning of the Class Period.

121. IFRIC 15 (*Agreements for the Construction of Real Estate*) addresses two fundamental issues: First, whether a sales contract falls within the scope of IAS 11 or IAS 18; and, second, when revenue from the construction of real estate projects should be recognized. IFRIC 15 addresses revenue recognition for the sale of complex machinery and equipment, like wind turbines, and real estate construction projects. The revenue recognition rule at IFRIC 15, ¶12 states:

> [A]n agreement for the construction of real estate in which buyers have only limited ability to influence the design of the real estate, [*e.g.*,] to select a design from a range of options specified by the [seller – here – Vestas], or to specify only minor variations to the basic design, is an agreement for the sale of goods within the scope of IAS 18.

Because Vestas' customers only had limited ability to influence the design of the Company's products in supply-and-installation projects, *i.e.*, only being able to select from a limited range of available models and options pre-determined by Vestas, IAS 18 applied and the Company could only recognize revenue when it had delivered the entire project to the customer. Despite this clear guidance, Vestas violated IAS 11, IAS 18 and IFRIC 15 during the Class Period.

122. The Company further violated basic financial reporting disclosure requirements as defined by the IASB Framework throughout the Class Period:

- The entity must provide information about the "economic resources" controlled by an entity, as well as "its financial structure, its liquidity and solvency, and its capacity to adapt to changes in the environment in which it operates" (Framework 16);

- The entity must provide information about an entity's performance during a period, "in particular its profitability . . . in order to assess potential changes in the economic resources that it is likely to control in the future" and, importantly, "the variability of performance" (Framework 17);

- The entity's financial reporting must be reliable in that it represents what it purports to represent (*i.e.*, "free from material error and bias"); that information should be reliable as well as relevant is a notion that is central to accounting (Framework 31); and

- The entity's financial reports must be prepared with prudence: "Prudence is the inclusion of a degree of caution" in such preparation "such that assets or income are not overstated and liabilities or expenses are not understated" (Framework 37).

**The Company's Misstatements Concerning Revenue, Earnings and Compliance with International Accounting Standards**

123. During the Class Period, Vestas improperly booked revenue for supply-and-installation contracts to give investors the false and misleading impression that it was twice as profitable as it really was. Vestas consistently included revenues derived from supply-and-installation contracts in its financial statements, as well as in guidance provided to investors, because the revenue and the earnings margin associated with these contracts were critical indicators of the Company's financial performance and growth prospects.

124. By improperly recognizing revenue and earnings associated with supply-and-installation contracts on a percentage-of-completion basis and by failing to disclose the financial impact IFRIC 15 would have on the Company's reported financial results, the Company failed to disclose known trends, uncertainties and variability of performance related to its operational health. Specifically, Vestas failed to disclose that: (a) IFRIC 15 would have a material impact on its reported financial results – *i.e.*, nearly 89% of its 2010 wind-turbine revenue would require deferral; and (b) its accounting policies and procedures in place for recognition of supply-and-installation contracts were not in compliance with International Accounting Standards as mandated by the European Commission and the IASB.

125. Despite the fact that IFRIC 15 is unequivocal in its guidance that where a contract allows a customer "only limited ability to influence the design of the [product] . . . or to specify only minor variations to the basic design," it does not qualify for percentage-of-completion accounting,

Vestas misleadingly informed investors that its accounting policies were consistent and otherwise compliant with IFRIC 15.

126. According to the details Vestas provided in its November 22, 2010 restatement, Vestas' wind-turbine revenue for 1Q10, 2Q10 and 3Q10 was approximately €67 million, €93 million and €194 million, respectively, after taking into account IFRIC 15. The Company, however, had originally reported wind-turbine revenues of €609 million, €848 million and €1.8 billion for 1Q10, 2Q10 and 3Q10, respectively, in Vestas' publicly disseminated financial statements. The chart below shows the impact that Vestas' failure to comply with International Accounting Standards and EU law had on Vestas' reported revenues during 2010:

| (in € millions) | **1Q10** | **2Q10** | **3Q10** |
|---|---|---|---|
| **As Reported** | | | |
| Wind-Turbine Revenue | €609 | €848 | €1,776 |
| | | | |
| **As Restated**<br>Wind-Turbine Revenue | €67 | €93 | €194 |
| | | | |
| **% Overstatement** | 89% | 89% | 89% |

127. In addition, earnings associated with wind-turbine revenue were far worse than originally reported. Vestas originally reported 1Q10, 2Q10 and 3Q10 earnings of -€76 million, -€148 million and €271 million, respectively. After taking IFRIC 15 and IAS 18 into account, however, and after removing 89% of the Company's 2010 wind-turbine revenue from the books, Vestas reported 1Q10, 2Q10 and 3Q10 earnings of -€226, -€357 and -€164, respectively. The chart below shows the impact that Vestas' failure to comply with International Accounting Standards and EU law had on reported earnings during 2010:

| (in € millions) | **1Q10** | **2Q10** | **3Q10** |
|---|---|---|---|
| **As Reported** | | | |
| EBIT | -€76 | -€148 | €271 |
| | | | |

| | | | |
|---|---|---|---|
| **As Restated** EBIT | -€226 | -€357 | -€164 |
| | | | |
| **% Overstatement** | 197% | 141% | 161% |

128. Vestas' Class Period statements concerning its revenue and earnings were achieved by improperly classifying supply-and-installation contracts as "construction contracts" and recognizing associated revenues and earnings for these projects in violation of IFRIC 15. Investors ultimately learned that Vestas' failure to comply with International Accounting Standards and EU law requiring supply-and-installation contracts to be accounted for as sales of goods allowed the Company to portray itself much more profitable than it actually was. For example:

- Macquarie Research downwardly revised its price target on Vestas and noted: "[T]he restated historical figures reveal that the underlying profitability in Vestas had been around the 5% EBIT margin level rather than in the double-digits [reported] during 2006-09"; and

- HSBC Global Research reported: "Vestas' recent change in accounting policy has significantly changed the historic margin profile of the company during 2006-2010 . . . . During 2006-09, EBIT margins are now c5% . . . . This is very different to the old accounting policy under which they increase each year from 5% in 2006 to 12.9% in 2009."

129. On the first day of the Class Period, the Company assured investors that IFRIC 15 would have no material impact on the Company's financial performance. On February 11, 2010, the Company failed to disclose the expected impact of IFRIC 15 on the Company's financial statements. The Company failed to make the required disclosure despite the facts that: (a) the European Commission had endorsed IFRIC 15 into law in July 2009; (b) PwC had twice warned defendant that implementation of IFRIC 15 was mandatory on January 1, 2010; and (c) in late 2009 senior management warned the Company's sales force in Rome, Italy that 2010 was stacking up to be a horrible year financially because of IFRIC 15.

**Vestas' Restatement Is an Admission of Falsity**

130. As alleged herein, the fact that Vestas revised and restated its revenue and earnings downward for 1Q10, 2Q10 and 3Q10 and admitted that it had not implemented IFRIC as required on January 1, 2010, establish that the Company's 1Q10, 2Q10 and 3Q10 financial results, as originally reported, were materially false.

131. As set forth in IAS 8, the type of restatements and revisions announced by the Company on November 22, 2010 were to correct for material errors in previously issued financial statements. IAS 8, ¶5 provides:

> Prior period errors are omissions from, and misstatements in, the entity's financial statements for one or more prior periods arising from a failure to use, or misuse of, reliable information that:
>
> (a) was available when financial statements for those periods were authorised for issue; and
>
> (b) could reasonably be expected to have been obtained and taken into account in the preparation and presentation of those financial statements.
>
> Such errors include the effects of mathematical mistakes, mistakes in applying accounting policies, oversights or misinterpretation of facts, and fraud.

132. Here, IFRIC 15 was available and in effect prior to the Company issuing its Class Period financial statements. Thus, Vestas could reasonably be expected to have obtained and taken into account IFRIC 15 prior to the preparation and presentation of its Class Period financial statements. Further, Vestas could reasonably be expected to have taken IFRIC 15 into account prior to making disclosures concerning the expected financial impact IFRIC 15 would have on its financial results. Because IFRIC 15 was mandated to be implemented by Vestas by no later than January 1, 2010, because the revenue recognition issues addressed by IFRIC 15 had been in the public discourse for years prior to 2009, and because Vestas confirmed publicly that it was aware of

the implications of IFRIC 15 on February 9, 2009, Vestas disregarded its duty to report its financial results in an accurate manner.

133. Restatement of past financial results is a disfavored method of recognizing an accounting change as it dilutes confidence by investors in the financial statements and it makes it difficult, if not impossible, to compare the entity's historical financial statements. Thus, IAS provides that financial statements should only be restated in limited circumstances, *i.e.*, when there is fraud, a change in accounting policies, accounting estimates and correction of prior period errors. IAS 8, ¶3. Vestas' restatements and revisions were not due to a change in accounting policies because IFRIC 15 was effective on January 1, 2010 and, as admitted by the Company's auditor, was mandated to be implemented and applied by Vestas by no later than January 1, 2010. Here, and as admitted by Vestas, it failed to implement and apply IFRIC 15 until November 22, 2010. Accordingly, Vestas' restatements and revisions of 1Q10, 2Q10 and 3Q10 financial statements were due to error. As such, the restatements and revisions of 1Q10, 2Q10 and 3Q10 financial statements were an admission by Vestas that its previously issued financial results, as well as its public statements regarding those results, were materially false and misleading.

**Vestas' Growing Product Quality Problems and Material Obsolete Inventory Levels**

134. During the relevant time period, Vestas was also beset by product defects, lack of processes and quality control, and material amounts of obsolete nacelle inventory buildup around the globe.

135. Vestas consists of 13 business units, including the technology group ("TEC"), nacelles organization ("NAC"), the wind turbine generators group ("WTG"), towers group ("TOW") and CON. The TEC was responsible for engineering, development, and design of the Company's products and systems. The NAC was responsible for the manufacturing of the wind turbine nacelles,

*i.e.*, the large box-like structure on top of the wind turbine tower, which housed the generator and controls technology. The WTG was responsible for manufacturing the wind turbine generators housed in the nacelle. The TOW was responsible for manufacturing the wind turbine towers, upon which the nacelle turbine generator and blades sit. Each business unit was directly managed and overseen by the Company's CEO and CFO.

136. At facilities located throughout Denmark, including control facilities in Hammel and Lem, the nacelles factory in Aarhus, and towers facility in Ringoving, there were accumulating amounts of problematic wind turbine inventory. In Hammel, for instance, there were several large metal bookcases – about seven feet tall – stocked with rows of large circuit boards. The bookcases contained over 200 control boards that had failed electrical testing. The boards were organized by part number. The control boards would have to be repaired and reworked someday – but these had accumulated over at least two years and nothing had been done to determine which boards could be reworked or should be scrapped.

137. Vestas consistently stored failures, rejects, and other non-conforming or obsolete parts inside production facilities or in the plant yards. Vestas had no processes in place to scrap inventory that had failed, was obsolete, unusable or otherwise non-conforming. Vestas' plants did not maintain repair logs. Scrap or obsolete CON boards and entire nacelles were being kept as work in process ("WIP") inventory and that there was no effort or procedure to remove materials or inventory from WIP, much less a process in place to categorize it as scrap or available for rework. In addition, control boards and whole generator units were not serialized. Rather, Vestas just assigned them random part numbers. Vestas had no ability to trace the source of failing parts and components and, therefore, had insufficient mechanisms to resolve ongoing defects and failures.

138. At the TOW plant in Ringoving, Denmark, there were several dozen 30-foot base rings, which install on top of concrete piers that are counter balances to the tall, sometimes 300-foot wind turbine towers. The rings hold the tower in place with large bolts, but the Vestas foundries were producing many these in gross deviation of specifications – *e.g.*, not parallel to the ground which would have the tower up on an angle and in an operating condition that would soon result in failure once the nacelles began to spin – and, therefore, had no other potential use after failing. These unusable, defective rings were not subjected to scrap procedures and were sitting outdoors at the plant and being held as WIP inventory.

139. During a September 2010 meeting, Vestas' CEO addressed product quality and inventory issues facing the Company. During the meeting, the CEO requested that a "top-down," "Six Sigma" roadmap be developed to resolve ongoing problems. The CEO informed the meeting participants that Vestas had accumulated approximately 950 unusable "scrap" or "junk" nacelles, which were laying around at Company facilities around the world, including Spain, the United States and Tianjin, China. The CEO explained to the participants at the September 2010 meeting that the inventory situation was unacceptable because each nacelle cost the Company between €1.0 and €1.5 million to manufacture. Vestas had accumulated likely over €1.0 billion in junk nacelles since 2005, which the Company treated as WIP inventory and not yet subjected to disposition.

140. There were about 320 defective nacelles at the Tianjin, China facilities alone, which were rejects from customers. There were additional volumes of nacelles at shipping docks that had either been rejected by customers or were obsolete due to design changes. Vestas had no processes, controls or equipment anywhere that would grind up unusable nacelles or other large assemblies that were rejects and obsolete.

141. Between February 2009 and March 2010, there were over 100 V-90 nacelles sitting at Vancouver, Washington shipping docks that were left by the Company to rust in the open elements. The V-90 nacelles were obsolete due to design changes and were never to be delivered to customers due to their condition. There were also 15 to 20 V-47 and V-82 wind turbines sitting in the open elements in Vancouver. The Company's turbines continued to be plagued by quality and operational issues. As such, certain turbine models generated large numbers of continuous improvement management ("CIM") work orders. The V-90s, for instance, consistently suffered approximately 30 CIMs at a time, requiring the wind turbine technician's team to take delivered V-90s "off-line" for days at a time for repair work.

142. There were approximately 100 nacelles stored in truck-trailer sized shipping boxes on the grounds of the Brighton, Colorado manufacturing and assembly plant. The nacelles were supposed to have been shipped to customers, but were failed units or had become obsolete for shipment due to model design changes. The nacelles were not scrapped or otherwise dispositioned because of the Company's policy that it does not have "scrap" inventory.

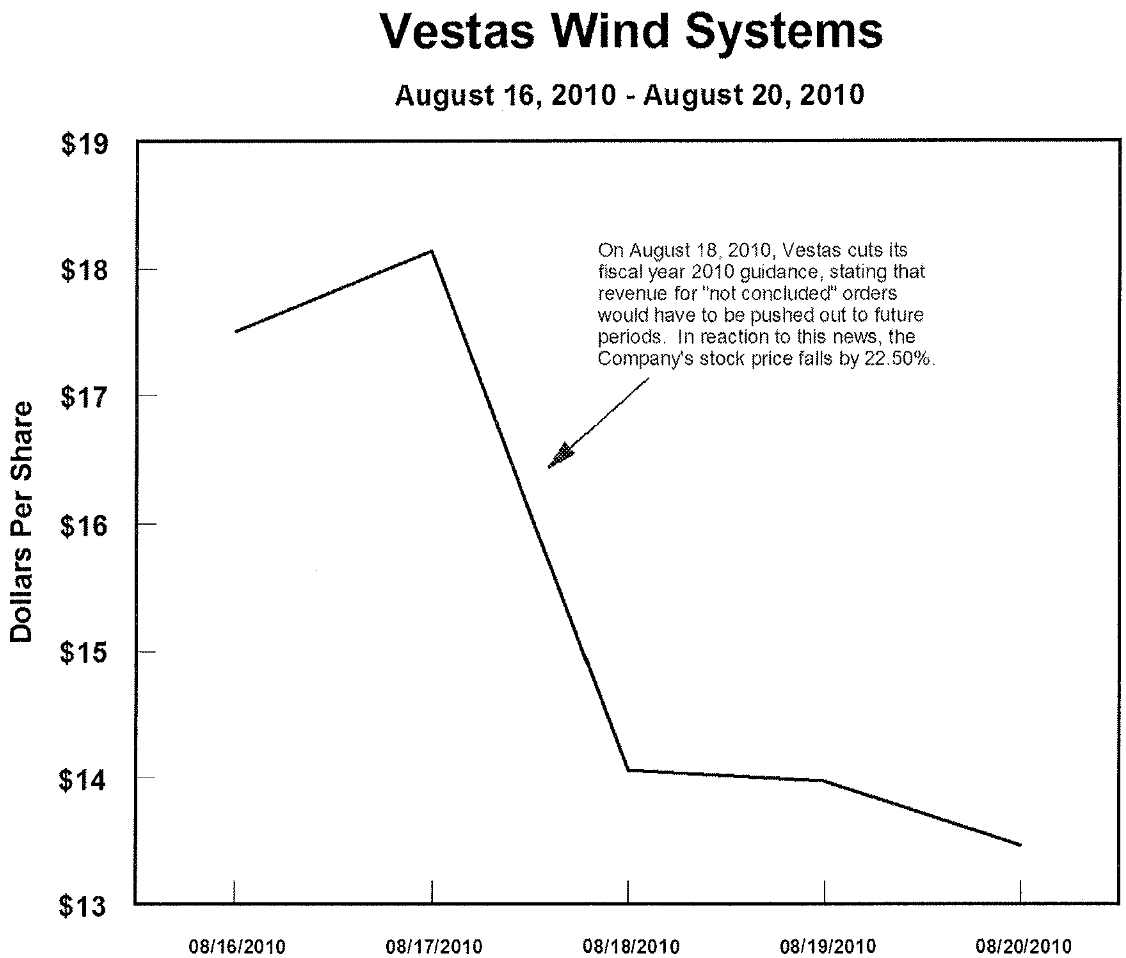
## PROXIMATE LOSS CAUSATION/ECONOMIC LOSS

143. As alleged herein, Vestas engaged in a scheme and wrongful course of business, which was designed to and did deceive Class Period purchasers of Vestas securities as the Company misrepresented and/or omitted material information about its financial results and guidance, valuation of inventory and compliance with International Accounting Standards. When the market learned that: (a) Vestas could not record revenues for incomplete orders until future periods; (b) the Company's financial statements were not in compliance with International Accounting Standards; and (c) billions of Euros in revenue would require deferral and hundreds of millions of Euros in earnings would require restatement, the Company's stock price fell precipitously as the prior

inflation came out of the price. As a result of their purchases of inflated Vestas securities during the Class Period, plaintiff and other members of the Class, as defined in ¶¶1 and 154, suffered economic loss, *i.e.*, damages, under the federal securities laws.

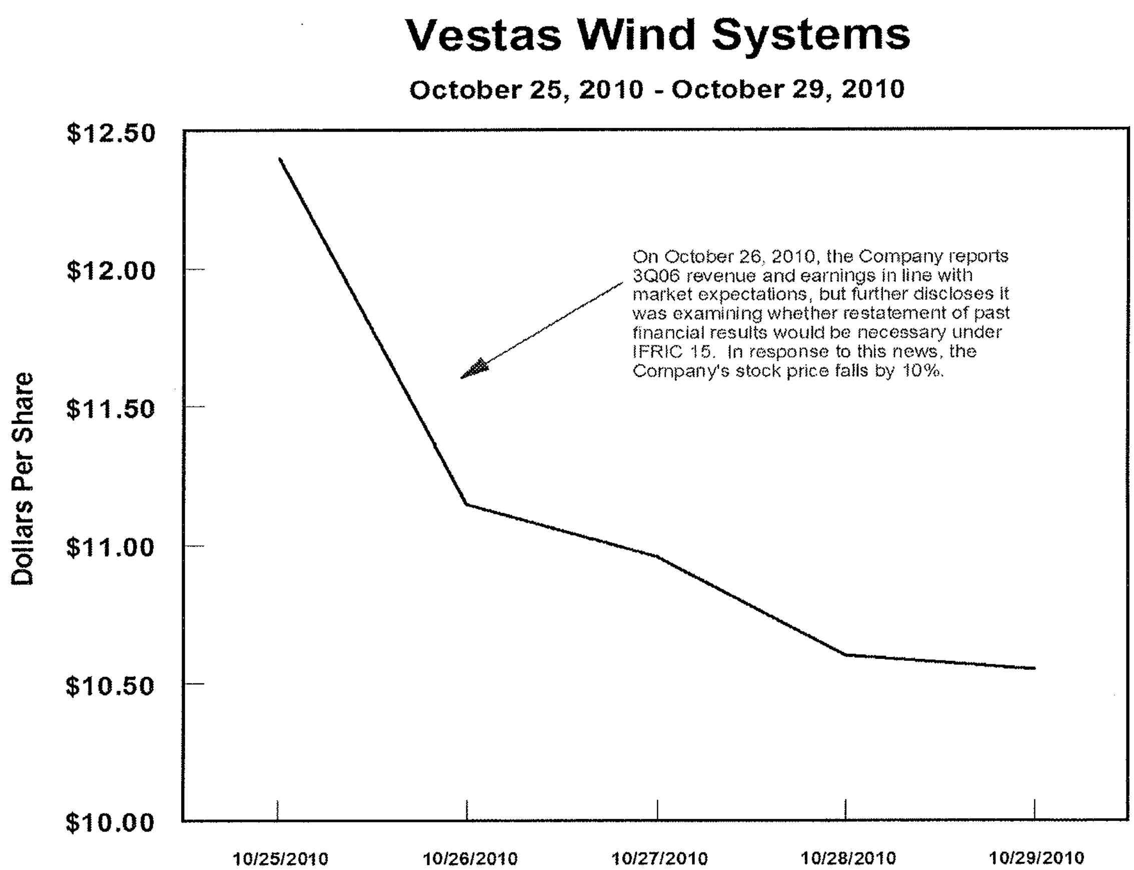
144. The Company's false and misleading statements and omissions, identified herein at ¶¶48, 51, 53, 55, 57, 59, 61, 63, 65, 67, 72, 75, 80, 83, 88, 90-91, 97, 99 and 101, had the intended effect and caused Vestas' securities prices to trade at artificially inflated levels during the Class Period.

145. As a direct result of the August 18, 2010 disclosure that Vestas was forced to reduce its 2010 revenue and earnings guidance due to "not concluded orders for delivery [of wind turbines] to the [United States]" and other markets, the Company's securities prices dropped immediately on stock markets around the globe. The stock price drop immediately following this disclosure was a reasonably foreseeable consequence of the Company falsely informing investors during the Class Period that it had appropriately accounted for billions of Euros of wind turbine contracts and Vestas providing the market 2010 earnings guidance that did not reflect the revenue recognition criteria established by IFRIC 15. Specifically, on August 18, 2010, Vestas' ADR, VWDRY, fell 22.5% from the prior day's closing price of $18.14 to close at $14.06. On August 18, 2010, the trading volume of VWDRY increased over ten times – or 1000% – versus its normal daily volume. As identified in the chart below, this drop removed some of the inflation from Vestas' securities prices, causing real economic loss to investors who had purchased the Company's securities during the Class Period:



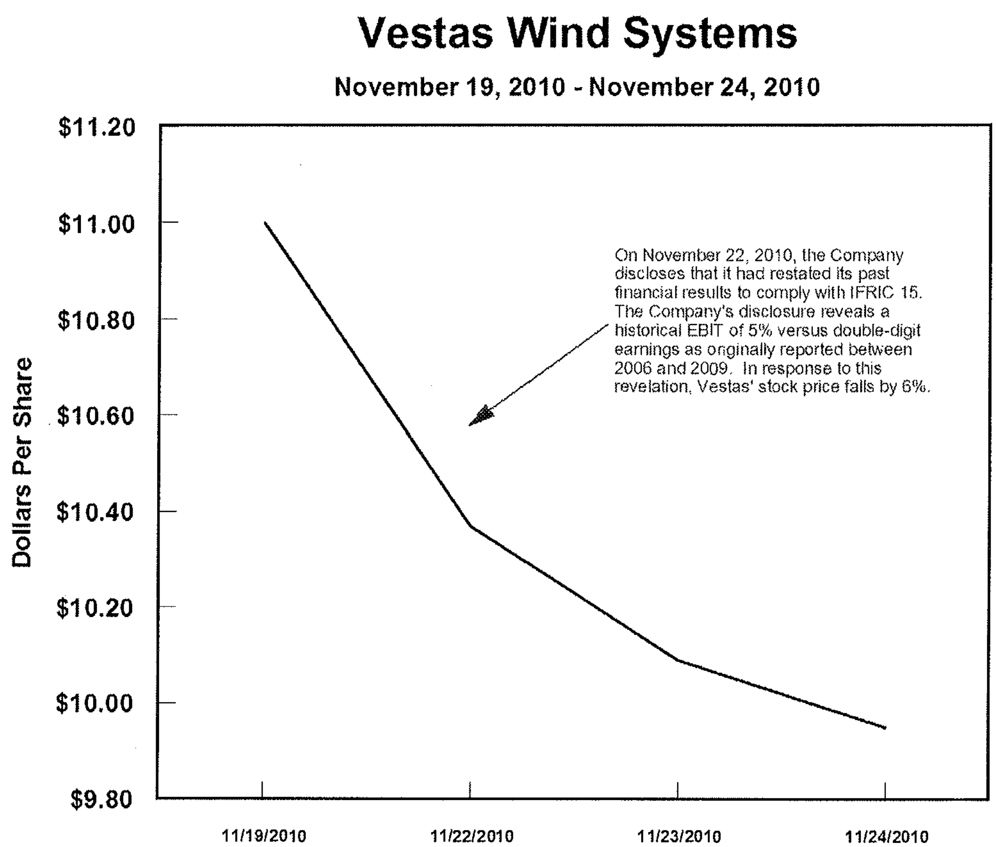

146. As a direct result of the October 26, 2010 disclosure that Vestas had not implemented IFRIC 15 and that its financial statements may require restatement, the Company's securities prices dropped immediately on markets around the globe. The stock price drop immediately following this disclosure was a reasonably foreseeable consequence of Vestas falsely informing investors during the Class Period that the Company had implemented IFRIC 15 and that it had correctly classified its supply-and-installation contracts pursuant to the guidance provided in IFRIC 15. Specifically, on October 26, 2010, Vestas' ADR, VWDRY, fell 10.1% from the prior day's closing price of $12.40 to close at $11.15. On October 26, 2010, the trading volume of VWDRY increased compared to its normal daily volume. As identified in the chart below, this drop removed some of the inflation from

Vestas' securities prices, causing real economic loss to investors who had purchased the Company's securities during the Class Period:



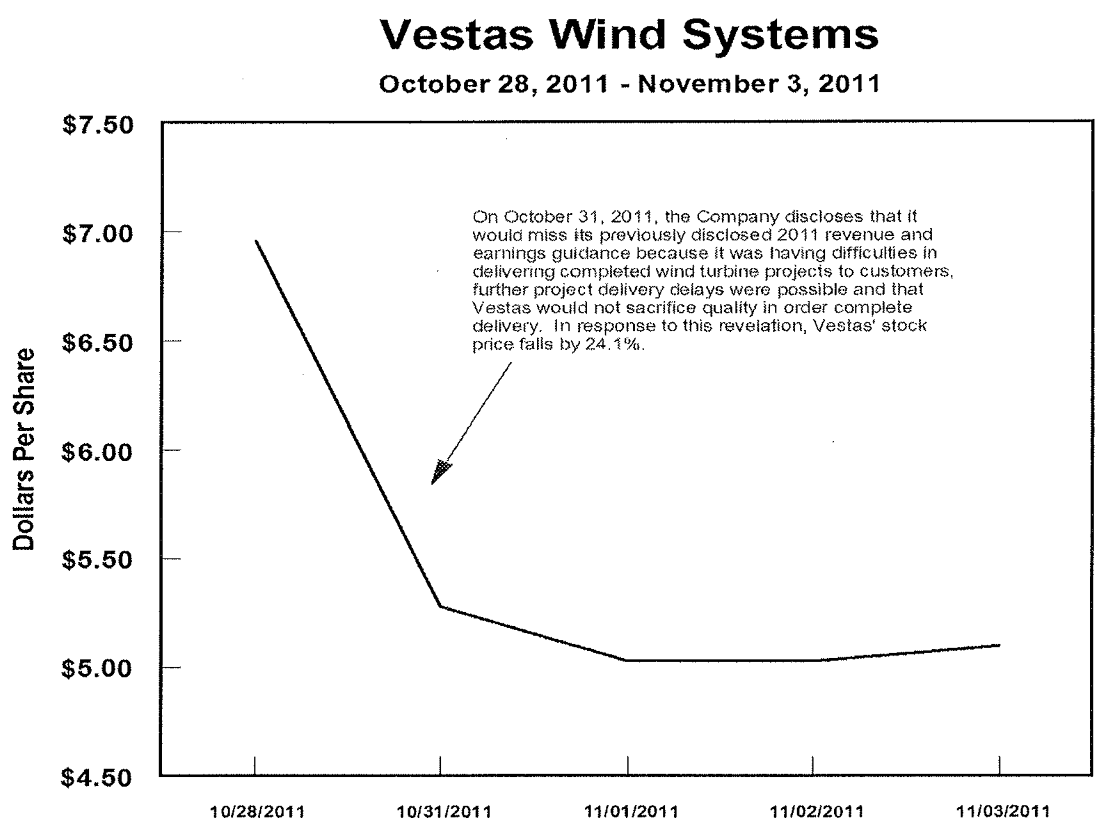

147. As a direct result of the Company's November 22, 2010 disclosure, which restated its prior false and misleading financial reports in compliance with IFRIC, Vestas' securities prices dropped immediately on markets around the globe. The stock price drop immediately following this disclosure was a reasonably foreseeable consequence of Vestas revealing the full extent of the falsity of its previously disseminated Class Period financial results. Specifically, on November 23, 2010, Vestas' ADR, VWDRY, fell 6.0% from the prior trading day's closing price of $9.78 to close at $9.24. On November 29, 2010, the trading volume of VWDRY increased compared to its normal daily volume. As identified in the chart below, this drop removed some of the inflation from Vestas'

securities prices, causing real economic loss to investors who had purchased the Company's securities during the Class Period:



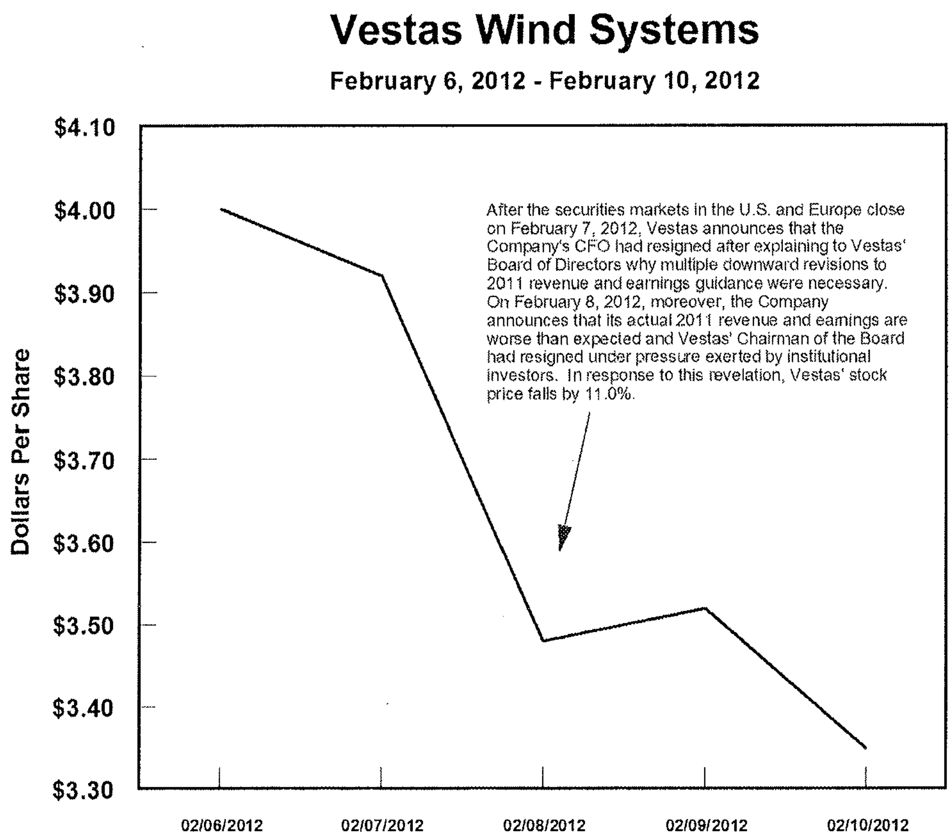

148. As a direct result of the October 31, 2011 disclosure of a downward revision in 2011 guidance because Vestas was having difficulties delivering completed wind turbine projects to customers and would not "compromise on . . . quality" in meeting these orders, the Company's securities prices dropped immediately on markets around the globe. The Company also issued a 2011 profit warning because of delayed commissioning of a new generator factory in Travemünde, Germany. The delay in the commissioning of the factory also led to postponement of delivery of various wind turbine projects. The stock price drop immediately following these disclosures was the reasonably foreseeable consequence of Vestas revealing the falsity of its Class Period statements concerning 2011 guidance and its failure to disclose the financial impact IFRIC 15 would have on

the Company's future financial performance and that the Company was carrying over €1.0 billion in scrap wind turbine/nacelle inventory. Specifically, on October 31, 2011, Vestas' ADR, VWDRY, fell 24.1% from the prior day's closing price of $6.96 to close at $5.28. As identified in the chart below, the drop removed some of the inflation from Vestas' securities prices, causing real economic loss to investors who had purchased the Company's ADRs and common stock during the Class Period:




149. As a direct result of the February 7 and February 8, 2012 disclosures of the resignations of Vestas' Chairman of the Board and CFO, coupled with 2011 revenue and earnings performance coming in below two prior downward revisions due to wind turbine projects that were not "handed over" and, therefore, not recognized as revenue in 2011, the Company's securities prices dropped immediately on markets around the globe. Specifically, on February 8, 2012, Vestas

disclosed 2011 revenue of €5.8 billion and EBIT margin of -0.7%, which were lower than the expected results disclosed by the Company on January 12, 2012. The reasons given for the miss included: (a) lower-than-expected deliveries in 2011 because of generator factory and weather; (b) slow ramp-up of the generator factory in Travemünde, Germany; and (c) customer-related and production-related delays. The Company also disclosed that projects for which revenue recognition had been deferred until 2012 will have lower margins due to higher-than-anticipated costs. Reasons for the higher costs included: (a) increased indirect production costs, construction changes and scrap; (b) cost-out initiatives not achieved according to schedule; and (c) write-downs of individual wind turbine projects. The stock price drop immediately following these disclosures was the reasonably foreseeable consequence of the Company revealing all new, but previously undisclosed, information regarding the falsity of its Class Period statements concerning 2011 guidance, its failure to disclose the financial impact IFRIC 15 would have on the Company's future financial performance and that the Company was carrying over €1.0 billion in scrap wind turbine/nacelle inventory. Specifically, on February 8, 2012, Vestas' ADR, VWDRY, fell 11.2% from the prior day's closing price of $3.92 to close at $3.48. As identified in the chart below, the drop removed the rest of the inflation from Vestas' securities prices, causing real economic loss to investors who had purchased the Company's ADRs and common stock during the Class Period:




150. The declines in Vestas' securities prices were a direct result of the nature and extent of the Company's prior false and misleading statements and omissions being revealed to investors and the market. The timing and magnitude of Vestas' stock price declines negate any inference that the losses suffered by plaintiff and other members of the Class were caused by changed market conditions, macroeconomic or industry factors, or firm-specific facts unrelated to the Company's alleged fraudulent conduct. The economic losses suffered by plaintiff and other members of the Class were a direct result of the Company's failure to comply with IFRIC 15 and hiding that fact from investors. This scheme inflated Vestas' securities prices and maintained the price at artificially inflated levels until the subsequent declines in the value of Vestas securities occurred when the Company's prior false and misleading statements and omissions were revealed.

**APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD-ON-THE-MARKET DOCTRINE**

151. At all relevant times, the markets for Vestas securities were efficient markets for the following reasons, among others:

(a) Vestas securities were listed and/or actively traded on efficient and automated trading markets around the globe, including in the United States;

(b) Vestas made its periodic public reports available in English to investors around the globe, including in the United States;

(c) Vestas regularly communicated with investors around the globe, including in the United States, through established market communications mechanisms, including through regular dissemination of press releases on U.S. national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other reporting services and via the Internet;

(d) Vestas was followed by over 30 major securities analyst and brokerage firms throughout the Class Period who regularly issued reports in English, which were distributed to brokers, customers and investors. Each of these reports was publicly available and entered the public marketplace;

(e) The bid-ask spreads of Vestas' ADRs were insignificant compared to their daily average stock price;

(f) Vestas had a large, multi-billion Euro market capitalization throughout the Class Period; and

(g) Vestas' securities prices did not evidence autocorrelation during the Class Period.

152. As a result of the foregoing, the markets for Vestas securities promptly digested current, public information regarding Vestas from publicly available sources and reflected such information in the price of the Company's securities. Accordingly, all purchasers or acquirers of Vestas securities during the Class Period in U.S. domestic transactions suffered similar injury through their purchase or acquisition of Vestas securities at artificially inflated prices and a presumption of reliance applies.

153. Throughout the Class Period, millions of Vestas securities were purchased and/or acquired in transactions that were completed, finalized or cleared exclusively within the United States, including through U.S.-based clearing organizations who were responsible for, pursuant to §17A of the Exchange Act [15 U.S.C. §78q-1], "[t]he prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds relating thereto." Such clearing organizations were responsible for the clearing of over $1.0 quadrillion of securities transactions during the Class Period, including those of Vestas, in U.S. domestic transactions.

## CLASS ACTION ALLEGATIONS

154. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of all persons who purchased or otherwise acquired Vestas common stock and ADRs in U.S. domestic transactions between February 11, 2009 and February 9, 2012 (the "Class"). Excluded from the Class are the officers and directors of the Company and, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which any Vestas officer or director have or had a controlling interest.

155. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. Vestas has millions of securities trading in the United States, owned by hundreds, if not thousands, of institutional and retail investors. Record owners and other members of the Class may be determined by Vestas, its transfer agent and depository institutions and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

156. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

(a) Whether the Exchange Act was violated by Vestas;

(b) Whether Vestas omitted and/or misrepresented material facts;

(c) Whether the Company's statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;

(d) Whether Vestas knew or deliberately disregarded that its statements were false and misleading; and

(e) The extent of damage sustained by Class members and the appropriate measure of damages.

157. Plaintiff's claims are typical of those of the Class because plaintiff and the Class sustained damages from Vestas' wrongful conduct.

158. Plaintiff will adequately protect the interests of the Class and has retained counsel who are experienced in class action securities litigation. Plaintiff has no interests which conflict with those of the Class.

159. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impracticable for members of the Class to individually redress wrongs perpetrated by Vestas. There will be no difficulty in the management of this case as a class action.

## COUNT I

### For Violation of §10(b) of the Exchange Act and Rule 10b-5 Against Defendant Vestas

160. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

161. During the Class Period, Vestas carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (a) deceive the investing public, including plaintiff and other Class members, as alleged herein; (b) artificially inflate and maintain the market price of Vestas securities; and (c) cause plaintiff and other members of the Class to purchase Vestas securities at artificially inflated prices and, as a result, suffer economic losses when the truth about the Company's fraud was revealed. In furtherance of this unlawful scheme, plan and course of conduct, Vestas took the actions set forth herein.

162. Vestas: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Vestas securities in violation of §10(b) of the Exchange Act and Rule 10b-5. Vestas is sued either as primary participant in the wrongful and illegal conduct charged herein or as a controlling person as alleged below.

163. Vestas directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of the Company as specified herein.

164. Vestas employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices and a course of conduct as alleged herein in an effort to assure investors of the Company's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Vestas and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Vestas securities during the Class Period.

165. Vestas' primary liability, and controlling person liability, arises from the following facts: (a) the Company's Chairman, CEO and CFO were high-level executives and directors at the Company during the Class Period; (b) the high-level executives were privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; and (c) the high-level executives were aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

166. As such, Vestas had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that it failed to ascertain and to disclose such facts, even though such facts were available to the Company. Vestas'

material misrepresentations and omissions were done knowingly or recklessly and for the purpose and effect of concealing its true financial results, operating condition and business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Vestas' misstatements and omissions regarding its financial results and operations throughout the Class Period, Vestas, if it did not have actual knowledge of the misrepresentations and omissions alleged, was reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

167. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Vestas securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Vestas publicly traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Vestas, or upon the integrity of the market in which the securities trade and/or on the absence of material adverse information that was known to or recklessly disregarded by the Company but not disclosed in public statements by the Company during the Class Period, plaintiff and the other members of the Class acquired Vestas securities during the Class Period at artificially inflated prices and were damaged thereby.

168. At the time of said misrepresentations and omissions, plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had plaintiff and the other members of the Class and the marketplace known of the true financial condition and business prospects of Vestas, which were not disclosed by Vestas, plaintiff and other members of the Class would not have purchased or otherwise acquired their Vestas securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

169. By virtue of the foregoing, Vestas has violated §10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

170. As a direct and proximate result of Vestas' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

## COUNT II

### For Violation of §20(a) of the Exchange Act Against Defendant Vestas

171. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

172. Defendant Vestas acted as a controlling person of Vestas within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of Vestas' ownership and contractual rights, participation in and awareness of the Company's operations, and intimate knowledge of the statements disseminated to the investing public, Vestas had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which plaintiff contends are false and misleading. Vestas was provided with or had unlimited access to copies of its financial reports, press releases, public filings and other statements alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

173. In particular, Vestas had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

174. As set forth above, Vestas, through its agents, violated §10(b) and Rule 10b-5 by its acts and omissions as alleged in this Complaint. By virtue of its position as a controlling person, Vestas is liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of Vestas' wrongful conduct, plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

## PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows:

A. Declaring this action to be a proper class action, certifying plaintiff as Class representative pursuant to Fed. R. Civ. P. 23 and plaintiff's counsel as Class Counsel;

B. Awarding plaintiff and the members of the Class damages, including interest;

C. Awarding plaintiff reasonable costs and attorneys' fees; and

D. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

## JURY DEMAND

Plaintiff demands a trial by jury.

DATED: June 27, 2014

ROBBINS GELLER RUDMAN
& DOWD LLP
KEITH F. PARK
HENRY ROSEN
TRIG R. SMITH
JULIE A. KEARNS

s/ TRIG R. SMITH

TRIG R. SMITH

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
Email: keithp@rgrdlaw.com
Email: henryr@rgrdlaw.com
Email: tsmith@rgrdlaw.com
Email: jkearns@rgrdlaw.com

Lead Counsel for Plaintiffs

STOLL STOLL BERNE LOKTING
& SHLACHTER P.C.
**GARY M. BERNE**, OSB No. 774077
Email: gberne@stollberne.com
**STEVE D. LARSON**, OSB No. 863540
Email: slarson@stollberne.com
**MARK A. FRIEL**, OSB No. 002592
Email: mfriel@stollberne.com
209 S.W. Oak Street, 5th Floor
Portland, OR 97204
Telephone: 503/227-1600
503/227-6840 (fax)

Liaison Counsel

SUGARMAN & SUSSKIND
HOWARD S. SUSSKIND
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
Telephone: 305/529-2801
305/447-8115 (fax)

Additional Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2014, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 27, 2014.

s/ TRIG R. SMITH
TRIG R. SMITH

ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail:TrigS@rgrdlaw.com

# Mailing Information for a Case 3:11-cv-00585-AC In re: Vestas Wind Systems A/S Securities Litigation

## Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Robert L. Aldisert**
  raldisert@perkinscoie.com,skroberts@perkinscoie.com,docketpor@perkinscoie.com,adargis@perkinscoie.com
- **Jeffrey A. Berens**
  jeff@dyerberens.com
- **Gary M. Berne**
  gberne@stollberne.com,abuck@stollberne.com
- **Marshall P. Dees**
  mdees@holzerlaw.com
- **Ralph C. Ferrara**
  rferrara@proskauer.com
- **Mark A. Friel**
  mfriel@stollberne.com,gseaman@stollberne.com
- **Julie A. Kearns**
  JKearns@rgrdlaw.com
- **Steve D. Larson**
  slarson@stollberne.com,gseaman@stollberne.com
- **Keith F. Park**
  keithp@rgrdlaw.com
- **Milo Petranovich**
  petranovichm@lanepowell.com,pettingerk@lanepowell.com,docketing-pdx@lanepowell.com
- **Jonathan E. Richman**
  jerichman@proskauer.com
- **Henry Rosen**
  henryr@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Trig R. Smith**
  tsmith@rgrdlaw.com,e_file_sd@rgrdlaw.com,susanw@rgrdlaw.com
- **Tanya Durkee Urbach**
  urbacht@lanepowell.com,pinkleyl@lanepowell.com,docketing-PDX@lanepowell.com

## Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)