

United States  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

( X ) ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934

For the fiscal year end December 31, 1998

OR

( ) TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 0-28082

KVH Industries, Inc.

(Exact name of Registrant as specified in its charter)

Delaware 05-0420589  
(State or other jurisdiction of (IRS Employer  
incorporation or organization) Identification No.)

50 Enterprise Center, Middletown, RI 02842  
(Address of principal executive offices) (Zip code)

(401) 847-3327  
(Registrant's telephone number including area code)

Securities registered pursuant to Section 12(b) of the Act: None.

Securities registered pursuant to section 12(g) of the Act: Common Stock, \$0.01  
par value, per share.  
(Title of Class)

Indicate by check mark whether the registrant (1) has filed all reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of  
1934 during the preceding 12 months (or for such shorter period that the  
registrant was required to file such reports), and (2) has been subject to such  
filing requirements for the past 90 days. Yes X No \_\_\_

Indicate by check mark if disclosure of delinquent filers pursuant to  
Item 405 of Regulation S-K is not contained herein, and will not be contained,  
to the best of registrant's knowledge, in definitive proxy or information  
statements incorporated by reference in Part III of this Form 10-K or any  
amendment to this Form 10-K ( ).

As of March 23, 1999, the aggregate market value of the voting stock held  
by non-affiliates of the Registrant was \$7,096,642 based upon a total of  
4,125,955 shares held by non-affiliates and the last sale price on that date of  
\$1.72. As of March 23, 1999, the number of shares outstanding of the  
Registrant's common stock was 7,205,928.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Company's definitive Proxy Statement relating to the  
1999 Annual Meeting of Shareholders are incorporated by reference into Part III  
of this Report on Form 10-K. The Company anticipates that its definitive Proxy  
Statement will be filed with the Securities and Exchange Commission within 120  
days after the end of the Company's fiscal year end December 31, 1998.

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"Safe Harbor" statement under the Private Securities  
Litigation Reform Act of 1995

With the exception of historical information, the matters discussed in this Annual Report on Form 10-K include certain forward-looking statements that involve risks and uncertainties. Among the risks and uncertainties to which the Company is subject are product life cycles, technological change, the Company's relationship with its significant customers, market acceptance of new product offerings, reliance on outside resources such as satellite networks, dependence on key personnel, fluctuations in annual and quarterly performance and worldwide economic conditions. As a result the actual results realized by the Company could differ materially from the statements made herein. Shareholders of the Company are cautioned not to place undue reliance on forward-looking statements made in the Annual Report on Form 10-K or in any document or statement referring to this Annual Report on Form 10-K. For a more detailed discussion of risks and uncertainties, see "Management's Discussion and Analysis of Financial Condition and Results of Operations--Forward Looking Statements."

## PART I

### Item 1. Business.

#### Overview

KVH Industries, Inc. ("KVH" or the "Company") was organized in Rhode Island in 1978 and was reincorporated in Delaware on August 16, 1985. The Company completed its initial public offering in April 1996. The Company's executive offices are located at 50 Enterprise Center, Middletown, RI, and its telephone number is (401) 847-3327. Unless the context otherwise requires, references to KVH or the Company include KVH Industries, Inc. and its Danish sales subsidiary.

KVH utilizes its proprietary fiber optic, autocalibration and fluxgate technologies to produce sensor systems with multiple market applications. The Company currently sells its sensors as integrated components of navigation and satellite communications systems for mobile marine and land applications in the commercial, military and original equipment manufacturers ("OEM") markets. KVH's digital navigation systems provide accurate, real-time heading, orientation, position and pointing information. The Company's satellite communications systems provide two-way voice, fax and data connections and deliver television and certain data via direct broadcast satellite (DBS) services.

Since introducing the world's first commercial digital fluxgate compass in 1982, KVH has demonstrated a commitment and the ability to continually advance the capabilities and applications of its sensors and the systems into which they are integrated. KVH first enhanced its stand-alone compass for sailing vessels by developing proprietary software that automatically calibrated the system. The Company further increased its marine product capabilities by incorporating Global Positioning System ("GPS") compatibility for precise location data, adding gyroscopes to measure pitch, roll and yaw, enhancing display readability and designing compact, integrated systems that interface with other navigation devices and sensors. By continually advancing product applications and designing components to meet the needs of new customer groups, such as powerboat owners, the Company broadened its reach in the marine market. To support its international marketing of marine navigation products, the Company has established a broad network of international distributors and in 1991 established KVH Europe A/S in Hoersholm, Denmark.

In its first foray into the land navigation market, KVH developed militarized versions of its electronic compasses and began supplying them to the United States Navy for amphibious vehicles in 1988. To expand its land navigation product capabilities and market depth, the Company combined its sensor and autocalibration technologies into fully integrated systems. In 1991, the United States Marine Corps used KVH self-calibrating compasses for on-board military land vehicle navigation during the Persian Gulf War. Subsequently, the Company achieved increased accuracy and capabilities in its land mobile navigation systems through GPS integration, incorporating navigation capabilities for turreted armored vehicles and, ultimately, producing a fully integrated tactical navigation system that provides heading, location and targeting data to military vehicle commanders. Tactical navigation and digital compass systems are sold directly to the United States Department of Defense and the armed forces of other countries in Europe and the Middle East. Major defense contractors, including United Defense LP and General Motors Corporation, also incorporate KVH navigation products in manufacturing military land vehicles.

Sensor technologies were further leveraged when the Company created and introduced in 1993 an active-stabilized antenna-aiming system that maintains a continuous satellite link from moving platforms. KVH combined its sensors and software to integrate real-time heading, orientation and position data and then position the antenna to compensate for the ongoing, often severe directional changes that vessels experience at sea. Initially, the antennas were used for mobile marine voice transmission via Inmarsat M satellites. Ongoing advances in satellite capabilities provide KVH with a continual flow of product opportunities, as demonstrated by Inmarsat's launch of its mini-M satellite constellation. The higher-powered mini-M satellites made it possible for the Company to develop and in 1997 launch a system that is significantly smaller and costs less per minute than earlier products while delivering mobile voice, fax and data access worldwide. Further technological advances led to the 1998 introduction of one of the smallest and lowest-cost fully stabilized marine telephony systems available for Inmarsat mini-M service.

In a parallel expansion of its stabilized antenna technology, in 1994 the Company introduced its first TracVision(R) system to enable mobile television reception via direct broadcast satellite ("DBS") providers. Additional development efforts led to the 1998 launch of the world's smallest fully stabilized antenna for mobile marine television reception with systems designed for reception in North America and Europe. Also in 1998, the Company exploited its TracVision capabilities and took a major step in enabling broadband data delivery by offering users access to real-time stock market and weather information. Most recently, KVH developed an advanced TracVision system that incorporates the Company's newest digital gyro compass to provide vessel navigation capabilities in addition to antenna control. The Company also has developed a system for mobile television reception from land vehicles such as recreational vehicles (RVs) and motor coaches. Mobile communications products are marketed through the Company's third-party distributor network.

KVH enhanced its sensor capabilities in 1997 by acquiring the assets of the fiber optic sensor group of Andrew Corporation. With no moving parts, fiber optic sensors offer the benefits of long and stable operation and a lack of sensitivity to shock and acceleration that makes them valuable in a broad range of environments. For example, integrated fiber optic gyroscopes (FOGs) have the

ability to significantly increase heading and location accuracy at a lower cost than comparable tactical navigation systems. Combining FOGs and the TracVision control system can potentially enable highly accurate antenna pointing for the impending X-, K- or Ka-band communication systems that will provide ultra-high data rate transmissions. FOGs also have potential applications in military navigation, turret stabilization, merchant vessel navigation, precision agriculture, aviation flight control and positive train control. Fiber optic products are manufactured at the Company's Tinley Park, Illinois, facility and some development efforts are conducted at a St. Petersburg, Florida, facility.

#### Company Products

KVH has determined that there are significant opportunities for its sensor-based systems in the mobile communications market where the worldwide growth in demand for audio, data and video accessibility is eliciting significant growth in satellite availability. Advantages that satellites offer over land-based communications technologies include rapid service implementation, broad market reach that is independent of customer density, global access for mobile travelers throughout the world and broadband capabilities. Bandwidth on demand is required for delivering television, high-speed data and multimedia (e.g., Internet access, corporate networking and video conferencing) services.

KVH is using its core sensor, robotic and software technologies to develop systems that are synergistic with the escalating demand for mobile communications applications and that benefit from the related growth in satellite availability. The Company also recognizes that mobile users need, and are seeking, integrated, simplified access to those capabilities. As a result, the Company focuses on designing turnkey and OEM systems in the areas of broadcast, datacast and telephony.

A key component of KVH communications products is the Company's proprietary three-axis, fully stabilized antenna, which maintains satellite contact with geostationary satellites when a vessel or vehicle platform is in motion. The antennas use a KVH digital gyro compass and inclinometer to measure precisely the pitch, roll and yaw of an antenna platform in relation to the earth. The Company's proprietary stabilization and control software and on-board microprocessors use that data to compute the antenna movement necessary to maintain satellite contact and then transmit precise motor control instructions to aim the antenna. KVH has designed its antennas to permit rapid initial acquisition of the satellite signal without operator intervention.

KVH sells two telephony systems, Tracphone 25 and Tracphone 50, to mobile users worldwide. The Company introduced Tracphone 25 in 1998 and that year the system was named Best Satellite Telephone System by the National Marine Electronics Association ("NMEA"). Tracphone 50, which was introduced in 1997, is used primarily on larger vessels such as fishing boats and bulk carrier fleets. Basic prices for the systems are \$7,000 and \$8,000, respectively. Tracphones deliver voice, fax and data via the mini-M satellite constellation operated by Inmarsat (the International Maritime Satellite Organization), a consortium of 79 countries that operate a network of geostationary satellites providing worldwide communications services through mobile terminals on air, sea and land. The per-minute airtime rates for mini-M service, which average \$2.40 compared to Iridium's voice-only service for \$5.00-\$9.00 and Inmarsat's A/B services for \$7.00, gives the Company an additional competitive edge.

Under a new 1998 co-marketing agreement with American Mobile Satellite Corporation ("AMSC"), the Company also offers customers AMSC's cost-effective SKYCELL services with certain Tracphone sales. As a result of the collaborative agreement, KVH has become an authorized SKYCELL Agent and is supporting both hardware sales and services for AMSC Tracphones. The Tracphones covered by the agreement were produced under an earlier \$10.2-million contract with AMSC and these units have been incorporated into KVH's telephony line. AMSC Tracphones range in price from \$5,500 to \$6,900 and SKYCELL service covers as far north as the Bering Sea and as far south as the northern tip of South America, including all of the Caribbean. Since SKYCELL service costs are significantly lower than global Inmarsat service, KVH telephone customers can benefit from a more cost-effective service for North American coverage and use mini-M service for global coverage. Distributors in the KVH network sell AMSC packages for SKYCELL Satellite Telephone Services and the Company is using its dealer base to promote Tracphone and service package sales. A three-year agreement between KVH and Station 12 to co-market Tracphone 50 and Altus service will end in August 2000. KVH markets all of its communication products through a broad network of more than 260 national and international dealers.

KVH also sells DBS antenna systems for mobile television and data reception. Marine systems include TracVision II, which was named Best Satellite Television System by NMEA in 1998, for coverage in North America and TracVision(R) 45 for coverage in a range of European countries. In North America, TracVision II users can choose to subscribe to a variety of services from any of three DBS providers: DIRECTV(R), a subsidiary of GM Hughes Electronics, U.S. Satellite Broadcasting, Inc. ("USSB(R)") and EchoStar(R). TracVision 45 provides television reception via Astra and Hotbird satellite service to mariners in Europe, primarily in the coastal waterways of Germany, The Netherlands, Belgium, France and sections of the United Kingdom. With TracVision antennas, mariners can access such provider services as laser disc quality television, subscription programming, pay-per-view services and CD-quality audio channels. KVH introduced TracVision II in 1997 and launched TracVision 45 in 1998. The Company is developing a TracVision II upgrade that incorporates an optional KVH GyroTrac that controls antenna pointing and integrates with other electronic systems such as radar and autopilots. TracVision turnkey systems range in price from \$5,000 to \$7,100. Service activation capabilities are built in and costs depend upon which packages a user selects when establishing service with the provider.

KVH plans to introduce TracVision LM, its first land mobile satellite

communications product and another evolution in the Company's stabilized antenna product line, in 1999 at a cost of \$2,995. TracVision LM is designed to integrate with television systems to deliver DBS channels to on-the-move recreational and sports utility vehicles, motor coaches, vans, mini-vans and long-haul trucks.

KVH also sells sensor-based products into marine and military markets. Compass systems utilize the Company's digital fluxgate heading sensor to sample the surrounding magnetic field and output precise heading data. These signals are relayed to an on-board microprocessor, where filtering and averaging algorithms developed by the Company translate the output to stable heading information. The Company's proprietary autocalibration software continuously and automatically compensates for the effects of magnetic interference. In highly dynamic applications where greater accuracy and fully stabilized heading output is required, KVH integrates the sensor with one or more angular rate gyros and inclinometers. This integration provides three-dimensional error correction and stabilization capabilities previously available only from more costly systems. The Company is integrating FOG sensors into its navigation and communication product lines to create enhanced systems with broader market potential.

The Azimuth GyroTrac introduced in 1998 is the successor to the Company's Azimuth Digital Gyro Compass, which the NMEA named Best Gyro Compass in 1998. The newly designed system incorporates in one package multiple navigation capabilities that previously were available as options, thereby reducing the overall cost to customers and making installation easier and more efficient. NMEA also selected the Company's Azimuth 1000 as Best Electronic Compass in 1998. In addition to its Azimuth product line, the Company sells Sailcomp digital compass systems, the Quadro line of integrated instrument systems and DataScope, a hand-held compass and rangefinder that also is used in outdoor, military, technical, sporting and commercial applications.

In the military market, KVH sells TACNAV systems in a variety of configurations ranging from a simple GPS-compatible compass system with a single commander's display to a complete, integrated system that provides full tactical navigation and targeting capabilities and includes up to three separate commander's, gunner's and driver's displays. TACNAV systems are installed in a variety of light-armored fleets, including the United States AAV-7, LAV-25 and Bradley ODS, the Swedish Army's CV90 fleet and the Canadian Army's RECCE and APC.

Several new TACNAV orders that contributed modest revenues in 1998 have potential for more significant sales going forward. The United States Army extended its TACNAV use by installing systems in National Guard vehicles, the first deployment that expanded upon the initial contracted applications. TACNAV systems also were selected in 1998 as a key component for testing in the U.S. Army's Task Force XXI Battle Command Brigade and Below (FBCB2) program. FBCB2 is the digital battlefield effort that the Army has underway to provide battlefield commanders with comprehensive, real-time digital information, electronic coordination and situational awareness through an integrated tactical computer system. Also in 1998, the United States Marine Corps selected TACNAV Light systems for a rebuild of AAV-7's.

With the aid of Small Business Innovation Research (SBIR) grants awarded in 1998, the Company is integrating fiber-optic components to enhance the performance of TACNAV systems. KVH is developing ToFOG Navigator, a next-generation upgrade to TACNAV, to offer the military increased accuracy in pointing and targeting over the TACNAV system. ToFOG Navigator also is designed to solve the problem of GPS jamming, which the United States military has identified as an existing and growing problem with potentially serious consequences in battlefield situations. The Company is integrating GPS, FOGs and accelerometer sensors to create a three-axis, non-magnetic fiber optic gyroscope that will deliver reliable, highly accurate navigation and targeting capabilities in mobile environments. The system is designed to increase bandwidth, improve accuracy and ensure the continuous delivery of attitude and azimuth functions even when GPS is blocked at less cost than existing inertial systems. KVH also sells its FOG sensors and a variety of digital heading sensors, stabilized gyro compasses, rate sensors, inclinometers, sensing coils and other standard sensors and sensor systems to a variety of commercial OEMs.

Sales and Marketing. The Company sells its sensor products and systems through a variety of channels, including a direct sales force and a network of dealers, value-added resellers, distributors and sales representatives. KVH's commercial and recreational marine navigation products are sold through a domestic dealer network of more than 400 catalog chain outlets, including West Marine, Boaters' World and Boat U.S., more than 200 technical marine electronics value-added resellers, over 60 overseas distributors, and are supported through an independent manufacturer's sales representative network in all domestic sales regions. KVH markets its military navigation products to the armed forces of the United States and other countries and to OEM manufacturers through a direct sales force, distributors and sales representatives. The Company also uses its direct sales force, distributors and sales representatives to sell embedded sensors and sensor systems to a broad range of OEM manufacturers, including Lockheed, Harris and Raytheon. A world-wide network of technical dealers and distributors established by KVH sells the Company's antenna-aiming systems directly to both OEM manufacturers of satellite telephone transceivers and as turnkey systems to end-users. FOG sensors are sold directly to OEM customers through the same distribution system that the Company utilizes to sell its commercial digital sensors. The Company's agreements with its dealers, value added resellers, distributors and sales representatives generally are non-exclusive. The Company's products are sold in Europe through KVH Europe A/S and elsewhere in the world through a network of distributors.

Until recently, a significant portion of the Company's sales depended on a small number of customers placing large orders. During 1998 the Company made significant progress in shifting its communication revenues towards stronger direct sales and away from a predominance of OEM sales, a strategy that the

Company initiated in 1997. The Company expects this strategy to replace sporadic and notable variances in sales revenues with a more level revenue stream from repeat orders and a broader customer base, particularly in the communications industry. (See "Management's Discussion and Analysis of Financial Condition and Results of Operations Forward Looking Statements-Risk Factors.")

Backlog. The Company includes in its backlog only firm orders for which it has accepted a written purchase order. Many of the Company's orders are subject to cancellation, generally without penalties. In particular, the Company's military orders can generally be canceled at any time for the convenience of the customer, without penalty other than recovery of the Company's actual costs incurred through the date of cancellation.

The Company's revenue from commercial and recreational marine markets is derived primarily from sales to non-stocking distributors, retail chains, OEMs and other resellers who require short lead times for delivery of products to end-users. The Company manufactures its products on a just-in-time basis. Customers may cancel or reschedule orders without significant penalty and the prices of products may be adjusted between the time the purchase order is booked into backlog and the time the product is shipped to the customer. For these reasons, the Company believes that its backlog in general, and its backlog of commercial and recreational marine orders in particular, are not necessarily meaningful in predicting the Company's actual revenue for any future period.

The Company's backlog at December 31 was \$3.0 million in both 1998 and 1997. The Company expects to ship all its backlog at December 31, 1998, during 1999. The Company's total backlog at December 31, 1998 includes \$2.0 million in military navigation system orders and \$1.0 million in mobile satellite communication and FOG product orders. The Company's total backlog at December 31, 1997 included \$1.4 million in military navigation system orders and \$1.6 million in mobile satellite communication and FOG product orders.

Research and Development. The Company's research and development efforts are based on its core sensor technologies and focused on developing new products that will have broad application across existing and anticipated strategic markets while improving performance and reducing manufacturing costs for products in the market. A substantial portion of the Company's research and development expenditure is devoted to basic research for core technology development projects.

The Company's research and development activities fall into two categories: internally funded research and development and customer-funded research and development. The Company has financed virtually all of the cost of developing the Company's marine navigation and satellite communications products. However, much of the funding used to develop KVH's products for the military navigation market, in which a significant engineering effort to develop enhanced features requested by the customer is frequently involved, has been derived from government sources. Development of the Company's core sensor technologies has also been subsidized to a large extent by grants under the United States government's SBIR program. Customer-funded research and development is included in cost of sales.

The Company's total expenditures for research and development during 1998, 1997 and 1996 were as follows:

	Year ended December 31,		
	1998	1997	1996
	( in thousands)		
Internally funded research and development	\$3,991	3,175	2,431
Customer funded research and development	936	630	869
Total research and development	\$4,927	3,805	3,300

Manufacturing. The Company's manufacturing operations consist primarily of final assembly and test of products, materials procurement management and quality assurance. The Company manufactures a unique, proprietary optical fiber and certain subassemblies and components, such as fluxgate and fiber optic sensor coils. The Company contracts with third parties for some services, such as the fabrication and assembly of printed circuit boards, injection-molded plastic parts and machined metal components.

KVH believes there are a number of acceptable vendors for most components and third-party services used in manufacturing its products and the Company actively evaluates and selects suppliers for quality, dependability and cost effectiveness. In some instances where KVH has obtained certain components and services from a sole source to maintain quality control or develop a strategic supplier relationship supplier, the Company has experienced production delays due to insufficient supplies, delivery delays, poor quality control or failure to meet design requirements. Future shortages, delays or other problems could adversely affect production and, consequently, Company operating results. (See "Management's Discussion and Analysis of Financial Condition and Results of Operations - Forward Looking Statements-Risk Factors.")

Competition. The Company encounters significant competition in each of its markets. In the mobile satellite antenna-aiming market, the Company faces competition with its antenna systems primarily from SeaTel Corporation, which manufactures and markets a broad line of marine satellite communications and satellite tracking equipment, including antenna systems for Inmarsat and DBS-TV applications. For large dish marine satellite systems, SeaTel has greater marketing experience and a larger installed base than the Company. A second competitor, Datron Corporation, provides a stabilized antenna design for RV and marine reception of DBS-TV that competes with the company's turnkey DBS products. Other competitors include Nera Corporation and Westinghouse, plus a few smaller manufacturers of active stabilized antenna-aiming systems that may in the future develop antenna-aiming systems or other mobile satellite communications systems or equipment. The Company's satellite phone products also could be affected adversely by the advent of hand-held worldwide satellite

voice, data and fax services provided by companies such as Iridium World Communications, Ltd., Globalstar Telecommunications Ltd. and ICO Global Communications. Iridium, the only hand-held system currently on the market, offers voice service only and the costs per minute exceed those available through KVH's Inmarsat service by as much as 75 percent. KVH believes that there are certain mobile applications where hand-held systems will be ineffective and that the Company's antennas will be required. The Company has determined that the principal bases of competition in the satellite communications market are system performance, reliability, antenna size, cost and customer support.

In the market for military vehicle tactical navigation systems, the Company competes with a large number of domestic and international companies that produce dead-reckoning, inertial, GPS-based, or radio-based navigation systems and systems that provide integrated magnetic heading and GPS navigation capabilities. Most of these competitors have more experience than the Company in manufacturing and marketing products for the military marketplace. The Company believes that the principal bases of competition in the market for military land vehicle navigation systems are: product performance; field reliability; ease and flexibility of installation, maintenance and field modification; size and weight of the unit; size and stability of the vendor; and price.

In the commercial and recreational marine navigation market, the Company's principal competitors include a large number of domestic and international companies that manufacture and market stand-alone digital compasses, digital heading sensors and integrated instrument systems. The Company believes that the principal bases of competition in the commercial and recreational marine navigation market include product design and performance; flexibility and ease-of-use; product quality and the quality of customer support; and vendor reputation.

The Company's fiber optic gyro and embedded sensors compete with products of a large number of companies that produce magnetic sensors and gyroscopic rate sensors for sale in the OEM market. A number of these sensors are less accurate and substantially less expensive than the Company's products. Some larger competitors in the gyroscopic rate sensor market are Litton Corporation and Honeywell Corporation.

#### Intellectual Property

The Company's ability to compete effectively depends to a significant extent on its ability to protect its proprietary information. The Company relies primarily on trade secret laws, confidentiality procedures and licensing arrangements to protect its intellectual property rights. The technology licenses on which the Company relies include an angular rate gyro license from Etak, Inc. and a license from Thomson Consumer Electronics, Inc. relating to certain consumer electronic components.

The Company has 27 issued United States patents covering the Company's core sensor and fiber optic technologies. The Company intends to seek further patents on its technology, if appropriate. In addition to patents, the Company registers its product brand names and trademarks in the U.S. and other key markets where the company does business around the world. Expiration of the Company's patents and trademarks range from March 3, 2000, to April 7, 2015.

The Company generally enters into confidentiality agreements with its consultants, key employees and sales representatives and generally controls access to and distribution of its technology, software and other proprietary information. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use the Company's products or technology without authorization, or to develop similar technology independently. Also, the Company has delivered certain technical data and information to the United States government under procurement contracts, and the United States government may have unlimited rights to use such technical data and information or to authorize others to use such technical data and information.

#### Employees

As of December 31, 1998, the Company employed 154 full-time employees. The decline in total employees from 191 at December 31, 1997, is due primarily to a 1998 restructuring when the Company reduced staff levels, reengineered processes and streamlined job responsibilities. KVH utilizes the services of temporary or contract personnel within all functional areas to assist on project-related activities. The Company generally enters into non-disclosure agreements with temporary or contract personnel or firms to protect the confidentiality of its proprietary technology.

The Company believes its future success will depend in large part upon the continued service of its key technical and senior management personnel and upon the Company's continuing ability to attract and retain highly qualified technical and managerial personnel. None of the Company's employees are represented by a labor union. The Company has not experienced any work stoppage and considers its relationship with its employees to be good.

#### Government Regulation

The Company's manufacturing operations are subject to various laws governing the protection of the environment. These laws and regulations are subject to change, and such change may require the Company to improve technology or incur expenditures to comply with such laws and regulation. The Company believes that it complies in all material respects with applicable environmental laws and regulations and does not expect that any costs in connection with complying with such laws or regulations will have a material effect on the Company's results of operations, financial position or liquidity.

The Company is subject to compliance with the United States Export Administration Regulations. Because some of the Company's products have military or strategic applications, some products are on the Munitions List of the International Trafficking in Arms Regulations ("ITAR") or are subject to a requirement for an individual validated license from the Department of Commerce

in order to be exported to certain jurisdictions. Under the Exon-Florio Amendment to the Defense Production Act of 1950, the United States President has authority to investigate and unwind any investment by foreign persons that could result in foreign control of an entity, if the President determines that foreign control would threaten national security.

#### Item 2. Properties.

The Company's executive offices, administration, product development and manufacturing facilities are housed in two adjacent buildings in Middletown, Rhode Island containing approximately 75,000 and 6,000 square feet. The Company occupies the smaller of the two facilities under a lease that expires in September 1999 and purchased the larger facility in May 1996. KVH relocated operations into the wholly owned, larger facility in 1997 and subsequently made a one-time payment of \$210,000 to reduce the leased space in its smaller facility to 6,000 square feet from approximately 30,000 square feet. The smaller facility is being used as a warehouse for Tracphone inventory and may be rendered idle as product ships. The Company utilized approximately \$4.0 million of the proceeds of its 1996 public offering to purchase and build out the wholly owned 75,000-square-foot building to accommodate manufacturing and operations needs.

The Company's fiber optic sensor group occupies approximately 23,000 square feet in a Tinley Park, Illinois, facility under a seven-year lease agreement that began April 1, 1998. The cost to build out the facility was approximately \$800,000 and the initial annual rent is \$152,121 with a 3% escalation each year thereafter.

#### Item 3. Legal Proceedings.

In the ordinary course of business, the Company is a party to legal proceedings and claims. In addition, from time to time, the Company has contractual disagreements with certain customers concerning the Company's products and services. In the opinion of the Company's management, none of the current matters or proceedings, when ultimately concluded, are likely to have a material adverse effect on the results of operations or financial position of the Company and its subsidiary taken as a whole.

#### Item 4. Submission of Matters to a Vote of Security Holders.

No matters were submitted to a vote of security holders, through the solicitation of proxies or otherwise.

### PART II

#### Item 5. Market for Registrant's Common Equity and Related Stockholder Matters.

The Company's common stock has traded on the NASDAQ National Market under the symbol KVHI since April 8, 1996. As of [ ??], 1999, there were [ ] holders of record of the Company's Common Stock. The Company has never declared or paid any cash dividends on its Common Stock and does not intend to pay cash dividends on its Common Stock in the foreseeable future. The Company intends to retain earnings for reinvestment in its business.

The Company's stock commenced trading on April 2, 1996 at \$6.50. On March 23, 1999, the closing sale price for the Company's Common Stock was \$1.75.

	1998		1997	
	High	Low	High	Low
First Quarter	6.25	3.25	8.00	6.25
Second Quarter	4.00	2.13	10.00	5.00
Third Quarter	3.50	1.75	9.50	7.13
Fourth Quarter	2.06	0.88	8.13	3.75



Item 6. Selected Financial Data.

The following selected financial data is derived from the Company's financial statements. This data should be read in conjunction with Item 8, Financial Statements and Supplementary Data, and with Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations.

	Year Ended December 31,				
	1998	1997	1996	1995	1994
(in thousands, except per share data)					
Consolidated Statement of Operations:					
Net sales	\$ 20,630	25,570	25,687	14,150	8,565
Cost of goods sold	14,100	14,085	14,607	8,447	5,082
Gross profit	6,530	11,485	11,080	5,703	3,483
Operating expenses:					
Research and development	3,991	3,175	2,431	1,279	727
Sales and marketing	4,470	3,738	3,040	2,494	1,652
General and administrative	2,225	1,895	1,624	1,058	763
Operating (loss) profit	(4,156)	2,677	3,985	872	341
Other (income) expense:					
Interest (income) expense, net	(57)	(327)	(278)	27	60
Other (income) expense	(27)	(95)	14	20	(172)
(Gain) loss on currency translation	(198)	(138)	50	(4)	(44)
(Loss) income before income tax (benefit) expense	(3,874)	3,237	4,199	829	497
Income tax (benefit) expense	(1,608)	1,020	1,743	(365)	(48)
Net (loss) income	\$ (2,266)	2,217	2,456	1,194	545
Per share information (1):					
Net (loss) income per common share - basic	\$ (0.32)	0.31	0.39	0.25	0.11
Net (loss) income per common share - diluted	\$ (0.32)	0.30	0.35	0.21	0.09
Weighted average number of shares outstanding:					
Basic	7,124	7,049	6,370	4,862	4,970
Diluted	7,124	7,498	7,055	5,710	5,851

	December 31,				
	1998	1997	1996	1995	1994
(dollars in thousands)					
Consolidated Balance Sheet Data:					
Working capital	\$ 8,486	12,410	12,570	3,214	2,110
Total assets	18,746	21,805	21,544	7,931	3,644
Long-term obligations (2)	0	7	61	113	579
Total shareholders' equity	17,070	19,194	16,563	3,654	2,451

(1) See note 1 of Notes to Consolidated Financial Statements for an explanation of the method of calculation.

(2) Includes obligations under capital leases. See notes 6 and 15 of Notes to Consolidated Financial Statements.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Overview

KVH Industries, Inc. (the "Company") derives its revenues from sensor products and systems sold to a range of commercial, military and OEM markets in the communications and navigation industries. The Company's products include: stabilized antenna systems for mobile satellite applications such as voice, fax and data transmission and television reception; positional and heading systems for tactical military applications in amphibious and land vehicles and for commercial applications in land vehicles; digital compasses and instrument systems for recreational, commercial and military applications; and embedded fiber optic sensors. The Company's in-house sales and marketing groups have established a worldwide network of independent sales representatives and distributors to market the Company's products. The majority of the Company's sales, product distribution and customer service is conducted at the Company's headquarters in Middletown, Rhode Island, and the European market is managed through the Company's subsidiary in Hoersholm, Denmark. The Company's manufacturing process consists primarily of light assembly and final test, which is conducted at its facilities in Middletown, Rhode Island, and Tinley Park, Illinois.

There was a notable impact on sales in 1998 as the Company completed its first full fiscal year following a strategic marketing shift towards direct sales with repeat orders and away from dependence upon large, one-time OEM sales. The Company implemented the new strategy in mid-1997 to replace the significant revenue fluctuations caused by non-recurring large sales, particularly of its sensor-based products for communications applications, with repeat sales that would provide a more consistent revenue stream. A decrease in military orders during 1998 was related to customary funding procedures that commonly cause periodic sales fluctuations in the defense industry. Fiber optic gyro (FOG) sales did not meet internal expectations, primarily because the Company withdrew its CPS(TM)-based BusNav(TM) system from the mass transportation market when the cost of supplying full-service support to customers buying product at OEM prices became financially counter-productive. The Company has determined that there are greater opportunities for CPS systems in other markets such as precision agriculture, power sensors, trains and robotics.

Results of Operations

The following table sets forth, for the periods indicated, certain financial data as a percentage of total revenues:

	Year Ended December 31,		
	1998	1997	1996
Net sales	100.0%	100.0%	100.0%
Gross profit	31.7	45.0	43.2
Research and development	19.3	12.4	9.5
Sales and marketing	21.7	14.6	11.8
General and administrative	10.8	7.4	6.3
Operating (loss) profit	(20.1)	10.6	15.6
Interest income, net	(0.3)	(1.3)	(1.0)
Other income, net	(0.1)	(0.3)	0.0
(Gain) loss on currency translation	( 1.0)	(0.5)	0.2
(Loss) income before income tax (benefit) expense	(18.7)	12.7	16.4
Income tax (benefit) expense	(7.8)	4.0	6.8
Net (loss) income	(10.9)%	8.7%	9.6%

Years Ended December 31, 1998 and 1997

Net Sales. Net sales decreased to \$20.6 million in 1998 from \$25.6 million in 1997, primarily due to an anticipated fluctuation in military orders and an unexpected lack of FOG revenues that would have offset lower defense sales. FOG revenues were adversely affected by KVH's decision to remove its CPS products from the bus navigation market and focus on other markets that the Company believes have significantly more sales potential. Product sales were \$19.6 million in 1998 and \$24.6 million in 1997 with customer-funded research at \$1.0 million in both 1998 and 1997. Communications revenues increased 27% in 1998 to \$6.6 million from \$5.2 million in 1997 as strong growth in direct sales of turnkey mobile satellite systems continued to supplant previous non-recurring OEM sales. Navigation sales were \$14.0 million in 1998 compared to \$20.3 million in 1997, a 31% decrease attributable to a decline in high-margin military contracts that adversely affected gross profits. Fiber optic sensor sales constituted \$1.7 million or 12% of 1998 navigation revenues. This compares to fiber optic revenues of \$0.4 million for the two-month period in 1997 following the Company's October 30 acquisition of the fiber optic group assets from Andrew Corporation.

Cost of Goods Sold. The Company's cost of goods sold consists primarily of direct labor, material and indirect manufacturing costs and includes customer-funded research and development costs of \$0.9 million in 1998 and \$0.6 million in 1997. Cost of goods sold as a percentage of net sales increased to 68% in 1998 from 55% in 1997 due to a proportional decrease in higher-margin

military product sales. In addition, fiber optic manufacturing costs exceeded fiber optic revenues to negatively impact gross margins by \$0.7 million. Manufacturing overheads increased to \$3.8 million in 1998 from \$2.8 million in 1997 as the company moved its fiber optic group from the former Andrew Corporation site to a new facility in Tinley Park, Illinois. Excluding fiber optic facility and manufacturing costs of \$1.5 million, overhead would have decreased 11 percent in 1998 from 1997. The Company anticipates that cost of goods sold will be level or decrease slightly in 1999 as a result of increased manufacturing efficiencies and expected sales increases in high-margin military products.

**Research and Development Expense.** Research and development expense consists primarily of direct labor and material, labor and material overhead and other direct costs associated with the Company's internally funded product development efforts. The Company expenses all of its software development costs in the period incurred. Research costs increased 25 percent to \$4.0 million in 1998 from \$3.2 million in 1997 due to costs for developing new directional antenna systems and \$1.4 million for fiber optic sensor integration and development. Total research and development expenditures, including customer-funded product development expenditures included in cost of goods sold, were \$4.9 million in 1998 and \$3.8 million in 1997, a 29% increase that reflects general growth in Company-funded research expenditures. The Company expects ongoing growth in research and development expenses as it continues to develop advanced-capability products for tactical navigation and broadband communications.

**Sales and Marketing Expense.** Sales and marketing expense consists primarily of salaries and related expenses for sales and marketing personnel, sales commissions, travel expenses, cooperative advertising, sales literature, advertising and trade shows. Sales and marketing costs grew 22% to \$4.5 million in 1998 from \$3.7 million in 1997. Major factors contributing to the growth of sales expenses were staffing, travel and new product introduction costs. The Company anticipates that sales and marketing expense will continue to grow to promote expected new-product introductions.

**General and Administrative Expense.** General and administrative expense consists primarily of costs attributable to the Company's management, finance, accounting and human resources operations and legal and other professional services. Administrative costs increased 16% to \$2.2 million in 1998 from \$1.9 million in 1997, primarily due to staffing and increased professional fees related to maintaining the Company's patent portfolio.

**Interest income.** Interest income reflects the interest earned by investing excess cash in Federal short-term obligations.

**Gain on Foreign Currency Translation.** The results of operations of the Company's foreign subsidiary, KVH Europe, are determined by re-measuring its foreign currency-denominated operations as if they had taken place in United States dollars. Gains and losses resulting from this translation are included in the Company's net income. The translation gain increase to \$0.2 million in 1998 from \$0.1 million in 1997 reflects changes in the relative strength of the United States dollar in relation to the Danish krone.

**Income Tax (Benefit) Expense.** The Company realized an income tax benefit in the amount of \$1.6 million in 1998 as compared with income tax expense of \$1.0 million in 1997, due to the Company's 1998 operating loss. The Company's effective tax rate in both years was positively affected by the utilization of state and Federal research and development and investment tax credits.

Years Ended December 31, 1997 and 1996

Net Sales. Net sales decreased slightly to \$25.6 million in 1997 from \$25.7 million in 1996. Product sales were \$24.6 million in both 1997 and 1996 while customer-funded research was \$1.0 and \$1.1 million in 1997 and 1996, respectively. Navigation sales grew 28% to \$20.3 million in 1997 from \$15.9 million in 1996. Navigation sales increases resulted primarily from a \$3.8 million or 40% increase in navigation defense shipments. Communications sales were \$5.2 million in 1997, a decrease of 47% from \$9.8 million in 1996. The anticipated decreases in communication revenues reflected a large non-recurring OEM sale amounting to \$5.6 million in 1996 that was somewhat off-set by direct sales of turnkey mobile satellite communications systems that increased to just under \$1.0 million in 1997 from \$0.1 million in 1996.

Cost of Goods Sold. Cost of goods sold includes customer-funded research and development costs of \$0.6 million in 1997 and \$0.9 million in 1996. Cost of goods sold decreased to 55% as a percentage of net sales in 1997 from 57% as a percentage of net sales in 1996 due to a 17% mix shift to higher-margin navigation sales. Manufacturing overheads increased to \$2.8 million in 1997 from \$1.9 million in 1996 somewhat off-setting the gains in product cost of sales. Factors contributing to the manufacturing overhead increase included fiber optic sensor start-up costs and a one-time lease modification charge.

Research and Development Expense. Research costs increased to \$3.2 million or 33% in 1997 from \$2.4 million in 1996. Costs of Company-funded product development accounted for \$0.6 million of the 1997 increase while fiber optic start-up costs accounted for the remainder of the increase. Total research and development expenditures, including customer-funded product development expenditures included in cost of goods sold, were \$3.8 million in 1997 and \$3.3 million in 1996, reflecting the expected decline in customer-funded research.

Sales and Marketing Expense. Sales and marketing costs grew to \$3.7 million or 23% in 1997 from \$3.0 million in 1996. Major factors contributing to the growth of sales expenses were staffing, travel and new product introduction costs.

General and Administrative Expense. Administrative costs increased to \$1.9 million or 19% from 1996 spending of \$1.6 million, in response to fiber optic start-up costs, increased professional fees and staffing costs.

Interest income. The proceeds of the public offering in April 1996 fully funded the Company's operating and capital requirements in 1997.

Other (Income) Expense. Other income increased \$0.1 million in 1997 from 1996 primarily due to the award of a new-hire training grant from the state of Rhode Island.

(Gain) Loss on Foreign Currency Translation. The translation gain of \$0.1 million in 1997 and the loss of \$0.05 million in 1996 reflect changes in the relative strength of the United States dollar in relation to the Danish krone.

Income Tax Expense. The Company's income tax expense decreased to \$1.0 million in 1997 from \$1.7 million in 1996. The decrease in income taxes was attributable to the utilization of state and federal research and development and investment tax credits. The Company's effective tax rate in 1997 was 31.5% as a percentage of taxable income versus 41.5% in 1996.

Liquidity and Capital Resources

Year ended December 31,

	1998	Change	1997 (in thousands)	Change	1996
Cash and cash equivalents	\$ 1,239	(74%)	4,758	(32%)	7,006
Working capital	8,486	(32%)	12,410	(1%)	12,570

The Company financed its 1998 operations and fixed asset acquisitions of approximately \$1.6 million dollars through a combination of short-term bank revolving lines of credit and the remaining proceeds from its public offering. In January 1999, the Company borrowed approximately \$3 million pursuant to a 10-year mortgage note agreement and mortgage on its facility at 50 Enterprise Center, Middletown, Rhode Island (see note 15 of Notes to Consolidated Financial Statements).

The Company believes that existing cash balances, amounts available under its revolving credit facility and funds generated from the mortgage will be sufficient to meet anticipated liquidity and working capital requirements for 1999. If the Company decides to expand more rapidly, to broaden or enhance its products more rapidly, to acquire businesses or technologies or to make other significant expenditures to remain competitive, then it may need to raise additional funds.

#### Other Matters

**Recent Accounting Pronouncements.** The Financial Accounting Standards Board ("FASB") recently issued Statement of Financial Accounting Standards Number 133 ("SFAS 133"), "Accounting for Derivative Instruments and Hedging Activities." SFAS 133 establishes accounting and reporting standards for derivative instruments and hedging, requiring recognition of all derivatives as either assets or liabilities in the statement of financial position measured at fair value. This statement is effective for all fiscal quarters of fiscal years beginning after June 15, 1999. The effect of adopting SFAS 133 is not expected to have a material impact on the Company's financial condition, results of operations or cash flows.

**Year 2000 -** The Company has evaluated the impact of the year 2000 issue as it relates to its navigation and communications products, both sold or intended to sell, and has concluded that the Company's products are not affected by year 2000 operating issues. The Company has also assessed its software and computer systems ensuring that its computer software and hardware are year 2000 compliant. The most significant element of this process is the upgrading of its enterprise resource planning system at a cost estimated at less than \$1 million, of which approximately \$0.4 million has been spent to date. The Company is contacting its customers, suppliers, and financial institutions, with which it does business, to ensure that any year 2000 issue is resolved. While there can be no assurance that the systems of other companies will be year 2000 compliant, the Company has no knowledge of any such third party year 2000 issues that would result in a material adverse affect on its operations. Should the Company become aware of any such situation, contingency plans will be developed. The Company could be adversely affected should the Company or other entities with whom the Company conducts business be unsuccessful in resolving year 2000 issues in a timely manner. The Company estimates that it was 90% complete at December 31, 1998, in implementing its new system and believes it will be year 2000 compliant by the first half of 1999. The Company believes the cost of becoming year 2000 compliant will not have a material adverse effect on the Company's financial condition, results of operations or liquidity.

**Inflation.** The Company believes that inflation has not had a material effect on its results of operations.

#### Forward Looking Statements - Risk Factors

This "Management's Discussion and Analysis of Financial Condition and Results of Operations" contains forward-looking statements that are subject to a number of risks and uncertainties. Among the important factors that could cause actual results to differ materially from those anticipated by the statements made above are the following:

The Company's products target two industries that are subject to volatility, risks and uncertainties. The communications industry is experiencing rapid growth fueled by strong worldwide demand and buffeted by competing formats and rapid, unpredictable technology changes. The defense industry historically experiences variability in supply and demand related to international conditions, national politics, budget decisions and technology changes, all of which are difficult or impossible to predict. Factors in both industries could affect the Company's ability to effectively meet prevailing market conditions. To position itself in these uncertain industries, the Company has taken a number of steps that include, but are not limited to: acquisition of the fiber optic technology and development of new related products; ongoing analysis of potential technology advances; staff reductions and reallocations; improved operational efficiencies; inventory reduction; recruiting key personnel and implementing cost controls. There can be no assurance that the objectives of these development and cost-reduction activities will be achieved.

Other factors that could cause actual results to differ materially from the results anticipated by management include:

**Dependence on New Products and the Marine Mobile Satellite Communications Market.** The Company's future sales growth will depend to a considerable extent upon the successful introduction of new mobile satellite communications products for use in marine and land applications, and those introductions will be affected by a number of variables including, but not limited to: market potential and penetration; reliability of outside vendors; satellite communications service providers' financial abilities and products; regulatory issues; maintaining appropriate inventory levels; disparities between forecast and realized sales; and design delays and defects. The occurrence of any of these factors could have a material adverse effect on the Company's business, financial condition and results of operations.

**FOG Acquisition.** The additional personnel and operating expenses associated with the acquisition of FOG technology and assets from Andrew Corporation in October 1997 added significant costs to the Company's 1998 operations. As the Company continues the process of integrating FOG sensors into current product offerings and identifying new, untapped markets for existing FOG products, it expects FOG-related costs to remain level or increase. Although the Company believes these opportunities show great promise, to date the Company has been

successful in marketing only small quantities of products and it does not anticipate that FOG-enhanced products will provide significant revenues for the next 9 to 12 months. The Company is designing its FOG-enhanced products to meet what it believes are customer performance and price criteria; however, at this early stage of product development and market introduction the Company can provide no assurance that these objectives will be met or that competing technologies will not be developed that may supercede FOG technology. The occurrence of any of these factors could have a material adverse effect on the Company's business, financial condition and results of operations.

**Variability of Quarterly Operating Results.** The Company's quarterly operating results have varied in the past and may vary significantly in the future depending upon all the foregoing risk factors and including: the size and timing of significant orders; the ability of the Company to control costs; changes in Company strategy and the Company's ability to attract and retain key personnel.

**Competition.** Competitors in the communications market include SeaTel Corporation, Datron Corporation and Nera Corporation, any of which could challenge the Company's pricing or technology platforms. The Company's satellite phone products could be negatively impacted when Iridium World Communications, Ltd., Globalstar Telecommunications Ltd. and ICO Global Communications (all offering hand-held worldwide, satellite voice, data and fax services) commence operations, scheduled from late 1998 through to 2000. The Company may be faced with increased competition from the Hitachi Corporation's newly introduced closed-loop FOG sensor that is targeted at applications and market segments similar to those the Company is pursuing.

**Possibility of Common Stock Price Volatility.** The trading price of the Company's Common Stock has been subject to wide fluctuations. The trading price of the Company's Common Stock could be subject to wide fluctuations in the future in response to quarterly variations in operating results, announcement of new products by the Company or its competitors, changes in the financial estimates by securities analysts and other events or factors. In addition, the stock market volatility that affects the market price of many high technology companies often is unrelated to the operating performance of such companies. These broad market fluctuations may adversely affect the market price of the Company's Common Stock.

**Market Dynamics.** KVH's key markets for its sensors and integrated systems are particularly volatile. In the communications industry, there are many technologies and large, well-funded companies competing to provide a single-source solution for broadband voice, fax, data and video access. There are significant political, economic and business forces that are restraining near-term growth and influencing how the communications consumer market ultimately will resolve such issues as technology transfers, diverse and incompatible encryption standards and the needs of underdeveloped countries. New initiatives such as the Iridium worldwide, handheld telephone system, the advent of low earth orbit (LEO) satellites for low-cost messaging and data communication and developments underway at Teledesic, Alcatel and Motorola may pose a threat to the Company's products. In the military navigation industry where governments are the customers, defense funding, equipment focus and performance criteria are continually evolving in reaction to international politics, economic conditions and technological changes. A number of companies in the military navigation industry have established extensive relationships with United States and foreign defense departments and have the size and capital to develop new technologies. In the marine navigation industry, there are a number of companies competing for a portion of a relatively small market.

The Company's future growth also depends upon expanding sales of its antenna-aiming and navigation products. Antenna-aiming systems rely upon DBS providers DIRECTV, EchoStar, ASTRA and HotBird and telephony providers Inmarsat and SKYCELL. The Company's business, financial condition and results of operation could be adversely affected if any of these satellite networks experience operating, financial or regulatory problems. Revenues from communications products increased in 1998 from 1997 and the Company expects continued growth in 1999 as new products penetrate the market.

Sales cycles for the Company's TACNAV and TACNAV Light systems for military navigation applications are long and difficult to predict, resulting in a variable revenue stream from this market. Military revenues decreased in 1998 from 1997 and the Company anticipates that 1999 revenues will remain relatively flat.

**Research and Development Efforts.** The Company's future success depends on its ability to achieve technological advances that lead to marketable new products and this requires continued substantial investment in research and development. A large portion of the Company's product development strategy for the near future relies upon FOGs and success in product integration, new development, marketing, increasing manufacturing capabilities, market acceptance, and the Company's continued ability to fund the fiber optic effort. Prior to the 1997 acquisition of the fiber optic group from Andrew Corporation, the Company had no experience with fiber optic manufacturing or applications and the learning and integration curve to date has taken longer than the Company initially anticipated. There can be no assurance that the Company will succeed in achieving its FOG technological and manufacturing goals or continue to have funds available for developing and marketing fiber optic products.

Item 7A. Market Risk Disclosure.

Not applicable.

Item 8. Financial Statements and Supplementary Data.

The Company's consolidated financial statements and supplementary data, together with the report of KPMG LLP, independent auditors, are included in Part IV of this Report on Form 10-K.

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.

Not applicable

PART III

Item 10. Directors and Executive Officers of the Registrant.

Reference is made to the information set forth in the definitive Proxy Statement relating to the Fiscal 1998 Annual Meeting of Stockholders (to be filed with the Securities and Exchange Commission within 120 days after December 31, 1998) (the "Proxy Statement"), under the caption "Directors and Executive Officers".

Item 11. Executive Compensation.

Reference is made to the information in the Proxy Statement under "Remuneration of Executive Officers and Directors".

Item 12. Security Ownership of Certain Beneficial Owners and Management.

Reference is made to the information set forth in the Proxy Statement under the caption "Security Ownership of Certain Beneficial Owners and Management".

Item 13. Certain Relationships and Related Transactions.

None.

PART IV

Item 14. Exhibits, Financial Statement Schedule, and Reports on Form 8-K.

(a) Documents filed as part of this report:

1. Financial Statements:

Page

Report of Independent Auditors	19
Consolidated Balance Sheets as of December 31, 1998, and 1997	20
Consolidated Statements of Operations for the years ended December 31, 1998, 1997 and 1996	21
Consolidated Statements of Stockholders' Equity for the years ended December 31, 1998, 1997 and 1996	22
Consolidated Statements of Cash Flows for the years ended December 31, 1998, 1997 and 1996	23
Notes to Consolidated Financial Statements	24

2. Financial Statement Schedule. See "Independent Auditors Report" and "Schedule II - Valuation and Qualifying Accounts" included on pages 34 and 35. All other schedules have been omitted since the information is not required to be presented, or because the information required is included in the consolidated financial statements or notes thereto.

(b) Reports on Form 8-K:

Report on Form 8-K was filed on November 14, 1997. The report contains the asset purchase agreement between the Company and Andrew Corporation and a Common Stock Warrant both dated October 30, 1997.

(c) Exhibit Number

Description

Page

3.1	Restated Certificate of Incorporation of the Company (1)	
3.5	Amended and Restated By-laws of the Company	
10.1	1986 Executive Incentive Stock Option Plan (1)	
10.2	Amended and Restated 1995 Incentive Stock Option Plan of the Company (1)	
10.3	1996 Employee Stock Purchase Plan (1)	
10.5	Credit Agreement dated September 8, 1993 between the Company and Fleet National Bank (1)	
10.6	\$500,000 Revolving Credit Note dated September 8, 1993 between the Company and Fleet National Bank (1)	
10.7	Security Agreement dated September 8, 1993 between the Company and Fleet National Bank (1)	
10.8	Modification to Security Agreement dated May 30, 1994 between the Company and Fleet National Bank (1)	
10.9	Second Modification to Credit Agreement and Revolving Credit Note dated May 30, 1994 between the Company and Fleet National Bank (1)	
10.10	Second Modification to Security Agreement dated March 17, 1995 between the Company and Fleet National Bank (1)	
10.11	Third Modification to Credit Agreement and Revolving Credit Note dated March 17, 1995 between the Company and Fleet National Bank (1)	
10.12	Third Modification to Security Agreement dated December 12, 1995 between the Company and Fleet National Bank (1)	
10.13	Fourth Modification to Credit Agreement and Revolving Credit Note dated December 12, 1995 between the Company and Fleet National Bank (1)	
10.14	Lease dated February 27, 1989 between the Company and Middletown Technology Associates IV (1)	
10.17	Registration Rights Agreement dated May 20, 1986 by and among the Company and certain stockholders of the Company (1)	
10.18	Amendment to Registration Rights Agreement dated January 25, 1988, by and among the Company, Fleet Venture Resources, Inc., and Fleet Venture Partners I and certain stockholders of the Company (1)	
10.19	Amendment to Registration Rights Agreement dated October 25, 1988 by and among the Company and certain stockholders of the Company (1)	
10.20	Amendment to Registration Rights Agreement dated	

	July 21, 1989 by and among the Company and certain stockholders of the Company (1)	
10.21	Third Amendment to Registration Rights Agreement dated November 3, 1989 by and among the Company and certain stockholders of the Company (1)	
10.28	Technology License Agreement dated December 22, 1992 between the Company and Etak, Inc. (1)	
10.29	Agreement dated September 28, 1995 between the Company and Thomson Consumer Electronics, Inc. (1)	
10.30	Agreement dated September 28, 1995 between the Company and Thomson Consumer Electronics, Inc. (1)	
10.31	Agreement regarding Technology Affiliates Program between Jet Propulsion Laboratory and the Company (1)	
10.32	Purchase and Sale Agreement dated March 18, 1996, 50 Enterprise Center, Middletown, Rhode Island between the Company and SKW Real Estate Limited Partnership (2)	
10.33	Fifth Modification to Credit Agreement and Revolving Note dated August 8, 1996 between the Company and Fleet National Bank	
(c) Exhibit Number	Description	Page
10.34	Andrew Corporation Asset Purchase and Warrant Agreement (3)	
11.1	Computation of (Loss) Earnings per Share (2)	36
21.1	List of Subsidiaries of the Company (1)	
23.1	Consent of KPMG LLP	37
27.1	Financial Data Schedule	38
99.1	Open End Mortgage, and Security Agreement	39
99.2	Tinley Park, Illinois, lease	70

(1) Incorporated by Reference to Exhibit Index on Form S-1 filed with the Securities and Exchange Commission dated March 28, 1996, Registration No. 333-01258.

(2) Filed by paper with the Securities and Exchange Commission..

(3) Incorporated by reference to Exhibits 1 & 2 on Form 8-K filed with the Securities and Exchange Commission dated November 14, 1997.



SIGNATURES

Pursuant to the requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934 the registrant has the duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

KVH Industries, Inc.

DATE: March 23, 1999

By: /s/ Martin A. Kits van Heyningen  
Martin A. Kits van Heyningen  
President & CEO

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Martin A. Kits van Heyningen Martin A. Kits van Heyningen	President (Chief Executive Officer)	March 24, 1999
/s/ Richard C. Forsyth Richard C. Forsyth	Chief Financial Officer (Principal Financial and Accounting Officer)	March 24, 1999
/s/ Arent H. Kits van Heyningen Arent H. Kits van Heyningen	Chairman of the Board	March 24, 1999
/s/ Robert W. B. Kits van Heyningen Robert W. B. Kits van Heyningen	Director	March 24, 1999
/s/ Werner Trattner Werner Trattner	Director	March 24, 1999

INDEPENDENT AUDITORS' REPORT

Board of Directors and Stockholders  
KVH Industries, Inc. and Subsidiary:

We have audited the accompanying consolidated balance sheets of KVH Industries, Inc. and subsidiary as of December 31, 1998 and 1997, and the related consolidated statements of operations, stockholders' equity and cash flows for each of the years in the three-year period ended December 31, 1998. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of KVH Industries, Inc. and subsidiary at December 31, 1998 and 1997, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 1998, in conformity with generally accepted accounting principles.

/s/ KPMG LLP

Providence, Rhode Island  
February 10, 1999

## KVH INDUSTRIES, INC. AND SUBSIDIARY

## Consolidated Balance Sheets

December 31, 1998 and 1997

Assets (note 5)	1998	1997
Current assets:		
Cash and cash equivalents	\$ 1,239,227	4,757,614
Accounts receivable, less allowance for doubtful accounts of \$91,604 in 1998 and \$73,909 in 1997 (note 12)	3,106,414	4,338,992
Income taxes receivable (note 9)	1,062,494	
Contract receivables	-	156,777
Costs and estimated earnings in excess of billings on uncompleted contracts	768,156	406,014
Inventories (note 3)	3,390,787	4,751,792
Prepaid expenses and other deposits	360,346	222,015
Deferred income taxes (note 9)	234,158	387,567
Total current assets	10,161,582	15,020,771
Property and equipment, net (notes 4 and 15)	7,186,539	5,974,635
Other assets, less accumulated amortization of \$107,254 in 1998 and \$0 in 1997 (note 2)	972,365	731,000
Deferred income taxes (note 9)	425,150	78,535
	\$ 18,745,636	21,804,941
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	\$ 853,238	1,618,295
Accrued expenses (note 7)	822,533	992,834
Total current liabilities	1,675,771	2,611,129
Total liabilities	1,675,771	2,611,129
Stockholders' equity (note 8):		
Preferred stock, \$.01 par value. Authorized 1,440,390 shares; none issued.	-	-
Common stock, \$.01 par value. Authorized 7,490,582 shares; issued 7,205,928 shares in 1998 and 7,086,046 in 1997	72,059	70,860
Additional paid-in capital	15,439,421	15,298,558
Retained earnings	1,558,385	3,824,394
Total stockholders' equity	17,069,865	19,193,812
Commitment and other information (notes 6, 10 and 15)	\$ 18,745,636	21,804,941

See accompanying Notes to Consolidated Financial Statements.

KVH INDUSTRIES, INC. AND SUBSIDIARY  
Consolidated Statements of Operations  
Years ended December 31, 1998, 1997 and 1996

	1998	1997	1996
Net sales (note 12)	\$ 20,630,648	25,570,347	25,687,495
Cost of goods sold	14,100,398	14,085,463	14,607,584
Gross profit	6,530,250	11,484,884	11,079,911
Operating expenses:			
Research and development	3,991,193	3,175,181	2,430,755
Sales and marketing	4,469,654	3,738,605	3,039,483
General and administrative	2,225,370	1,895,031	1,624,270
Operating (loss) profit	(4,155,967)	2,676,067	3,985,403
Other (income) expense:			
Interest income	(58,735)	(336,157)	(293,494)
Interest expense	2,023	8,893	15,938
Other (income) expense	(27,392)	(95,083)	14,303
(Gain) loss on foreign currency translation	(197,663)	(138,272)	50,087
(Loss) income before income tax (benefit) expense	(3,874,200)	3,236,686	4,198,569
Income tax (benefit) expense (note 9)	(1,608,191)	1,020,185	1,742,538
Net (loss) income	\$ (2,266,009)	2,216,501	2,456,031
Per share information (notes 8 and 14):			
Net (loss) income per common share - basic	\$ (0.32)	0.31	0.39
Net (loss) income per common share - diluted	\$ (0.32)	0.30	0.35
Weighted average number of shares outstanding:			
Basic	7,124,023	7,049,125	6,370,272
Diluted	7,124,023	7,497,695	7,055,309

See accompanying Notes to Consolidated Financial Statements.

KVH INDUSTRIES, INC. AND SUBSIDIARY  
Consolidated Statements of Stockholders' Equity  
Years ended December 31, 1998, 1997 and 1996

	Preferred Stock	Common Stock	Additional Paid-in Capital	Retained Earnings (Deficit)	Total Stockholders' Equity
Balances at December 31, 1995	\$ 12,982	16,160	4,473,045	(848,138)	3,654,049
Net income	-	-	-	2,456,031	2,456,031
Exercise of stock options and warrants-	-	3,274	457,203	-	460,477
Initial public offering of common stock, net of issuance costs of \$1,736,555 (note 8)	-	18,000	9,945,445	-	9,963,445
Conversion of 1,298,182 shares of preferred stock to 3,245,500 shares of common stock	(12,982)	32,455	(19,473)	-	-
Issuance of common stock under benefit plans	-	43	28,586	-	28,629
Balances at December 31, 1996	-	69,932	14,884,806	1,607,893	16,562,631
Net income	-	-	-	2,216,501	2,216,501
Issuance of common stock under benefit plan	-	127	67,404	-	67,531
Exercise of stock options	-	801	151,913	-	152,714
Issuance of warrants (notes 2 and 8) - 194,435	-	-	194,435	-	194,435
Balances at December 31, 1997	-	70,860	15,298,558	3,824,394	19,193,812
Net (loss)	-	-	-	(2,266,009)	(2,266,009)
Issuance of common stock under benefit plan	-	797	118,620	-	119,417
Exercise of stock options	-	402	22,243	-	22,645
Balances at December 31, 1998	\$ -	72,059	15,439,421	1,558,385	17,069,865

See accompanying Notes to Consolidated Financial Statements.

## KVH INDUSTRIES, INC. AND SUBSIDIARY

## Consolidated Statements of Cash Flows

Years ended December 31, 1998, 1997 and 1996

	1998	1997	1996
Cash flows from operating activities:			
Net (loss) income	\$ (2,266,009)	2,216,501	2,456,031
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities:			
Depreciation and amortization	767,289	797,761	285,049
Provision for doubtful accounts	17,695	284	(45,000)
Provision for deferred taxes	(193,206)	(242,688)	315,381
Decrease (increase) in accounts and contract receivables (note 11)	1,208,198	1,827,202	(2,932,821)
Increase in income taxes receivable	(1,062,494)	-	-
(Increase) decrease in costs and estimated earnings in excess of billings on uncompleted contracts	(362,142)	429,706	80,474
Decrease (increase) in inventories (note 11)	923,345	(649,213)	(1,489,098)
Increase in prepaid expenses and other deposits	(138,331)	(42,310)	(23,030)
(Decrease) increase in accounts payable	(765,057)	586,986	72,802
(Decrease) increase in accrued expenses	(170,301)	(554,922)	1,035,297
Decrease in customer deposits	-	2,502,432)	(342,095)
Net cash (used in) provided by operating activities	(2,041,013)	1,866,875	(587,010)
Cash flows from investing activities:			
Acquisition (note 2)	-	(1,946,026)	-
Capital expenditures (note 11)	(1,619,436)	(2,335,423)	(3,703,327)
Net cash used in investing activities	(1,619,436)	(4,281,449)	(3,703,327)
Cash flows from financing activities:			
Repayments of obligations under capital lease	-	(53,739)	(52,209)
Stock option and benefit plan transactions	142,062	220,245	489,106
Proceeds from initial public offering (note 8)	-	-	9,963,445
Net cash provided by financing activities	142,062	166,506	10,400,342
Net (decrease) increase in cash and cash equivalents	(3,518,387)	(2,248,068)	6,110,005
Cash and cash equivalents at beginning of year	4,757,614	7,005,682	895,677
Cash and cash equivalents at end of year	\$ 1,239,227	4,757,614	7,005,682
Supplemental disclosure of cash flow information (note 11):			
Cash paid during the year for interest	\$ 2,023	8,589	15,938
Cash paid during the year for income taxes	\$ 137,784	1,872,049	20,250

See accompanying Notes to Consolidated Financial Statements.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements

December 31, 1998, 1997 and 1996

(1) Summary of Significant Accounting Policies

(a) Description of Business

KVH Industries, Inc. (the "Company") develops, manufactures and markets proprietary fiber optic, autocalibration and sensor technologies to produce navigation and mobile satellite communications systems for commercial, military and marine applications.

(b) Principles of Consolidation

The consolidated financial statements include the financial statements of KVH Industries, Inc. and its wholly-owned subsidiary, KVH Europe A/S ("KVH Europe"). All significant intercompany accounts and transactions have been eliminated in consolidation.

(c) Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity, at the purchase date, of three months or less to be cash equivalents.

(d) Revenue Recognition

Revenue is recognized when a product is shipped and services are performed. Revenues on long-term contracts are recognized using the percentage of completion method. Under this method, income is recognized as work progresses on the contracts. The percentage of work completed is determined principally by comparing the accumulated costs incurred to date with management's current estimate of total costs to be incurred at contract completion. On certain contracts where the delivery of equipment is separable from development and other aspects of the contract, the Company segments the contract and recognizes revenue on each segment individually. Revisions of costs and income estimates are reflected in the period in which the facts that require the revisions become known. If estimated total costs on a contract indicate a loss, the entire amount of the estimated loss is provided for currently.

(e) Inventories

Inventories of finished goods for sale and raw materials are stated at the lower of cost or market using the first-in first-out costing method. Work in process is valued at production cost represented by material, labor and overhead, and is not recorded in excess of net realizable values.

(f) Property and Equipment

Property and equipment are stated at cost. Depreciation and amortization is computed on the straight-line method over the estimated useful lives of the respective assets. The principal lives, in years, used in determining the depreciation rates of various assets are: buildings and improvements, 40 years; leasehold improvements, over term of lease; machinery and equipment, 5 years; office and computer equipment, 5-7 years; and motor vehicles, 4 years. Amortization of property and equipment under capital lease is provided using the straight-line method over the lease terms.

(g) Other Assets

Other assets consist of patents and capitalized costs of workforce resulting from the Company's October 1997 acquisition (see note 2). These costs are being amortized on a straight-line basis over periods ranging from 5-12 years. The Company continually reviews intangible assets to assess recoverability from estimated future results of operations and estimated future cash flows.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

(h) Progress Payments

Progress payments received from customers are offset against inventories associated with the contracts for which the payments were received. Under contractual arrangements by which progress payments are received from the United States Government, the United States Government has a lien on the inventories identified with related contracts.

(i) Income Taxes

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

(j) Research and Development

Expenditures for research and development, including customer-funded research and development, are expensed in the year incurred. Revenue from customer-funded research and development is included in net sales, and the related product development costs are included in cost of goods sold. Revenues from customer-funded research and development totaled approximately \$1,169,000, \$957,000 and \$1,050,000, respectively, in 1998, 1997 and 1996, and related costs included in cost of goods sold totaled approximately \$936,000, \$630,000 and \$869,000 in such years, respectively.

(k) Foreign Currency Translation

The financial statements of the Company's foreign subsidiary are re-measured into the United States dollar functional currency for consolidation and reporting purposes. Current exchange rates are used to re-measure monetary assets and liabilities. Historical exchange rates are used for nonmonetary assets and related elements of expense. Revenue and other expense elements are re-measured at rates, which approximate the rates in effect on the transaction dates. Gains and losses resulting from this re-measurement process are recognized currently in the consolidated statements of operations.

(l) Stock-based Compensation

The Company applies APB Opinion 25 and related interpretations in accounting for its stock option plans. No compensation cost has been recognized for these plans in the accompanying consolidated financial statements.

(m) Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(n) Long-lived Assets

The Company reviews long-lived assets and certain identifiable intangibles for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.



KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements

(o) Net (Loss) Income per Common Share

In 1997 the Company adopted the provisions of SFAS No. 128, Earnings Per Share. Under the provisions of SFAS 128, basic earnings per share replaces primary earnings per share and the dilutive effect of stock options and warrants are excluded from the calculation. Fully diluted earnings per share are replaced by diluted earnings per share and include the dilutive effect of stock options and warrants, using the treasury stock method. All prior period earnings per share data have been restated to conform to the requirements of SFAS 128.

A reconciliation of the weighted average number of shares outstanding used in the computation of the basic and diluted earnings per share for the three years ended December 31, 1998 is as follows:

	1998	1997	1996
Weighted average shares (basic)	7,124,023	7,049,125	6,370,272
Effect of dilutive stock options	-	448,570	685,037
Weighted average shares (diluted)	7,124,023	7,497,695	7,055,309

The net (loss) income used in the calculation for basic and diluted earnings per share calculations agrees with the net (loss) income appearing in the financial statements.

(p) Fair Value of Financial Instruments

The carrying amounts of accounts receivable, contracts receivable, costs and estimated earnings in excess of billings on uncompleted contracts, accounts payable and accrued expenses approximate fair value due to the short maturity of these instruments.

(2) Acquisition

On October 30, 1997 the Company purchased certain operating assets and assumed certain liabilities of the Sensor Products Group of the Andrew Corporation for approximately \$1.9 million of cash (including acquisition costs) and warrants to purchase the Company's common stock, valued at approximately \$0.2 million. The assets acquired will provide the Company with the ability to produce fiber optic rate sensors that will advance the Company's existing product performance. The acquisition has been accounted for as a purchase and the allocation resulted in intangibles, primarily patents and workforce, of approximately \$1.1 million that are being amortized on a straight-line basis over periods of 5-12 years. In 1998 the Company revalued certain current acquisition assets downward by \$0.6 million, increasing the valuation of property and equipment and intangibles by approximately \$0.3 million each.

(3) Inventories

Inventories at December 31, 1998 and 1997 consist of the following:

	1998	1997
Raw materials	\$ 2,178,265	3,242,580
Work in process	461,798	356,211
Finished goods	750,724	1,153,001
	\$ 3,390,787	4,751,792

Project inventories totaling \$139,930 and \$39,408, respectively, in 1998 and 1997 have been offset against related progress payments and included as a component of costs and estimated earnings in excess of billings on uncompleted contracts.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

(4) Property and Equipment

Property and equipment, net, at December 31, 1998 and 1997 consist of the following:

	1998	1997
Land	\$ 806,774	806,774
Building and improvements	3,227,336	3,181,986
Leasehold improvements	712,666	-
Machinery and equipment	2,912,705	1,838,603
Office and computer equipment	2,494,878	2,455,057
Motor vehicles	92,348	92,348
	10,246,707	8,374,768
Less accumulated depreciation	3,060,168	2,400,133
	\$ 7,186,539	5,974,635

Depreciation for the years ended December 31, 1998, 1997 and 1996 amounted to \$660,035, \$771,783 and \$246,081, respectively.

(5) Notes Payable to Bank

On September 29, 1998, the Company renewed a revolving credit agreement with its bank. Under the terms of the agreement, the Company may borrow up to \$2.5 million during the term of the loan at an interest rate equal to the bank's prime rate of interest plus 125 basis points. The credit agreement expires on June 30, 1999. Borrowings are secured by substantially all of the assets of the Company, except for land, building and improvements. At December 31, 1998, the Company had \$2.5 million of unused borrowings with its bank to be drawn upon as needed. The credit agreement contains various covenants pertaining to the maintenance of certain financial ratios and maximum operating losses. At December 31, 1998, the Company's operating loss exceeded the maximum loss provided for in the loan agreement, a breach of the credit agreement. The bank has waived that requirement as of December 31, 1998.

(6) Leases

The Company has certain operating leases for facilities, automobiles, and various equipment. The following is a summary of future minimum payments under operating leases that have initial or remaining non-cancelable lease terms in excess of one year at December 31, 1998:

Year ending December 31,	Operating Leases
1999	\$ 223,421
2000	160,210
2001	165,016
2002	169,967
2003	175,066
Subsequent to 2003	225,728
Total minimum lease payments	\$1,119,408

Total rent expense incurred under operating leases for the years ended December 31, 1998, 1997 and 1996 amounted to, \$196,780, \$433,908 and \$435,124, respectively. In 1997 the Company reduced the amount of square feet under a facility lease from 30,000 to 6,000. The Company paid \$210,000 in the fourth quarter of 1997 to modify the lease agreement. As a consequence of reducing the leased square footage the Company's lease liability decreased to \$78,000 and \$56,000 in 1998 and 1999, respectively.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

(7) Accrued Expenses

Accrued expenses for the period ended December 31, 1998 and 1997 consist of the following:

	1998	1997
Accrued payroll, bonus and other related expenses payable	\$ 417,406	709,544
State income tax payable	-	57,601
Professional fees	110,803	162,133
Accrued sales commissions	120,045	-
Other	174,279	63,556
	\$ 822,533	992,834

(8) Stockholders' Equity

(a) Sale of Common Stock

On March 28, 1996, the Company's registration statement for an initial public offering of common stock was declared effective. An aggregate of 1,800,000 shares of common stock were issued by the Company on April 8, 1996 at an initial public offering of \$6.50 per share that resulted in net proceeds of approximately \$9.9 million.

(b) Employee Stock Options and Warrants

The Company has a 1986 Executive Incentive Stock Option Plan, a 1995 Incentive Stock Option Plan, and a 1996 Incentive and Non-Qualified Stock Option Plan (the "Plans").

The Company has reserved 915,000 shares of its common stock for issuance upon exercise of options granted or to be granted under the Plans. These options generally vest in equal annual amounts over four years beginning on the date of the grant. The Plans provide that options be granted at exercise prices not less than market value on the date the option is granted and options are adjusted for such changes as stock splits and stock dividends. No options are exercisable for periods of more than ten years after date of grant.

The per share weighted-average fair value of stock options granted during 1998, 1997 and 1996 was \$2.74, \$4.12 and \$1.80 on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions:

	1998	1997	1996
Expected dividend yield	0%	0%	0%
Risk-free interest rate	5.84%	5.36%	6.4%
Expected volatility	115.48%	82.71%	3%
Expected life (years)	3	3	4

The Company applies APB Opinion No. 25 in accounting for its Plans and, accordingly, no compensation cost has been recognized for its stock options in the financial statements. Had the Company determined compensation cost based on the fair value at the grant date for its stock options under SFAS No. 123, the Company's net (loss) income would have been reduced to the pro forma amounts indicated below:

		1998	1997	1996
Net (loss) income	As reported	\$ (2,266,009)	2,216,501	2,456,031
	Pro forma	(3,013,785)	1,942,467	2,109,142
Net (loss) income per common share-diluted	As reported	\$ (0.32)	0.30	0.35
	Pro forma	\$ (0.42)	0.26	0.30

Pro forma net (loss) income reflects only options granted in 1998, 1997 and 1996. The full impact of calculating compensation cost for stock options under SFAS No. 123 is not reflected in the pro forma net (loss) income amounts presented above because compensation cost is reflected in the year of grant.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

At December 31, 1998, warrants, issued in conjunction with the acquisition of the Sensor Products Group of the Andrew Corporation (note 2), to purchase 50,000 common shares were outstanding. Each warrant allows the holder thereof to acquire one share of common stock for a purchase price of \$8.00. The warrants are exercisable through October 30, 2002.

The changes in outstanding employee stock options for the three years ended December 31, 1998, 1997 and 1996 is as follows:

	Number of Shares	Weighted-Average Exercise Price
Outstanding at December 31, 1995	1,065,139	\$ 1.11
Granted	362,000	7.91
Exercised	(327,400)	0.75
Forfeited	(66,080)	0.60
Expired and canceled	(12,332)	5.72
Outstanding at December 31, 1996	1,021,327	3.83
Granted	66,250	7.13
Exercised	(86,728)	0.76
Expired and canceled	(70,446)	5.93
Outstanding at December 31, 1997	930,403	4.28
Granted	687,950	3.97
Exercised	(40,195)	0.60
Expired and canceled	(383,525)	7.58
Outstanding at December 31, 1998	1,194,633	\$ 3.14

On March 2, 1998, the Compensation Committee of the Board of Directors approved a stock option repricing program in which all employees and directors of the company could elect to exchange certain previously granted incentive and non-qualifying stock options for a "New Option" granted under the 1996 Plan. The Company repriced the options because the exercise prices of such options were significantly higher than the fair market value of the Company's common stock and therefore did not provide the desired incentive to employees.

Under the terms of the exchange, employees had the option to surrender all outstanding previously granted options with exercise prices of \$5.00 per share or more for a New Option amounting to 80 percent of the previously granted options at new exercise prices ranging from \$4.125 to \$4.538 per share. Options to purchase 361,500 shares of common stock, with an average exercise price per share of \$7.77, were surrendered and exchanged for 289,200 shares repriced at exercise prices ranging from \$4.125 to \$4.538 per share, based upon the fair market closing price on March 2, 1998. The vesting schedule and all other terms and conditions of the options remained unchanged.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

The following table summarizes information about employee stock options at December 31, 1998:

Average Range of Exercise Prices	Outstanding 12/31/98	Remaining Life	Weighted-Average Exercise Price	Number Exercisable As of 12/31/98	Weighted-Average Exercise Price
\$0.60 - \$0.60	73,245	1.53	\$0.60	67,818	\$0.60
\$1.70 - \$1.70	400,000	1.82	\$1.70	400,000	\$1.70
\$2.50 - \$3.50	120,000	4.53	\$2.67	20,000	\$3.50
\$4.13 - \$4.13	452,366	3.30	\$4.13	215,948	\$4.13
\$4.54 - \$9.13	149,022	3.67	\$5.67	78,782	\$6.68
\$0.60 - \$9.13	1,194,633	2.86	\$3.14	782,548	\$2.82

At December 31, 1998, 1997 and 1996 the number of options exercisable was 782,548, 646,576 and 983,828, respectively, and the weighted average exercise price of those options was \$2.82, \$3.87 and \$3.83, respectively.

(c) Employee Stock Purchase Plan

The Employee Stock Purchase Plan (the "ESPP") covers substantially all employees in the United States and Denmark. The ESPP allows eligible employees the right to purchase common stock on a semi-annual basis at the lower of 85% of the market price at the beginning or end of each six-month offering period. During 1998 and 1997, 80,510 and 12,700 shares, respectively, were issued under this plan. As of December 31, 1998, 52,439 shares were reserved for future issuance under the plan.

(9) Income Taxes

Income tax (benefit) expense for the years ended December 31, 1998, 1997 and 1996 are presented below.

	Current	Deferred	Total
1998:			
Federal	\$(1,237,981)	(233,226)	(1,471,207)
State	(208,595)	40,020	(168,575)
Foreign	31,591	-	31,591
	\$(1,414,985)	(193,206)	(1,608,191)
1997:			
Federal	\$ 1,037,954	(212,586)	825,368
State	157,997	(30,102)	127,895
Foreign	66,922	-	66,922
	\$ 1,262,873	(242,688)	1,020,185
1996:			
Federal	\$ 1,062,392	246,986	1,309,378
State	285,148	68,395	353,543
Foreign	79,617	-	79,617
	\$ 1,427,157	315,381	1,742,538

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

The actual tax (benefit) expense differs from the "expected" tax (benefit) expense computed by applying the U.S. Federal corporate tax rate of 34% to (loss) income before income taxes as follows:

	1998	1997	1996
Computed "expected" tax (benefit) expense	\$ (1,317,228)	1,100,473	1,427,513
Increase (decrease) in income taxes resulting from:			
Non-deductible expenses	15,699	26,262	25,025
Utilization of tax credits	(176,982)	(215,411)	-
State income tax (benefit) expense, net of Federal income tax benefit	(168,575)	84,411	233,674
Other	38,895	24,450	56,326
Net income tax (benefit) expense	\$ (1,608,191)	1,020,185	1,742,538

The tax effects of temporary differences that give rise to significant portions of deferred tax assets and liabilities at December 31, 1998 and 1997 are as follows:

	1998	1997
Deferred tax assets:		
Accounts receivable, due to allowance for doubtful accounts	\$ 39,810	24,126
Inventories, due to valuation reserve	30,923	204,451
Inventories, due to differences in costing for tax purposes	2,138	4,334
Inventories, due to unrealized gain	48,315	130,416
Property and equipment, due to differences in depreciation	-	5,812
Intangibles due to differences in amortization	14,695	-
Dislodged tax credits from prior years	460,000	-
Accrued warranty costs	42,882	96,963
Accrued vacation	98,822	-
Gross deferred tax assets	\$ 737,585	466,102
Deferred tax liability:		
Property and equipment, due to differences in depreciation	78,277	-
Net deferred tax asset	\$ 659,308	466,102

The recognition of the net deferred tax asset of \$659,308 is supported by the Company's history of earnings and the expectation that it will have future taxable income in 1999 and beyond in order to realize the benefit of these future tax deductions. Research and development tax credit carryforwards in the amounts of \$154,000 and \$255,000 relating to 1997 and 1996 expire in 2012 and 2011, respectively. An Alternative Minimum Tax credit of \$51,000 from 1996 has no expiration date.

(10) 401(k) Profit Sharing Plan

The Company has a 401(k) Profit Sharing Plan (the Plan) for all eligible employees. All employees with a minimum of one year of service who have attained age 21 are eligible to participate. Participants can contribute up to 15% of total compensation, subject to the annual IRS dollar limitation. Participants become fully vested in Company contributions after 7 years of continuous service. Company contributions to the plan are discretionary. During 1998, 1997 and 1996, the Company did not make any contributions to the Plan.

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

(11) Supplemental Cash Flow Information

As discussed in Note 2, the Company purchased certain operating assets and assumed certain liabilities of Andrew Corporation's Sensor Products Group in 1997. During 1998 the Company revalued accounts receivable and inventory to reflect actual fair values. As a consequence of the revaluation, accounts receivable and inventory were reduced by \$163,462 and \$437,660, respectively, while property and equipment and other assets were increased by \$252,503 and \$348,619, respectively.

(12) Business and Credit Concentrations

In September 1995 the Company entered into an agreement with AMSC to design and manufacture mobile satellite telephone systems for use at sea. The agreement provided for AMSC to purchase 5,000 systems, for a total contract value of \$10.2 million. The Company received an advance from AMSC of \$2.5 million to be applied to the purchase price of the last of the systems covered by the agreement. The Company shipped approximately 70% of the order in 1996 and the remainder in 1997.

The Company derives a substantial portion of its revenues from the armed forces of the United States and foreign governments. The Company estimates that approximately 39%, 52% and 37% of the Company's revenues were derived from United States and foreign military and defense related sources in fiscal 1998, 1997 and 1996, respectively. A significant portion of the Company's revenues are also derived from customers outside the U.S. Revenues from foreign customers accounted for 30%, 31% and 42% of total revenues in fiscal 1998, 1997 and 1996, respectively.

Historically, a significant portion of the Company's sales in any particular period has been attributable to sales to a limited number of customers. There were no sales in 1998 to AMSC, which accounted for approximately 12% and 27% of net sales in 1997 and 1996, respectively. Sales to the United States Army Tank and Automotive Command accounted for approximately 17% and 28% of net sales in 1998 and 1997, respectively. Sales to the Government of Sweden did not occur in 1998 and accounted for approximately 13% of the Company's net sales in 1997. Sales to General Motors Corporation of Canada accounted for approximately 14% of the Company's net sales in both 1998 and 1997.

(13) Segment Reporting

During 1998 the Company adopted Financial Accounting Standards Board Statement of Financial Accounting Standards Number 131 ("SFAS 131"), "Disclosures About Segments of an Enterprise and Related Information." Under SFAS 131, the Company's operations are classified into one reportable segment. The Company designs, manufactures and markets sensor systems for a wide variety of applications under common management which oversees the Company's marketing production and technology strategies.

(a) Products and Services

The Company's sensor systems are primarily marketed in the communication and navigation industries. Revenues attributed to each of these industries is as follows:

	1998	1997	1996
Navigation	\$13,985,623	20,328,191	15,877,721
Communication	6,645,025	5,242,156	9,809,774
	\$20,630,648	25,570,347	25,687,495

(b) Geographic Information

The Company's operations are located in the United States and Europe, and substantially all long-lived assets reside in the United States. Inter-region sales are not significant to total revenue of any geographic region. Information about the Company's revenues in different geographic regions for each of the three-year periods ended December 31, 1998, 1997 and 1996 is as follows:

KVH INDUSTRIES, INC. AND SUBSIDIARY

Notes to Consolidated Financial Statements, Continued

	1998	1997	1996
Net revenues:			
United States	\$ 17,461,608	23,258,557	23,809,807
Europe	3,169,040	2,311,790	1,877,688
	\$ 20,630,648	25,570,347	25,687,495

United States revenues include export sales to unaffiliated customers, located primarily in Europe and Canada, and totaled \$6,112,627, \$7,813,138 and \$9,051,291, respectively, in 1998, 1997 and 1996.

- (14) Selected Quarterly Financial Results (Unaudited) Financial information for interim periods was as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
1998				
Net sales	\$ 4,128,601	6,470,240	5,307,323	4,724,484
Gross profit	1,130,182	2,390,607	2,164,348	845,113
Net (loss) income	(896,719)	(247,329)	258,089	(1,380,050)
(Loss) income per share (a):				
Basic	\$ (0.13)	(0.03)	0.04	(0.19)
Diluted	\$ (0.13)	(0.03)	0.04	(0.19)
1997				
Net sales	\$ 5,916,329	5,770,505	7,025,976	6,857,537
Gross profit	2,737,300	2,519,762	3,546,897	2,680,925
Net income	603,989	402,167	1,018,799	191,546
Earnings per share (a):				
Basic	\$ 0.09	0.06	0.14	0.03
Diluted	0.08	0.05	0.14	0.03
1996				
Net sales	\$ 4,780,659	5,113,602	7,147,270	8,645,964
Gross profit	2,088,270	2,284,354	2,918,469	3,788,818
Net income	187,568	320,099	920,513	1,027,851
Earnings per share (a):				
Basic	\$ 0.04	0.05	0.13	0.15
Diluted	\$ 0.03	0.04	0.12	0.14

- (a) Earnings (loss) per share are computed independently for each of the quarters. Therefore, the earnings (loss) per share for the four quarters may not equal the annual earnings per share data.

- (15) Subsequent Event

On January 11, 1999, the Company entered into a mortgage loan in the amount of \$3,000,000 with a life insurance company. The note term is 10 years, with a principal amortization of 20 years at a fixed rate of interest of 7%. Due to the difference in the term of the note and the amortization of principal, a balloon payment is due on February 1, 2009, in the amount of \$2,014,716.



INDEPENDENT AUDITORS' REPORT

The Board of Directors and Shareholders  
KVH Industries, Inc. and Subsidiary:

Under the date of February 10, 1999, we reported on the consolidated balance sheets of KVH Industries, Inc., and subsidiary as of December 31, 1998 and December 31, 1997 and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the fiscal years in the three-year period ended December 31, 1998, as contained in the annual report on Form 10-K for the year 1998. In connection with our audits of the aforementioned consolidated financial statements, we also audited the related financial statement schedule listed in Item 14(a)(2). This financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this financial statement schedule based on our audits.

In our opinion, such financial statement schedule when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ KPMG LLP

Providence, Rhode Island  
February 10, 1999

## Schedule II

## KVH INDUSTRIES, INC. AND SUBSIDIARY

## Valuation and Qualifying Accounts

Description	Additions Balance at Charged to Beginning of Year	Cost or Expense	Deductions from Reserve	Balance at End of Year
	(in thousands)			
Deducted from accounts receivable for doubtful accounts				
1998	74	26	(8)	92
1997	50	24	-	74
1996	95	-	(45)	50
Deducted from inventory for estimated obsolescence				
1998	511	50	(484)	77
1997	105	556	(150)	511
1996	60	60	(15)	105

COMPUTATION OF NET (LOSS) EARNINGS PER SHARE  
(in thousands, except per share data)  
Year Ended December 31,

	1998	1997	1996
Calculation of (loss) earnings per share - basic:			
Net (loss) income	\$(2,266)	2,217	2,456
	=====	=====	=====
Shares:			
Common stock outstanding	7,124	7,049	6,371
	=====	=====	=====
Net (loss) earnings per common share - basic	\$ (0.32)	0.31	0.39
	=====	=====	=====
Calculation of (loss) earnings per share - diluted:			
Net (loss) income	\$(2,266)	2,217	2,456
	=====	=====	=====
Shares:			
Common stock outstanding, beginning of period	7,124	6,993	1,601
Conversion of preferred stock	-	-	3,260
Weighted average common stock issued during the period	-	52	1,509
Assumed exercise of common stock options	-	605	852
Less:			
Purchase of common stock under the treasury stock method	-	(152)	(167)
	=====	=====	=====
Weighted average number of common and potential common shares outstanding	7,124	7,498	7,055
	=====	=====	=====
Net (loss) earnings per common share - diluted	\$ (0.32)	0.30	0.35
	=====	=====	=====

ACCOUNTANTS' CONSENT

The Board of Directors  
KVH Industries, Inc. and Subsidiary:

We consent to incorporation, by reference in the Registration Statement No. 333-01258 on Form S-8, of our reports dated February 10, 1999, relating to the consolidated balance sheets of KVH Industries, Inc., and subsidiary as of December 31, 1998 and December 1997 and the related consolidated statements of operations, stockholders' equity, and cash flows and related schedule for each of the fiscal years in the three-year period ended December 31, 1998, which reports on the consolidated financial statements and on the related schedule are included in the Annual Report on Form 10-K of KVH Industries, Inc., for the fiscal year ended December 31, 1998.

/s/ KPMG LLP

Providence, Rhode Island  
March 23, 1999

## KVH Industries, Inc., Financial Data Schedule December 31, 1998

Year	DEC-31-1998	
	DEC-31-1998	
	1,239,227	
	0	
	0	
	3,180,323	
	73,909	
	10,161,582	
	10,246,707	
	3,390,787	
	18,745,636	
	1,675,771	
		0
	0	
		0
		72,059
		0
18,745,636		
	20,630,648	
	20,630,648	
	14,100,398	
	14,100,398	
	10,686,217	
	0	
	2,023	
	(3,874,200)	
	(1,608,191)	
	(2,266,009)	
	0	
	0	
		0
	(2,266,009)	
	(0.32)	
	(0.32)	

OPEN END MORTGAGE, AND SECURITY AGREEMENT  
AND FIXTURE FINANCING STATEMENT  
WITH ASSIGNMENT OF LEASES AND RENTS  
(THIS MORTGAGE TO SECURE PRESENT AND FUTURE LOANS  
UNDER RHODE ISLAND GENERAL LAWS CHAPTER 25 OF TITLE 34)

Dated as of

January 11, 1999

granted by

KVH Industries, Inc., a Delaware Corporation

to

IDS Life Insurance Company

Prepared  
by  
and  
after  
recording,  
return  
to:

Michael D. Moriarty, Esq. Locke Reynolds Boyd & Weisell  
1000 Capital Center South  
201 North Illinois Street  
Indianapolis, IN 46204  
(317) 237-3800

Open End Mortgage, and Security Agreement  
and Fixture Financing Statement  
with Assignment of Leases and Rents  
(THIS MORTGAGE TO SECURE PRESENT AND FUTURE LOANS  
UNDER RHODE ISLAND GENERAL LAWS CHAPTER 25 OF TITLE 34)

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OPEN END MORTGAGE, AND SECURITY AGREEMENT  
AND FIXTURE FINANCING STATEMENT  
WITH ASSIGNMENT OF LEASES AND RENTS  
(THIS MORTGAGE TO SECURE PRESENT AND FUTURE LOANS  
UNDER RHODE ISLAND GENERAL LAWS CHAPTER 25 OF TITLE 34)

THIS Indenture ("Mortgage") is made and delivered as of the 11th day of January, 1999 by KVH Industries, Inc., a Delaware corporation ("Mortgagor"), having a mailing address of 50 Enterprise Center, Middletown, Rhode Island 02842, Attention: Mr. Richard Forsythe, for the benefit of IDS Life Insurance Company, a Minnesota corporation ("Mortgagee"), having a mailing address of do American Express Financial Corporation, 733 Marquette Avenue, Minneapolis, Minnesota 55402, Attention: Real Estate Loan Management, Unit #401.

WITNESSETH, that Mortgagor, in consideration of the Indebtedness hereinafter defined and the sums advanced to Mortgagor in hand paid by Mortgagee, receipt whereof is hereby acknowledged, does hereby MORTGAGE, WARRANT WITH WARRANTY COVENANTS AND MORTGAGE COVENANTS, GRANT, BARGAIN, SELL AND CONVEY AND THIS MORTGAGE IS MADE UPON THE STATUTORY CONDITION AND WITH THE STATUTORY POWER OF SALE unto Mortgagee, its successors and assigns, forever, AND GRANTS TO MORTGAGEE A SECURITY INTEREST IN the following properties to secure payment of the Note and all amounts owing under the Note and any documents securing the Note (all of the following being hereafter collectively referred to as the "Premises"):

GRANTING CLAUSE A  
REAL PROPERTY

All the tracts or parcels of real property lying and being in Middletown, County of Newport, State of Rhode Island, all as more fully described in Exhibit "A" attached hereto and made a part hereof, together with all the estates and rights in and to the real property, water, mineral or oil rights and in and to lands lying in streets, alleys and roads or gores of land adjoining the real property and all buildings, structures, improvements and annexations, access rights, easements, rights of way or use, servitudes, licenses, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the real property and all proceeds and products derived therefrom whether now owned or hereafter acquired.

GRANTING CLAUSE B  
IMPROVEMENTS, FIXTURES, EQUIPMENT  
PERSONAL PROPERTY

All buildings, equipment, fixtures, improvements, building supplies and materials and personal property, now or hereafter attached to and necessary for the management or maintenance of the improvements on the Premises including, but without being limited to, all machinery, fittings, fixtures, apparatus, equipment or articles used to supply heating, gas, electricity, air conditioning, water, light, waste disposal, power, refrigeration, ventilation, and fire and sprinkler protection, as well as all elevators, escalators, overhead cranes, hoists and assists, and the like, and all furnishings, draperies, maintenance and repair equipment, window and structural cleaning rigs and equipment, floor coverings, appliances, screens, storm windows, blinds, awnings, shrubbery and plants (including Mortgagor's interest in any lease of the foregoing) now or hereafter necessary for the management or maintenance of the Premises, it being understood that the enumeration of specific articles of property shall in no way be held to exclude like items of property not specifically enumerated, as well as renewals, replacements, proceeds, additions, accessories, increases, parts, fittings, insurance payments, awards and substitutes thereof, together with all interest of Mortgagor in any such items hereafter acquired, and all personal property which by the terms of any lease for occupancy of the Premises shall become the property of Mortgagor at the termination of such lease, all of which personal property mentioned herein shall be deemed fixtures and accessory to the freehold and a part of the realty and not severable in whole or in part without material injury to the Premises, but excluding therefrom the removable personal property owned by any tenants and Mortgagor, in the Premises and also specifically excluding Mortgagor's inventory, trademarks, tradenames (other than the name "50 Enterprise Center"), accounts receivable and other items of personal property and Mortgagor's machinery or fixtures relating to the conduct of Mortgagor's business.

GRANTING CLAUSE C  
RENTS, LEASES AND PROFITS

All rents, issues, income, revenue, receipts, fees, and profits now due or which may hereafter become due under or by virtue of and together with all right, title and interest of Mortgagor in and to any lease, license, sublease, contract or other kind of occupancy agreement, whether written or verbal, for the use or occupancy of the Premises or any part thereof together with all security therefor and all monies payable thereunder, including, without limitation, tenant security deposits, and all books and records which contain information pertaining to payments made thereunder and security therefor, subject, however, to the conditional permission herein given to Mortgagor to collect the rents, income and other normal income benefits arising under any agreements. Mortgagee shall have the right, not as a limitation or condition hereof but as a personal covenant available only to Mortgagee, at any time and from time to time, to notify any lessee of the rights of Mortgagee hereunder.

Together with all right, title and interest of Mortgagor in and to any and all contracts for sale and purchase of all or any part of the property described in Granting Clauses A, B and C hereof, and any down payments, earnest money deposits or other sums paid or deposited in connection therewith.

GRANTING CLAUSE D  
JUDGMENTS, CONDEMNATION AWARDS,  
INSURANCE PROCEEDS,  
AND OTHER RIGHTS

All awards, compensation or settlement proceeds made by any governmental or other lawful authorities for the threatened or actual taking or damaging by eminent domain of the whole or any part of the Premises, including any awards for a temporary taking, change of grade of streets or taking of access, together with all insurance proceeds resulting from a casualty to any portion of the Premises; all rights and interests of Mortgagor against others, including adjoining property owners, arising out of damage to the property including damage due to environmental injury or release of hazardous substances.

GRANTING CLAUSE E  
LICENSES, PERMITS, EQUIPMENT LEASES  
AND SERVICE AGREEMENTS

All right, title and interest of Mortgagor in and to any licenses, permits, regulatory approvals, government authorizations and equipment or chattel leases, service contracts or agreements and all proceeds therefrom, arising from, issued in connection with or in any way related to the management, maintenance or security of the Premises, together with all replacements, additions, substitutions and renewals thereof, which may be assigned pursuant to agreement or law.

GRANTING CLAUSE F  
ACCOUNTS, GENERAL INTANGIBLES AND TRADENAMES

All escrow accounts, if any, established pursuant to Section 3.2 hereof as security for the payment of Impositions (as defined in Section 2.4 hereof) and insurance premiums, and the name "50 Enterprise Center" or any derivation thereof), now owned or hereafter acquired by the Mortgagor, and all proceeds therefrom, whether cash or non-cash, all as defined in Article 9 of the Uniform Commercial Code of the State of Rhode Island, as amended.

GRANTING CLAUSE G  
PROCEEDS

All sale proceeds, refinancing proceeds or other proceeds, including deposits and down payments derived from or relating to the property described in Granting Clauses A through F above.

AND MORTGAGOR for Mortgagor, Mortgagor's successors and assigns, covenants with Mortgagee, its successors and assigns, that Mortgagor is lawfully seized of the Premises and has good right to sell and convey the same; that the Premises are free from all encumbrances except as may be set forth in Exhibit "B" attached hereto and made a part hereof (hereinafter referred to as the "Permitted Encumbrances"); that Mortgagee, its successors and assigns, shall quietly enjoy and possess the Premises; and that Mortgagor, its successors and assigns, will WARRANT AND DEFEND the title to the same against all lawful claims not specifically excepted in this Mortgage.

TO HAVE AND TO HOLD THE SAME, together with the possession and right of possession of the Premises, unto Mortgagee, its successors and assigns, forever.

PROVIDED NEVERTHELESS, that if Mortgagor, Mortgagor's heirs, administrators, personal representatives, successors or assigns, shall pay to Mortgagee, its successors or assigns, the sum of Three Million and 00/100 Dollars and 00/100 Dollars (\$3,000,000.00), according to the terms of that certain Promissory Note in said principal amount (hereinafter referred to as the "Note") of a contemporaneous date herewith executed by Mortgagor and payable to Mortgagee, the terms and conditions of which are incorporated herein by reference (including the maturity date of such Note which is (February 1, 2009) and made a part hereof, together with any extensions or renewals thereof, due and payable with interest thereon as provided therein, the balance of said principal sum together with interest thereon being due and payable, and shall repay to Mortgagee, its successors or assigns, at the times demanded and with interest thereon at the same rate specified in the Note, all sums advanced hereunder in protecting the lien of this Mortgage, in payment of taxes on the Premises, in payment of insurance premiums covering improvements thereon, in payment of principal and interest on prior liens, in payment of expenses and reasonable attorneys' fees herein provided for and all sums advanced for any other purpose authorized herein (the Note and all such sums, together with interest thereon, and premium, if any, being hereinafter collectively referred to as the "Indebtedness"), and shall keep and perform all of the covenants and agreements herein contained, then this Mortgage (and other recorded loan documents) shall become null and void, and shall be released and discharged at Mortgagor's expense.

AND IT IS FURTHER COVENANTED AND AGREED AS FOLLOWS:

ARTICLE 1  
GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 1.1 REPRESENTATIONS AND WARRANTIES. Mortgagor represents and warrants to Mortgagee, its successors and assigns, that, as of the date hereof:

(a) Mortgagor is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware has been duly qualified to do business in the State of Rhode Island, and has all requisite power and authority to own and operate the Premises, to enter into the Note, this Mortgage, that certain Assignment of Leases, Assignment of Rents and Hazardous Materials Indemnity Agreement of contemporaneous date herewith ("Assignment of Leases", "Assignment of Rents", and "Hazardous Materials Indemnity Agreement", respectively and any other document securing the Note, to execute all other documents relating to the loan evidenced by the Note (the "Loan") and make all representations and covenants contained in such documentation. The Note, this Mortgage, the Assignment of Leases, the Assignment of Rents, the Hazardous Materials Indemnity Agreement, all UCC Financing Statements and all other documents, instruments and agreements relating to any of them or evidencing or securing the Loan are herein individually and collectively referred to as the "Loan Documents." Mortgagor has the power and authority to borrow the monies and otherwise assume and perform as contemplated hereunder and under all documents relating to or executed in connection with the Indebtedness, and is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

(b) Neither the borrowing of the monies nor the execution and delivery of the Note, this Mortgage, the Assignment of Leases, the Assignment of Rents, the Hazardous Materials Indemnity Agreement or any other Loan Document nor the performance or the provisions of the agreements therein contained on the part of Mortgagor will contravene, violate or constitute a default under the Articles of Incorporation or By-Laws of Mortgagor, or any agreement with the shareholders of Mortgagor, or any creditors of Mortgagor, or any law, ordinance, governmental regulation, agreement or indenture to which Mortgagor is a party or by which Mortgagor or Mortgagor's properties are bound.

(c) There are no (i) bankruptcy proceedings involving Mortgagor and none is contemplated; (ii) dissolution proceedings involving Mortgagor and none is contemplated; (iii) unsatisfied judgments of record against Mortgagor; or (iv) tax liens filed against Mortgagor.

(d) The Note, this Mortgage, the Assignment of Leases, the Assignment of Rents and the other Loan Documents have been duly executed and delivered by Mortgagor and constitute the legal, valid and binding obligations of Mortgagor, enforceable in accordance with their terms.

(e) There are no judgments, suits, actions or proceedings at law or in equity or by or before any governmental instrumentality or agency now pending against or, to the best of Mortgagor's knowledge, threatened against Mortgagor or its properties, or both, nor has any judgment, decree or order been issued against Mortgagor or its properties, or both, which would have a material adverse effect on the Premises or the financial condition of Mortgagor or Mortgagor's properties.

(f) No consent or approval of any regulatory authority having jurisdiction over Mortgagor is necessary or required by law as a prerequisite to the execution, delivery and performance of the terms of the Note, this Mortgage, the Assignment of Leases, the Assignment of Rents, the Hazardous Materials Indemnity Agreement, or any other Loan Document.

(g) Mortgagor is not, as of the date hereof, in default in the payment or performance of any of Mortgagor's material obligations in connection with borrowed money or any other major obligation.

(h) The Premises is free from any mechanics' or materialmen's liens or claims. There has been no labor or materials furnished to the Premises that has not been paid for in full.

(i) Mortgagor has no notice, information or knowledge of any change contemplated in any applicable law, ordinance, regulation, or restriction, or any judicial, administrative, governmental or quasi-governmental action, or any action by adjacent land owners, or natural or artificial condition existing upon the Premises which would limit, restrict, or prevent the contemplated or intended use and purpose of the Premises.

(j) There is no pending condemnation or similar proceeding affecting the Premises, or any portion thereof, nor to the best knowledge of Mortgagor, is any such action being presently contemplated.

(k) No part of the Premises is being used for agricultural purposes or being used for a personal residence by Mortgagor or any shareholder of Mortgagor.

(l) The Premises is undamaged by fire, windstorm, or other casualty.

(m) Except as otherwise disclosed in writing to Mortgagee, the Premises complies with all zoning ordinances, energy and environmental codes, building and use restrictions and codes, and any requirements with respect to licenses, permits and agreements necessary for the lawful use and operation of the Premises.

(n) The heating, electrical, sanitary sewer plumbing, storm sewer plumbing, potable water plumbing and other building equipment, fixtures and fittings in the existing improvements on the Premises are in good condition and working order, are adequate in quantity and quality for normal and usual use, and are fit for the purposes intended and the use contemplated.

(o) The Premises is covered by a tax parcel(s) which pertain to the Premises only and not to any property which is not subject to the Mortgage.

(p) The Premises is improved with a three (3)-story office building containing approximately seventy five thousand (75,000) net rentable square feet and related on-site parking for approximately two hundred ninety five (295) vehicles which is located at 50 Enterprise Center, Middletown, Rhode Island and commonly known as 50 Enterprise Center and has frontage on, and direct access for ingress and egress to Enterprise Center.

(q) Mortgagor has good and clear record and marketable title in fee to such of the Premises as is real property, subject to no liens, encumbrances or restrictions other than Permitted Encumbrances.

SECTION 1.2 CONTINUING OBLIGATION. Mortgagor further warrants and represents that all statements made hereunder are true and correct and that all financial statements, data and other information provided to Mortgagee by Mortgagor relating to or provided in connection with this transaction has not and does not contain any statement which, at the time and in the light of the circumstances under which it was made, would be false or misleading with respect to any material fact, or would omit any material fact necessary in order to make any such statement contained therein not false or misleading in any material respect, and since such statement, data or information was provided there has been no material change thereto or to the condition of Mortgagor. Should Mortgagor subsequently obtain knowledge that any such representation was or is untrue, Mortgagor shall immediately notify Mortgagee as to the untrue nature of said representation and agrees, to the extent possible, to take action as may be necessary to cause such representation to become true.

## ARTICLE 2 COVENANTS AND AGREEMENTS

Mortgagor covenants and agrees for the benefit of Mortgagee, its successors and assigns, as follows:

SECTION 2.1 PAYMENT OF INDEBTEDNESS; OBSERVANCE OF COVENANTS. Mortgagor will duly and punctually pay each and every installment of principal, premium, if any, and interest on the Note, all deposits required herein, and all other Indebtedness secured hereby, as and when the same shall become due, and shall duly and punctually perform and observe all of the covenants, agreements and provisions contained herein, in the Note and any other instrument given as security for the payment of the Note as such instrument may be amended, modified, restated and in effect from time to time.

SECTION 2.2 MAINTENANCE; REPAIRS. Mortgagor agrees that it will keep and maintain the Premises in good, first class condition, repair and operating condition free from any waste or misuse, and will comply with all requirements of law, municipal ordinances and regulations, restrictions and covenants affecting the Premises and their use, and will promptly repair or restore any buildings, improvements or structures now or hereafter on the Premises, which may become damaged or destroyed, to their condition prior to any such damage or destruction. Mortgagor further agrees that without the prior written consent of Mortgagee (which such consent shall not be unreasonably withheld or delayed), it will not remove or expand any improvements on the Premises, erect any new improvements or make any material alterations in any improvements which will alter the basic structure, adversely affect the market value or change the existing architectural character of the Premises, and agrees that any other buildings, structures and improvements now or hereafter constructed on or in the Premises or repairs made to the Premises shall be completed in a good and workmanlike manner, in accordance with all applicable governmental laws, regulations, requirements and permits and in accordance with plans and specifications previously delivered to and approved in advance in writing by Mortgagee. Mortgagor agrees not to acquiesce in any rezoning classification, modification or restriction affecting the Premises without the written consent of Mortgagee. Mortgagor agrees that it will not abandon or vacate the Premises. Mortgagor agrees that it will provide, improve, grade, surface and thereafter maintain, clean, repair and adequately light all parking areas within the Premises, together with any sidewalks, aisles, streets, driveways and curb cuts and sufficient paved areas for ingress and right-of-way to and from the adjacent public thoroughfare necessary or desirable for the use thereof and maintain all landscaping thereon. Mortgagor shall obtain and at all times keep in full force and effect such governmental approvals as may be necessary to comply with all governmental requirements relating to Mortgagor and the Premises.

SECTION 2.3 PAYMENT OF OPERATING COSTS; LIENS AND OTHER INDEBTEDNESS.

Mortgagor agrees that it will pay all operating costs and expenses of the Premises; keep the Premises free from mechanics' liens, materialmen's liens, judgment liens and other liens, executions, attachments or levies (hereinafter collectively referred to as "Liens"); and will pay when due all permitted indebtedness which may be secured by a mortgage, lien or charge on the Premises, whether prior to, subordinate to or of equal priority with the lien hereof, and upon request will exhibit to Mortgagee satisfactory evidence of such payment and discharge.

SECTION 2.4 PAYMENT OF IMPOSITIONS. Mortgagor will pay when due and

before any penalty or interest attaches because of delinquency in payment, all taxes, installments of assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Premises or any interest therein or the Indebtedness (hereinafter collectively referred to as the "Impositions"); and will upon demand furnish to Mortgagee proof of the payment of any such Impositions. In the event of a court decree or an enactment after the date hereof by any legislative authority of any law imposing upon mortgagees the payment of the whole or any part of the Impositions herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or a mortgagee's interest in mortgaged premises, so as to impose such Imposition on Mortgagee or on the interest of Mortgagee in the Premises, then, in any such event, Mortgagor shall bear and pay the full amount of such Imposition, provided that if for any reason payment by Mortgagor of any such Imposition would be unlawful, or if the payment thereof would constitute usury or render the Indebtedness wholly or partially usurious, Mortgagee, at its option, may declare the whole sum secured by this Mortgage with interest thereon to be immediately due and payable, without prepayment fee, or Mortgagee, at its option, may pay that amount or portion of such Imposition as renders the Indebtedness unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said Imposition.

SECTION 2.5 CONTEST OF LIENS AND IMPOSITIONS. Mortgagor shall not be

required to pay, discharge or remove any Liens or Impositions so long as Mortgagor shall in good faith contest the same or the validity thereof, by appropriate legal proceedings which shall operate to prevent the collection of the Liens or Impositions so contested and the sale of the Premises, or any part thereof to satisfy the same, provided that Mortgagor shall, prior to any such contest, have given such security as may be demanded by Mortgagee to ensure such payments and prevent any sale or forfeiture of the Premises by reason of such nonpayment. Any such contest shall be prosecuted in accordance with the laws and rules pertaining to such contests and in all events with due diligence and Mortgagor shall promptly after final determination thereof pay the amount of any such Liens or Impositions so determined, together with all interest and penalties, which may be payable in connection therewith. Notwithstanding the provisions of this Section, Mortgagor shall (and if Mortgagor shall fail so to do, Mortgagee may but shall not be required to) pay any such Liens or Impositions notwithstanding such contest if, in the reasonable opinion of Mortgagee, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed.

SECTION 2.6 PROTECTION OF SECURITY Mortgagor agrees to promptly notify

Mortgagee of and appear in and defend any suit, action or proceeding that affects the value of the Premises, the Indebtedness or the rights or interest of Mortgagee hereunder. Mortgagee may elect to appear in or defend any such action or proceeding and Mortgagor agrees to indemnify and reimburse Mortgagee from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorneys' fees.

SECTION 2.7 ANNUAL STATEMENTS. Within one hundred twenty (120) days

after the end of each of its fiscal years during the term of this Mortgage, Mortgagor, and any successor to the interest of Mortgagor in the Premises, will furnish to Mortgagee annual financial statements of Mortgagor or such successor and of any guarantor of the Loan and annual certified operating statements of the Premises, which shall include all relevant financial information showing at a minimum, but shall not be limited to, gross income (itemized as to source), operating expenses (itemized), depreciation charges, and net income before and after federal income taxes and such additional information as Mortgagee may from time to time reasonably request. The financial statements and the operating statements shall be certified by the Mortgagor. Both the financial and operating statements shall be prepared at the expense of Mortgagor. All of the above required statements shall be prepared in reasonable detail, conform to generally accepted accounting principles, and be reasonably satisfactory in form and content to Mortgagee. Mortgagor or any successor Mortgagor, if the Premises are conveyed pursuant to a transfer permitted by Mortgagee, shall provide (a) as to a corporate entity, such entity shall submit annual audited financial statements of the corporation and any supplemental schedules provided corporate stockholders, (b) as to an individual(s), such individual(s) shall submit annual statements certified by each individual or by an independent certified public accountant in good standing and shall include a balance sheet and a profit and loss statement, and (c) as to a partnership, trust entity or limited liability company, the partnership, trust or limited liability company shall submit annual reports certified by an authorized partner, trustee or member. Mortgagor covenants that it shall keep true and accurate records of the operation of the Premises. In the event Mortgagor fails after notice to furnish any of the statements as required herein or upon an Event of Default, as herein defined, Mortgagee may cause an audit to be made of the respective books and records at the sole cost and expense of Mortgagor. Mortgagee also shall have the right to examine at their place of safekeeping all books, accounts and records relating to the operation of the Premises, to make copies or abstracts therefrom and to

discuss the affairs, finances or accounts with the officers of Mortgagor and Mortgagor's accountants. Said examination shall be at Mortgagee's expense unless an Event of Default has occurred or Mortgagor's statements are found to contain significant discrepancies, in which case the examination shall be at Mortgagor's expense.

Mortgagor shall also furnish a rent roll in form reasonably acceptable to Mortgagee of all tenants having leases on the Premises on an annual basis along with the operating statements provided for above or at such other times as requested by Mortgagee from time to time. Notwithstanding the foregoing provisions of this Section 2.7, provided Mortgagor is the obligor under the Note and the sole occupant of the Premises and there is no Event of Default hereunder, Mortgagee shall not require submission of annual operating statements of the Premises or an annual rent roll.

SECTION 2.8 ADDITIONAL ASSURANCES. Mortgagor agrees upon request by Mortgagee to execute and deliver further instruments, financing statements and/or continuation statements under the Uniform Commercial Code and assurances and will do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Mortgage and without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended so to be. Mortgagor agrees to pay any recording fees, filing fees, stamp taxes or other charges arising out of or incident to the filing, the issuance and delivery of the Note, the filing or recording of the Mortgage or the delivery filing and recording of such further assurances and instruments as may be required pursuant to the terms of this Section.

SECTION 2.9 DUE ON SALE OR MORTGAGING, ETC. In the event that without the written consent of Mortgagee being first obtained: (a) Mortgagor, or any successor, sells, conveys, transfers, further mortgages, changes the form of ownership, or encumbers or disposes of the Premises, or any part thereof, or any interest therein, or agrees so to do except as otherwise permitted herein; or (b) any shares of corporate stock or ownership interest in Mortgagor, or any successor, are sold, conveyed, transferred, pledged or encumbered or there is an agreement so to do; (c) any partnership, trust, corporate or member ownership interest in Mortgagor is sold, transferred, conveyed, pledged or encumbered or there is an agreement to do so; or (d) any partnership, trust, corporate or member ownership interest in any general partner or member of Mortgagor is sold, conveyed, transferred, pledged or encumbered or there is an agreement so to do; whether any such event described in (a), (b), (c), or (d) above is voluntary, involuntary or by operation of law, then at Mortgagee's sole option, Mortgagee may declare the Indebtedness immediately due and payable in full and call for payment of the same at once, together with the prepayment fee then in effect under the terms of the Note. In the event that Mortgagor or any permitted subsequent owner of the Premises is a partnership or limited partnership, trust, a privately held corporation or limited liability company, a transfer of a general partnership, beneficial interest, stock interest or interest of a member, as applicable, shall constitute a transfer or conveyance for purposes of this Section 2.9. The death, incapacity or dissolution of a general partner, beneficiary, stockholder or member of Mortgagor or of any guarantor of the Loan, shall constitute a transfer or conveyance of such interest. In the event of such death, incapacity or dissolution, Mortgagor shall deliver notice thereof to Mortgagee within thirty (30) days and Mortgagor shall within ninety (90) days provide a replacement general partner, beneficiary, stockholder, member or guarantor for acceptance by Mortgagee. In the event of the death, dissolution or incapacity of any guarantor of the Loan, Mortgagor shall within thirty (30) days thereof provide notice to Mortgagee and, in the event of dissolution or incapacity, provide to Mortgagee a substitute guarantor of the Loan acceptable to Mortgagee, within ninety (90) days of such dissolution or incapacity, and in the event of death, provide to Mortgagee a substitute guarantor of the Loan acceptable to Mortgagee within one (1) year of the death of such guarantor or prior to any distribution of assets to any devisee, heir or other beneficiary, whichever is sooner. If such replacement is acceptable to Mortgagee, such transfer shall be permitted without a transfer fee or change in the Loan terms. In the event Mortgagor shall request the consent of Mortgagee in accordance with this Section 2.9 Mortgagor shall deliver a written request to Mortgagee together with (i) a review fee of Five Hundred and No/100 Dollars (\$500.00) and (ii) complete information regarding such conveyance or encumbrance (including complete information concerning the person or entity to acquire the interest conveyed). Mortgagee shall be allowed thirty (30) days after receipt of all requested information for evaluation of such request. In the event that such request is not approved within such thirty (30) day period, it shall be deemed not approved. If such a conveyance or encumbrance is approved, Mortgagor shall pay to Mortgagee a processing fee in the amount of Three Thousand and No/100 Dollars (\$3,000.00) to compensate Mortgagee for processing the request. Approval may be conditioned upon payment of a one percent (1%) transfer fee and such modification of the Loan terms, interest rate and maturity date as determined by Mortgagee in its sole discretion. Consent as to any one transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Notwithstanding the foregoing provisions of this Section 2.9, Mortgagee hereby consents to the transfer of shares of Mortgagor while shares of Mortgagor are registered under the Securities Exchange Act of 1934 or otherwise publicly traded.

SECTION 2.10 TRANSFER PERMITTED. Notwithstanding the above restrictions, and provided no Event of Default has occurred and remains uncured, Mortgagee will approve one and only one transfer of the Premises at any time and will not require modification of the interest rate or maturity date stated in the Note, provided:

- (a) The transfer shall be to a reputable and competent transferee who Mortgagee determines, in its sole discretion,
  - (i) has experience in the business of owning commercial real estate of similar type, size and quality to the Premises and has a favorable reputation, with respect to such business; and
  - (ii) has experience or has retained management with experience in the management of similar properties; and
  - (iii) has the necessary financial strength and will assume by written instrument reasonably acceptable to Mortgagee all of Mortgagor's obligations under the Loan Documents including, without limitation, the Hazardous Materials Indemnity Agreement;
- (b) For the twelve (12) month period immediately preceding the date of

the proposed transfer, the annualized net operating income prior to the payment of debt service is at least one hundred fifteen percent (115%) of the annual debt service on the Note and on all subordinate financing secured by the Premises, or any part thereof;

(c) The proposed purchaser must assume and agree to perform all obligations under the Note, the Mortgage, the Assignment of Leases, the Assignment of Rents and all other Loan Documents pursuant to an assumption agreement reasonably acceptable to Mortgagee. Mortgagor and all existing guarantors shall remain liable for payment of the Note and performance of the other terms and conditions of the Note, this Mortgage, the Assignment of Leases, the Assignment of Rents and any other Loan Documents, including any separate guarantees or indemnity agreements made in favor of Mortgagee;

(d) In addition to the modification and review processing, Mortgagee shall receive an additional transfer fee equal to one percent (1 %) of the outstanding principal balance of the Note. If a request for the one-time transfer is made during the first (1st) Loan Year and such transfer is approved by Mortgagee, the transfer fee shall be two percent (2%) of the outstanding principal balance of the Note, and if the request is approved the Five Hundred Dollar (\$500.00) review fee will be credited to the processing fee;

(e) The purchaser must acknowledge that future transfers and encumbrances will be subject to Mortgagee's approval, which may, at Mortgagee's sole discretion, be withheld or be conditioned upon payment of a fee and/or modification of the terms of the Note and/or other Loan Documents;

(f) Notice of such transfer together with such documentation regarding the transfer and the assuming person or entity as Mortgagee shall request shall be given to Mortgagee at least thirty (30) days prior to such transfer;

(g) Transfer of the Premises may only be as a whole and not in part;

(h) Mortgagor shall pay all costs and expenses in connection with such transfer including Mortgagee's attorneys' fees, in reviewing and processing such consent to assumption and/or transfer and the fees of any broker;

(i) Mortgagor shall execute, deliver and record (when necessary) such amendments, supplements, corrections and replacements in regard to the Loan Documents and shall deliver endorsements to the Mortgagee's title insurance policy as Mortgagee may require including an endorsement to the title policy insuring the first lien position of the Mortgage, such endorsement to insure that transferee is the owner of the Premises, subject to no liens or encumbrances other than those shown in the title policy and current taxes not yet due and payable;

(j) Mortgagee shall receive an appraisal of the Premises (exclusive of chattels), satisfactory to it, which shows sufficient value so that the total of all loans secured by the Premises does not exceed seventy-five percent (75%) of such appraised value. If the appraisal shows that the total of all liens against the Premises exceeds seventy-five percent (75%) of the value of the Premises, Mortgagee may require, at Mortgagee's option, payment on the Note or payment of other liens on the Premises so that such total will not exceed seventy-five percent (75%) of value; and

(k) Mortgagor shall recognize that the total debt to be secured by the Premises may not exceed the maximum permitted by Mortgagee.

Notwithstanding the foregoing provisions of this Section 2.10, Mortgagee shall not apply the provisions of Section 2.10(a)(i) and (ii) and Section 2.10(b) if the approval for a request for transfer is made under this Section 2.10 so long as Mortgagor is the sole tenant of the Premises and remains the sole tenant of the Premises after such transfer.

For the purposes of a permitted transfer, the term "net operating income" for any period shall mean the aggregate rent, receipts and other revenues which have accrued to the benefit of/received by the owner of the Premises during such period from bona fide arms-length tenants in actual possession of space in the Premises (based upon the then current certified rent roll), less the sum of all operating expenses, maintenance costs, insurance premiums, real estate taxes and assessments, and other costs, expenses and expenditures (including required capital expenditures) attributable to ownership of the Premises which is paid or accrued during such period, calculated in accordance with generally accepted accounting principles and management practices, but not including payments of principal or interest on the Indebtedness or on any secondary financing on the Premises, depreciation or other noncash charges and income taxes accrued during such period. Mortgagor shall have the right to require delivery of evidence it reasonably deems necessary to establish net/operating income from the Premises.



ARTICLE 3  
INSURANCE AND ESCROWS

SECTION 3.1 INSURANCE. During the term of this Mortgage, Mortgagor shall obtain and keep in full force and effect at its sole cost and expense the following insurance:

(a) Insurance against loss by fire, lightning and risk customarily covered by standard extended coverage endorsement, including the cost of debris removal, together with a vandalism and malicious mischief endorsement, sprinkler leakage endorsement, such perils endorsements as determined by Mortgagee, all in the amount of not less than full replacement cost without deduction for depreciation of the improvements, (as shown in the appraisal submitted to and approved by Mortgagee), and an agreed-amount endorsement, a replacement cost endorsement and a waiver of subrogation endorsement;

(b) Broad Form Boiler and Machinery Insurance on all equipment and pressure fired vessels or apparatus located on the Premises, and providing for full repair and replacement cost coverage;

(c) Flood Insurance in the maximum amount available at any time during the term of this Mortgage that the Premises are designated as lying within a flood plain as defined by the Federal Insurance Administration;

(d) Loss of Rents and/or Business Interruption Insurance covering risk of loss due to the occurrence of hazards insured against under the policies required in Subsections (a), (b) and (c) hereof in an amount equal to: (i) rental for a twelve (12) month period, plus (ii) real estate taxes, special assessments, insurance premiums and other expenses required to be paid by the tenants under each lease of the Premises for such twelve (12) month period.

(e) Comprehensive General Public Liability Insurance covering the legal liability of Mortgagor against claims for bodily injury, death or property damage occurring on, in or about the Premises in such minimal amounts and with such minimal limits as Mortgagee may reasonably require;

(f) Builders Risk Insurance and Worker's Compensation Insurance during the making of any alterations or improvements to the Premises; and

(g) Such other forms of insurance as Mortgagee may reasonably require or as may be required by law.

In addition, Mortgagee is to be furnished with such engineering data as it may reasonably require regarding the risk of earthquake or sinkhole damage to the Premises. If Mortgagee shall reasonably determine in its sole opinion that there is a material earthquake or sinkhole risk, or if insurance against earthquake or sinkhole is required by law, Mortgagor will provide earthquake or sinkhole insurance. Insurance policies shall be written on forms and with insurance companies which are reasonably satisfactory to Mortgagee, shall name as the insured parties Mortgagor and Mortgagee, as their interests may appear, shall be in amounts sufficient to prevent the Mortgagor from becoming a co-insurer of any loss thereunder, and shall bear a satisfactory mortgagee clause in favor of Mortgagee with loss proceeds under any such policies to be made payable to Mortgagee. All required policies of insurance together with evidence of the payment of current premiums therefor shall be delivered to Mortgagee and shall provide that Mortgagee shall receive at least thirty (30) days' advance written notice prior to cancellation, amendment or termination of any such policy of insurance. Mortgagor shall, within ten (10) days prior to the expiration of any such policy, deliver evidence acceptable to Mortgagee, in Mortgagee's sole judgment, verifying the renewal of such insurance together with evidence of the payment of current premiums therefor. Mortgagor shall at its expense furnish on renewal of insurance policies or upon request of Mortgagee evidence of the replacement value of the improvements on the Premises in form satisfactory to Mortgagee. Insurance coverage must at all times be maintained in proper relationship to such replacement value and must always provide for agreed amount coverage. Notwithstanding anything contained herein to the contrary, if Mortgagor currently has a blanket policy of insurance that satisfies the coverages required hereunder for the Premises, Mortgagee will accept a certified or conformed copy of the blanket policy together with an original Certificate of Insurance naming Mortgagee as mortgagee of the Premises.

In the event of foreclosure of this Mortgage or acquisition of the Premises by Mortgagee, all such policies and any proceeds payable therefrom, whether payable before or after a foreclosure sale, or during the period of redemption, if any, shall become the absolute property of Mortgagee to be utilized at its discretion. In the event of foreclosure or the failure to obtain and keep any required insurance, Mortgagor empowers Mortgagee to effect insurance upon the Premises at Mortgagor's expense and for the benefit of Mortgagee in the amounts and types aforesaid for a period of time covering the time lapse of insurance including lapse during redemption from foreclosure sale, and if necessary, to cancel any or all existing insurance policies. Mortgagor agrees to furnish Mortgagee copies of all inspection reports and insurance recommendations received by Mortgagor from any insurer. Mortgagee makes no representations that the above insurance requirements are adequate protection for a prudent mortgagor.

Mortgagor shall comply with all provisions of any insurance policy covering or applicable to the Premises or any part thereof, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the Rhode Island Board of Fire Underwriters (or any other body exercising similar functions) applicable to or affecting the Premises or any part thereof or any use or condition of the Premises of any part thereof.

SECTION 3.2 ESCROWS. Mortgagor shall deposit with Mortgagee, or at Mortgagee's request, with its servicing agent, on the first day of each and every month, commencing with the date the first payment of interest and/or principal and interest shall become due on the Indebtedness, a deposit to pay the Impositions and insurance premiums (hereinafter collectively referred to as the "Charges") in an amount equal to:

(a) One-twelfth (1/12) of the annual Impositions next to become due upon the Premises; provided that, with the first such deposit, there shall be deposited in addition an amount as estimated by Mortgagee which, when added to monthly deposits to be made thereafter as provided for herein, shall assure to Mortgagee's satisfaction that there will be sufficient funds on deposit to pay the Impositions as they come due; plus

(b) One-twelfth (1/12) of the annual premiums on each policy of insurance required to be maintained hereunder; provided that with the first such deposit there shall be deposited, in addition, an amount equal to one-twelfth (1/12) of such annual insurance premiums multiplied by the number of months elapsed between the date premiums on each policy were last paid to and including the date of deposit; provided that the amount of such deposits shall be based upon Mortgagee's estimate as to the amount of Impositions and insurance premiums next to be payable and may require that the full amount of such payment will be available to Mortgagee at least one month in advance of the due date. Mortgagee will, upon timely presentation to Mortgagee by Mortgagor of the bills therefor, pay the Charges from such deposits. Mortgagor agrees to cooperate and assist in obtaining of tax bills when requested by Mortgagee. In the event the deposits on hand shall not be sufficient to pay all of the estimated Charges when the same shall become due from time to time, or the prior deposits shall be less than the currently estimated monthly amounts, then Mortgagor shall immediately pay to Mortgagee on demand any amount necessary to make up the deficiency. The excess of any such deposits shall be credited towards subsequent Charges.

If an Event of Default shall occur under the terms of this Mortgage, Mortgagee may, at its option, without being required so to do, apply any deposits on hand to the payment of Charges whether then due or not or to the Indebtedness, in such order and manner as Mortgagee may elect. When the Indebtedness has been fully paid any remaining deposits shall be returned to Mortgagor as its interest may appear. All deposits are hereby pledged as additional security for the Indebtedness, shall be held for the purposes for which made as herein provided, may be held by Mortgagee or its servicing agent and may be commingled with other funds of Mortgagee, or its servicing agent, shall be held without allowance of interest thereon and without fiduciary responsibility on the part of Mortgagee or its agents and shall not be subject to the direction or control of Mortgagor. Neither Mortgagee nor its servicing agent shall be liable for any act or omission made or taken in good faith. In making any payments, Mortgagee or its servicing agent may rely on any statement, bill or estimate procured from or issued by the payee without inquiry into the validity or accuracy of the same. If the taxes shown in the tax statement shall be levied on property more extensive than the Premises, Mortgagee shall be under no duty to seek a tax division or apportionment of the tax bill, and any payment of taxes based on a larger parcel shall be paid by Mortgagor and Mortgagor shall expeditiously cause a tax subdivision to be made.

#### ARTICLE 4 UNIFORM COMMERCIAL CODE

SECTION 4.1 SECURITY AGREEMENT. This Mortgage shall constitute a security agreement as defined in the Uniform Commercial Code in effect in the State of Rhode Island, as amended from time to time (hereinafter referred to as the "Code"), and Mortgagor hereby grants to Mortgagee a security interest within the meaning of the Code in favor of Mortgagee on the Improvements, Fixtures, Equipment and Personal Property, the Rents, Leases and Profits, the Judgments, Condemnation Awards and Insurance Proceeds and other rights, and the Licenses, Permits, Equipment Leases and Service Agreements and the Accounts Receivable and General Intangibles described in Granting Clauses B, C, D, E, F and G of this Mortgage (hereinafter referred to as the "Collateral").

SECTION 4.2 FIXTURE FILING. As to those items of Collateral described in this Mortgage that are, or are to become fixtures related to the real estate mortgaged herein, and all products and proceeds thereof, it is intended as to those items that THIS MORTGAGE SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING from the date of its filing in the real estate records of the County where the Premises are situated. The name of the record owner of said real estate is Mortgagor set forth in page 1 to this Mortgage. Information concerning the security interest created by this instrument may be obtained from Mortgagee, as secured party, at its address as set forth in page 1 of this Mortgage. The address of Mortgagor, as debtor, is as set forth in page 1 to this Mortgage. This document covers goods which are or are to become fixtures.

SECTION 4.3 REPRESENTATIONS AND AGREEMENTS. Mortgagor represents and agrees: (a) Mortgagor is and will be the true and lawful owner of the Collateral, subject to no liens, charges, security interest and encumbrances other than the lien hereof and the Permitted Encumbrances; (b) the Collateral is to be used by Mortgagor solely for business purposes being installed upon the Premises for Mortgagor's own use or as the equipment and furnishing leased or furnished by Mortgagor, as landlord, to tenants of the Premises; (c) the Collateral will not be removed from the Premises without the consent of Mortgagee except in accordance with Section 4.4 hereof; (d) unless stated otherwise in this Mortgage the only persons having any interest in the Collateral are Mortgagor and Mortgagee and no financing statement covering any such property and any proceeds thereof is on file in any public office except

pursuant hereto; (e) the remedies of Mortgagee hereunder are cumulative and separate, and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other rights of Mortgagee including having such Collateral deemed part of the realty upon any foreclosure thereof; (f) if notice to any party of the intended disposition of the Collateral is required by law in a particular instance, such notice shall be deemed commercially reasonable if given at least ten (10) days prior to such intended disposition and may be given by advertisement in a newspaper accepted for legal publications either separately or as part of a notice given to foreclose the real property or may be given by private notice if such parties are known to Mortgagee; (g) Mortgagor will from time to time provide Mortgagee on request with itemizations of all Collateral; (h) the filing of a financing statement pursuant to the Code shall never impair the stated intention of this Mortgage that all Improvements, Fixtures, Equipment and Personal Property described in Granting Clause B hereof are, and at all times and for all purposes and in all proceedings both legal or equitable shall be regarded as part of the real property mortgaged hereunder irrespective of whether such item is physically attached to the real property or any such item is referred to or reflected in a financing statement; (i) Mortgagor will on demand deliver all financing statements and/or continuations that may from time to time be required by Mortgagee to establish and perfect the priority of Mortgagee's security interest in such Collateral and all costs, including recording fees, shall be paid by Mortgagor; (j) Mortgagor shall give advance written notice of any proposed change in Mortgagor's name, address, identity or structure and will execute and deliver to Mortgagee prior to or concurrently with such change all additional financing statements that Mortgagee may require to establish and perfect the priority of Mortgagee's security interest; and (k) Mortgagor shall renew and pay all expenses of renewing the financing statement covering the Collateral in the event the security interest in such Collateral will expire by reason of statutory law prior to the end of the term of this Mortgage.

Mortgagor does hereby consent to and approve of the filing of Financing Statements by electronic or computer technology, and further, Mortgagor does hereby adopt as Mortgagor's signature the electronic or computer generated typewritten signature of Mortgagor as if the same were the original handwritten signature of Mortgagor.

SECTION 4.4 MAINTENANCE OF PROPERTY. Subject to the provisions of this Section, in any instance where Mortgagor in its discretion determines that any item subject to a security interest under this Mortgage has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for the operation of the Premises, Mortgagor may, at its expense, remove and dispose of it and substitute and install other items not necessarily having the same function, provided, that such removal and substitution shall be of comparable quality and shall not impair the operating utility and unity of the Premises. All substitute items shall become a part of the Premises and subject to the lien of Mortgage. Any amounts received or allowed Mortgagor upon the sale or other disposition of the removed items of property shall be applied only against the cost of acquisition and installation of the substitute items. Nothing herein contained shall be construed to prevent any tenant or subtenant from removing from the Premises trade fixtures, furniture and equipment installed by tenant and removable by such tenant under its terms of the lease, on the condition, however, that all damages to the Premises resulting from or caused by the removal thereof be repaired at the sole cost of Mortgagor if such tenant shall fail to so repair.

#### ARTICLE 5 APPLICATION OF INSURANCE AND AWARDS

SECTION 5.1 DAMAGE OR DESTRUCTION OF THE PREMISES. Mortgagor will give Mortgagee prompt notice of damage to or destruction of the Premises, and in case of loss covered by policies of insurance, Mortgagee (whether before or after foreclosure sale) is hereby authorized at its option to settle and adjust any claim arising out of such policies and collect and receipt for the proceeds payable therefrom, provided, if Mortgagor is not in default hereunder, Mortgagor may itself adjust and collect for any losses arising out of a single occurrence aggregating not in excess of Fifty Thousand and No/100 Dollars (\$50,000.00). Any expense incurred by Mortgagee in the adjustment and collection of insurance proceeds (including the cost of any independent appraisal of the loss or damage on behalf of Mortgagee) shall be reimbursed to Mortgagee first out of any such insurance proceeds. The insurance proceeds or any part thereof shall be applied to reduction of the Indebtedness then most remotely to be paid, whether due or not, or to the restoration or repair of the Premises, the choice of application to be solely at the discretion of Mortgagee. In the event Mortgagee does not make insurance proceeds available for restoration and applies the insurance proceeds to payment of the Indebtedness no prepayment fee shall be due on the insurance proceeds so applied and the monthly installment payments of principal and interest set forth in the Note shall be adjusted to an amount sufficient to reamortize the then unpaid principal balance of the Note together with interest in equal monthly installment payments over the then remaining portion of the original amortization period. In the event Mortgagee does not make insurance proceeds available for reconstruction of the Premises, Mortgagor shall have the right to prepay the Loan in full without a prepayment fee.

SECTION 5.2 CONDEMNATION. Mortgagor will give Mortgagee prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assigns, transfers, and sets over to Mortgagee the entire proceeds of any award or claim for damages for all or any part of the Premises taken or damaged under the power of eminent domain or condemnation (herein referred to as Condemnation), Mortgagee being hereby authorized to intervene in any such action and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds. Mortgagor will not enter into any agreements with the condemning authority permitting or consenting to the taking of the Premises unless prior written consent of Mortgagee is obtained. Any expenses incurred by Mortgagee in intervening in such action or collecting

Condemnation proceeds (including the cost of any independent appraisal) shall be reimbursed to Mortgagee out of Condemnation proceeds prior to other payments or disbursements. Mortgagor shall deliver all Condemnation proceeds to Mortgagee within five (5) days of receipt thereof and shall at Mortgagee's request direct the condemning authority to deliver the condemnation proceeds to Mortgagee. Condemnation proceeds or any part thereof shall be applied upon or in reduction of the Indebtedness then most remotely to be paid, whether due or not, or to the restoration or repair of the Premises, the choice of application to be solely at the discretion of Mortgagee. In the event Mortgagee does not make Condemnation proceeds available for restoration and applies Condemnation proceeds to payment of debt, no prepayment fee shall be due on Condemnation proceeds so applied and the monthly installment payments of principal and interest set forth in the Note shall be adjusted to an amount sufficient to reamortize the then unpaid principal balance of the Note together with interest in equal monthly installment payments over the then remaining portion of the original amortization period. In the event Mortgagee does not make insurance proceeds available for reconstruction of the Premises, Mortgagor shall have the right to prepay the Loan in full without a prepayment fee.

SECTION 5.3 DISBURSEMENT OF INSURANCE AND CONDEMNATION PROCEEDS. Should any insurance or Condemnation proceeds be applied to the restoration or repair of the Premises in accordance with this Article 5 the restoration or repair shall be done under the supervision of an architect reasonably acceptable to Mortgagee (or, at Mortgagee's discretion, an engineer reasonably acceptable to Mortgagee) and pursuant to site and building plans and specifications reasonably approved by Mortgagee. The proceeds from insurance or Condemnation, after payment of costs and expenses of collection ("Net Proceeds"), shall be held by Mortgagee for such purposes and will from time to time be disbursed by Mortgagee to defray the costs of such restoration or repair under such safeguards and controls as Mortgagee may require and in accordance with standard construction loan procedures. Net Proceeds may at the option of Mortgagee be disbursed through a title insurance company selected by Mortgagee and at the sole cost of Mortgagor. Prior to making Net Proceeds available for the payment of costs of repair or restoration of the improvements upon the Premises, Mortgagee shall be entitled to receive the following:

(a) Evidence that no Event of Default exists under any of the terms, covenants and conditions of this Mortgage, the Note, or other Loan Documents.

(b) Evidence that all leasing requirements for the Premises as established by Mortgagee have been met.

(c) Satisfactory proof that all improvements have been fully restored, or, if Mortgagee approves disbursements in installments, that the undisbursed proceeds will be sufficient to pay the cost of repair, restoration or rebuilding the improvements located on the Premises free and clear of all liens, except the lien of this Mortgage. In the event Net Proceeds shall be insufficient to pay for such repairs, restoration or rebuilding, Mortgagor shall deposit with Mortgagee funds equaling such deficiency, which, together with the Net Proceeds, shall be sufficient to pay for restoration, repair and rebuilding.

(d) A statement of Mortgagor's architect, certifying the extent of the repair and restoration completed to the date thereof, and that such repairs, restoration and rebuilding have been performed to date in conformity with the plans and specifications that have been approved by Mortgagee, together with appropriate evidence of payment for labor or materials furnished to the Premises, and total or partial lien waivers substantiating such payments.

(e) A waiver of subrogation from any insurer to the effect that such insurer has no liability against Mortgagor or the then owner or other insured under the policy of insurance in question.

(f) Such performance and payment bonds, and such insurance, in such amounts, issued by such company or companies and in such forms and substance, as are reasonably required by Mortgagee.

(g) Evidence that zoning, building and other necessary permits and approvals have been obtained.

(h) An opinion of Mortgagor's counsel in form and content reasonably acceptable to Mortgagee that such repair and reconstruction will not violate any authority or agreement to which Mortgagor may be subject.

(i) Reasonably satisfactory evidence is delivered to Mortgagee that the improvements can be rebuilt substantially to the same as those originally financed and can with restoration and repair continue to be operated for the purposes utilized prior to such damage.

(j) Evidence that the then current Loan balance shall not exceed seventy five percent (75%) of the appraised value of the Premises after such restoration or repair.

(k) Tenants of the Premises as designated by Mortgagee shall certify to Mortgagee their intention to continue to occupy the Premises without any abatement or adjustment of rental payments (other than temporary abatements during the period of restoration and repair).

(l) Evidence of fulfillment of all other reasonable requirements which Mortgagee may make in connection with repair of the improvements on the Premises.

In the event Mortgagor shall fail to restore, repair or rebuild the improvements upon the Premises within a reasonable time, then such failure shall constitute an Event of Default hereunder and Mortgagee, at its option and upon not less than thirty (30) days written notice to Mortgagor, may in addition to its remedies contained in Article 8 hereof restore, repair or rebuild the said

improvements for or on behalf of Mortgagor and for such purpose, may perform all necessary or appropriate acts to accomplish such restoration, repair or rebuilding or (ii) apply all or any part of Net Proceeds on account of the last maturing installments of the Indebtedness whether then due or not. In the event insurance proceeds or an eminent domain award shall exceed the amount necessary to complete the repair, restoration, or the rebuilding of the improvements upon the Premises, such excess may, at Mortgagee's option, be applied on account of the last maturing installments of the Indebtedness, irrespective of whether such installments are then due and payable, without application of a prepayment fee, or be returned to Mortgagor.

Damage to the Premises shall not excuse or defer payment on the indebtedness as it comes due. Lender shall not make Net Proceeds available for restoration or repair during the final Loan Year.

SECTION 5.4 MORTGAGEE TO MAKE INSURANCE PROCEEDS AVAILABLE. Notwithstanding the provisions of Section 5.1 above, in the event of insured damage to the improvements on the Premises, Mortgagee agrees to make insurance proceeds available to the restoration or repair of the improvements on the Premises in accordance with the provisions of Section 5.3 hereof provided: (a) satisfactory evidence is delivered to Mortgagee that the total cost of restoration and repair does not exceed twenty five percent (25%) of the then outstanding principal balance of the Note; (b) Mortgagor complies with the terms and conditions of Section 5.3 hereof.

#### ARTICLE 6 LEASES AND RENTS

SECTION 6.1 MORTGAGOR TO COMPLY WITH LEASES. Mortgagee acknowledges that as of the date hereof that Mortgagor is the sole occupant (and owner) of the Premises, and as such, there exists no leases in effect for the Premises, and that the provisions of this Article 6 (and elsewhere in this Mortgage with respect to leases and rents) are intended to and shall cover and apply to any future leases of or on the Premises. Mortgagor will, at its own cost and expense, perform, comply with and discharge all of the obligations of Mortgagor under leases of all or any part of the Premises and use its reasonable efforts to enforce or secure the performance of each obligation and undertaking of the respective tenants under any such leases and will appear in and defend, at its own cost and expense, any action or proceeding arising out of or in any manner connected with Mortgagor's interest in any leases pertaining to the Premises. Mortgagor will not enter any new leases, nor modify, extend, renew, terminate, accept a surrender of, or in any way alter the terms of such leases, nor borrow against, pledge or assign any rentals due under the leases nor consent to a subordination or assignment of the interest of a tenant thereunder to any party other than Mortgagee, nor anticipate the rents thereunder for more than one (1) month in advance or reduce the amount of rents and other payments thereunder, nor waive, excuse, condone or in any manner release or discharge a tenant of or from any obligations, covenants, conditions and agreements to be performed nor incur any indebtedness to a tenant, nor agree to any "free rent period without Mortgagee's consent which shall not be unreasonably withheld, nor enter into any additional leases of all or any part of the Premises without the prior written consent of Mortgagee. Mortgagor shall give Mortgagee a copy of any notice of default given by Mortgagor to any tenants of the Premises.

SECTION 6.2 MORTGAGEE'S RIGHT TO PERFORM UNDER LEASES. Upon the occurrence of an Event of Default and should Mortgagor fail to perform, comply with or discharge any obligations of Mortgagor under any lease of all or any part of the Premises or should Mortgagee become aware of or be notified by a tenant under any such lease of a failure on the part of Mortgagor to so perform, comply with or discharge its obligations under said lease, Mortgagee may, but shall not be obligated to, and without further demand upon Mortgagor, and without waiving or releasing Mortgagor from any obligation contained in this Mortgage, remedy such failure, and Mortgagor agrees to repay upon demand all sums incurred by Mortgagee in remedying any such failure including, without limitation, Mortgagee's reasonable attorneys' fee together with interest at the Default Rate as defined under the terms of the Note. All such sums, together with interest as aforesaid shall become so much additional Indebtedness, but no such advance shall be deemed to relieve Mortgagor from any default hereunder.

SECTION 6.3 ASSIGNMENT OF LEASES AND RENTS. Mortgagor does hereby unconditionally and absolutely sell, assign and transfer unto Mortgagee all of the leases, rents, issues, income and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any agreement or license for the use or occupancy of the Premises, whether now existing or entered into at any time during the term of this Mortgage, all guaranties of any lessee's obligations under any such lease and all security deposits, it being the intention of this Mortgage to establish an absolute transfer and assignment of all such leases and agreements and all of the rents and profits from the Premises and/or Mortgagor's operation or ownership thereof unto Mortgagee and Mortgagor does hereby appoint irrevocably Mortgagee as Mortgagor's true and lawful attorney in Mortgagor's name and stead, which appointment is coupled with an interest, to collect all of said rents and profits; provided, Mortgagor shall have the right to collect and retain such rents and profits unless and until an Event of Default exists under this Mortgage. Mortgagor assigns to Mortgagee all guaranties of lessee's obligation under leases and all proceeds from settlements relating to terminations of leases and all claims for damages arising from rejection of any lease under the bankruptcy laws. Upon the occurrence of an Event of Default and whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder or during any period of redemption existing by law, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to enter upon and take and maintain possession of the Premises and any leases thereunder and collect and retain any rents and profits from the Premises and hold, operate, manage and control the Premises and any such leases and to do such things in its discretion as may be deemed proper or necessary to enforce the payment or security of the rents and profits of the

Premises and the performance of the tenants' obligations under any leases of the Premises, with full power to cancel or terminate any lease for any cause or on any grounds which would entitle Mortgagor to cancel the same and to elect to disaffirm any lease made subsequent to this Mortgage or subordinated to the lien hereof. All rents and payments received by Mortgagor after Mortgagee has exercised any of its rights under this assignment shall be held by Mortgagor in trust for Mortgagee and shall be delivered to Mortgagee immediately without demand.

Mortgagee shall not be obligated to perform or discharge any obligation or liability of the landlord under any of said leases and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all expenses, liability, loss or damage which it might incur under said leases or under or by reason of this Mortgage. Any amounts incurred by Mortgagee in connection with its rights hereunder, including costs, expenses and reasonable attorneys' fees, shall bear interest thereon at the Default Rate stated in the Note, shall be additional Indebtedness and Mortgagor shall reimburse Mortgagee therefor immediately upon demand. Mortgagee may apply any of said rents and profits received to the costs and expenses of collection, including reasonable attorneys' fees, to the payment of taxes, assessments and insurance premiums and expenditures for the upkeep of the Premises, to the performance of the landlord's obligations under the lease, to the performance of any of Mortgagor's covenants hereunder, and to any Indebtedness in such order as Mortgagee may determine. The entering upon and taking possession of the Premises, the collection of such rents and profits and the application thereof as aforesaid shall not cure or waive any Event of Default under this Mortgage nor in any way operate to prevent Mortgagee from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage nor shall it in any way be deemed to constitute Mortgagee a mortgagee-in-possession. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Premises are in danger of being lost, materially injured or damaged or whether the Premises are adequate to discharge the Indebtedness. Mortgagor represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Premises for more than one installment in advance and that the payment of none of the rents to accrue for any portion of the Premises has been or will be waived, released, reduced, discounted, or otherwise discharged or compromised by Mortgagor. Mortgagor waives any right of set off against any person in possession of any portion of the Premises. Mortgagor further agrees that Mortgagor will not execute or agree to any subsequent assignment of any of the rents or profits from the Premises without the prior written consent of Mortgagee. The rights contained herein are in addition to and shall be cumulative with the rights given in the Assignment of Leases and Assignment of Rents. To the extent inconsistent with the terms of this Article 6, the terms of the Assignment of Leases and Assignment of Rents shall control.

It is understood and agreed by the Mortgagor that upon the occurrence of an Event of Default hereunder or under the Note or any of the Loan Documents, the rents and profits of the Premises shall not be available to pay the costs of the defense of any action, proceeding or claim brought by the Mortgagee against the Mortgagor or the Premises (including the reasonable fees, and expenses of the Mortgagor's attorney or attorneys or the attorneys for the Guarantors (or any of them) in defending against such action, proceeding or claim) and upon the occurrence of a voluntary or involuntary bankruptcy of the Mortgagor under the Bankruptcy Code (as defined in Section 6.4 hereof below), rents and profits from the Premises shall not be available to pay administrative expenses of the bankruptcy estate where such administrative expenses constitute fees and expenses of the Mortgagor's attorneys, representatives or agents. After the occurrence of an Event of Default, all rents and profits of the Premises collected by the Mortgagor or his agents or representatives shall be held in trust for the Mortgagee.

**SECTION 6.4 BANKRUPTCY.** (a) Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee all of Mortgagor's claims and rights to the payment of damages arising from any rejection by any lessee of any lease of the Premises under the Bankruptcy Code, 11 U.S.C. ~ 101, et seq., as amended (the "Bankruptcy Code"). Mortgagee shall have the right to proceed in its own name or in the name of the Mortgagor in respect of any claim, suit, action of proceeding relating to the rejection of such lease, including, without limitation, the right to file and prosecute, to the exclusion of the Mortgagor any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of such lessee under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the indebtedness secured by this Mortgage shall have been satisfied and discharged in full. Mortgagor agrees to execute and deliver any separate assignments of claim or proofs of claim requested by the Mortgagee for filing in any bankruptcy proceedings relating to a tenant leasing all or a portion of the Premises. Any amounts received by Mortgagee as damages arising out of rejection for a lease as aforesaid shall be applied first to all costs and expenses of Mortgagee (including, without limitation, reasonable attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this Section 6.4, second to any interest, late payment charges or other amounts due and payable to the Mortgagee under the Note or this Mortgage and third to principal due on the Note. To the extent proceeds collected by the Mortgagee under any lease pursuant to this Section 6.4 is applied to principal payable on the Note, no prepayment premium shall be due on such proceeds and to the extent such proceeds are applied to the principal indebtedness on the Note, and provided no Event of Default has occurred under this Mortgage or under any other Loan Document, the monthly payments of principal and interest set forth in the Note shall be adjusted to an amount sufficient to reamortize the then unpaid principal balance of the Note, together with interest, in equal monthly installment payments over the then remaining portion of the original twenty (20) year amortization period.

(b) If there shall be filed by or against the Mortgagor a petition under the Bankruptcy Code, and the Mortgagor, as lessor under the leases of the Premises,

shall decide to reject the leases (or any of them) of the Premises pursuant to Section 365 (a) of the Bankruptcy Code, the Mortgagor shall give the Mortgagee not less than ten (10) days prior notice of the date on which the Mortgagor shall apply to the bankruptcy court for authority to reject the lease. The Mortgagee shall have the right to the fullest extent permitted by applicable law, but not the obligation, to serve upon the Mortgagor within such ten (10) day period a notice stating that (a) the Mortgagee demands that the Mortgagor assume and assign the leases to the Mortgagee pursuant to Section 365 of the Bankruptcy Code and (b) the Mortgagee covenants to cure or provide adequate assurance of future performance under the lease to the fullest extent permitted by applicable law. If the Mortgagee serves upon the Mortgagor the notice described in the preceding sentence, the Mortgagor shall not seek to reject the leases (or any of them) and shall comply with the demand provided for in clause (a) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by the Mortgagee of the covenant provided for in clause (b) of the preceding sentence.

#### ARTICLE 7 RIGHTS OF MORTGAGEE

SECTION 7.1 RIGHT TO CURE EVENT OF DEFAULT. If Mortgagor shall fail to comply with any of the covenants or obligations of this Mortgage, Mortgagee may upon an Event of Default, but shall not be obligated to, without demand upon Mortgagor, and without waiving or releasing Mortgagor from any obligation in this Mortgage contained, remedy such failure, and Mortgagor agrees to repay upon demand all sums incurred by Mortgagee in remedying any such failure together with expenses and reasonable attorneys' fees and with interest at the Default Rate as defined under the terms of the Note. All such sums, together with interest as aforesaid shall become Indebtedness. No such advance shall be deemed to relieve Mortgagor from any failure hereunder.

SECTION 7.2 NO CLAIM AGAINST MORTGAGEE. Nothing contained in this Mortgage shall constitute any consent or request by Mortgagee, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property in respect of the Premises or any part thereof, nor as giving Mortgagor or any party in interest with Mortgagor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would create any personal liability against Mortgagee in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property in such fashion as would create any personal liability against Mortgagee in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Mortgage.

SECTION 7.3 INSPECTION. Mortgagor will permit Mortgagee or its authorized representatives upon reasonable prior notice (except in the event of an emergency, in which case no notice shall be required) to enter the Premises at all times during normal business hours for the purpose of inspecting the same; provided Mortgagee shall have no duty to make such inspections and shall not incur any liability or obligation for making or not making any such inspections.

SECTION 7.4 WAIVERS, RELEASES, RESORT TO OTHER SECURITY ETC. Without affecting the liability of any party liable for payment of any Indebtedness or performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time, and without notice to or the consent of Mortgagor or any party in interest with the Premises or the Note: (a) release any person liable for payment of all or any part of the Indebtedness or for performance of any obligation herein; (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof; (c) accept any additional security; (d) release or otherwise deal with any property, real or personal, including any or all of the Premises, including making partial releases of the Premises; or (e) resort to any security agreements, pledges, contracts of guarantee, assignments of rents and leases or other securities, and exhaust any one or more of said securities and the security hereunder, either concurrently or independently and in such order as it may determine.

SECTION 7.5 RIGHTS CUMULATIVE. Each right, power or remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Mortgagee, at law or in equity, or under the Code, or under any other agreement, and each and every right, power and remedy of Mortgagee herein set forth or otherwise so existing shall be cumulative to the maximum extent permitted by law and may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee and any such exercise shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. No delay or omission by Mortgagee in the exercise of any right, power or remedy arising hereunder or arising otherwise shall impair any such right, power or remedy or the right of Mortgagee to resort thereto at a later date or be construed to be a waiver of any Event of Default under this Mortgage or the Note.

SECTION 7.6 SUBSEQUENT AGREEMENTS. Any agreement hereafter made by Mortgagor and Mortgagee pursuant to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

SECTION 7.7 WAIVER OF APPRAISEMENT, HOMESTEAD, MARSHALING. Mortgagor hereby waives to the full extent lawfully allowed the benefit of any homestead, appraisement, valuation, stay and extension laws now or hereinafter in force. Mortgagor hereby waives any rights available with respect to marshaling of assets so as to require the separate sales of any portion of the Premises, or as to require Mortgagee to exhaust its remedies against a specific portion of the

Premises before proceeding against the other and does hereby expressly consent to and authorize the sale of the Premises or any part thereof as a single unit or parcel. Mortgagor also hereby waives any and all rights of reinstatement and redemption from sale under any order or decree of foreclosure pursuant to rights herein granted, on behalf of the Mortgagor, and each and every person acquiring any interest in, or title to the Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law.

SECTION 7.8 BUSINESS LOAN REPRESENTATION. Mortgagor represents and warrants to Mortgagee that the Loan evidenced by the Note is a business loan transacted solely for the purpose of carrying on the business of Mortgagor and not a consumer transaction and that the Premises does not constitute the homestead of Mortgagor.

SECTION 7.9 DISHONORED CHECKS. In the event Mortgagor shall send to Mortgagee two (2) or more checks in any twelve (12) month period which are not honored by the bank, for any reason, Mortgagee shall have the right to require that all future payments be made by certified check, or other good funds, at Mortgagee's option.

#### ARTICLE 8 EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1 EVENTS OF DEFAULT. The occurrence of any of the following shall be deemed an event of default under this Mortgage (hereinafter referred to as an "Event of Default"):

(a) Mortgagor or any co-maker, guarantor or surety shall fail to pay any principal, premium, if any, or interest on the Note when and as the same becomes due (whether at the stated maturity or at a date fixed for any installment payment or any accelerated payment date or otherwise); or

(b) Mortgagor shall fail to deposit the Charges with Mortgagee or to pay when due any other Indebtedness; or

(c) Mortgagor shall fail to comply with or perform any other term, condition or covenant of the Note, this Mortgage, the Assignment of Leases, the Assignment of Rents, the Hazardous Materials Indemnity Agreement or any other document securing the Note after the expiration of thirty (30) days of the giving of notice by Mortgagee to Mortgagor of such failure to comply or perform, provided, however, if such failure is incapable of being cured within such thirty (30) days, Mortgagor shall have an additional cure period of thirty (30) days to cure (such total cure period not to exceed sixty (60) days) so long as Mortgagor is diligently and continuously pursuing such cure; or

(d) Mortgagor or any maker, guarantor or surety of the Note shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or shall not within ninety (90) days after the filing of such a petition have the same dismissed or vacated, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties, or shall not within ninety (90) days after the appointment of a trustee, receiver or liquidator of any material part of its properties without Mortgagor's consent have such appointment vacated; or

(e) Any certification, representation or warranty made by Mortgagor herein, in the Note or in any other instrument or certificate given as security for the Note or made in connection with the application for the Loan evidenced by the Note or given as an inducement to Mortgagee to make the Loan shall be false, breached or dishonored; or

(f) The Premises shall be transferred in any manner other than that allowed herein;

or

(g) Subject to the provisions of Sections 2.9 and 2.10 hereof, Mortgagor or any of the guarantors of the Indebtedness shall die, be dissolved, liquidated or go out of existence; or

(h) The occurrence of an Event of Default under Sections 9-4 or -0.8 hereof.

SECTION 8.2 MORTGAGEE'S RIGHT TO ACCELERATE. If an Event of Default shall occur Mortgagee may immediately and without notice to Mortgagor declare the entire unpaid principal balance of the Note together with all other Indebtedness to be immediately due and payable and thereupon all such unpaid principal balance of the Note together with all accrued interest thereon, any prepayment premium under the term- of the Note and all other Indebtedness shall be and become immediately due and payable.

SECTION 8.3 REMEDIES OF MORTGAGEE AND RIGHT TO FORECLOSE. Upon the occurrence of an Event of Default, Mortgagor hereby authorizes and fully empowers Mortgagee to foreclose this Mortgage by judicial proceedings, by advertisement, or by such other statutory procedures including, without limitation, the statutory power of sale available in the state in which the Premises are located, at the option of Mortgagee, with full authority to sell the Premises at public auction or such other means permitted by law and convey the same to the purchaser in fee simple, all in accordance with and in the manner prescribed by law, and out of the



proceeds arising from sale and foreclosure to retain the principal, prepayment fee, if any, and interest due on the Note and all other Indebtedness together with all sums of money as Mortgagee shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon as herein provided and all costs and expenses of such foreclosure, including lawful attorneys' fees, with the balance, if any, to be paid to the persons entitled thereto by law.

SECTION 8.4 RECEIVER. Upon the occurrence of an Event of Default, Mortgagee shall be entitled as a matter of right without notice and without regard to the solvency or insolvency of Mortgagor, or the existence of waste of the Premises or the value of the Premises, and without giving bond apply for the appointment of a receiver in accordance with the statutes and law made and provided for who shall collect the rents, and all other income of any kind; manage the Premises so to prevent waste; execute leases within or beyond the period of receivership, pay all expenses for normal maintenance of the Premises and perform the terms of this Mortgage and apply the rents, issues, income and profits to the costs and expenses of the receivership, including attorneys' fees, to the repayment of the Indebtedness and to the operation, maintenance and upkeep and repair of the Premises, including payment of taxes on the Premises and payments of premiums of insurance on the Premises and any other rights permitted by law. Mortgagor does hereby irrevocably consent to such appointment. The receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Premises, or any part thereof, by force, summary proceedings, ejectment or otherwise, and remove Mortgagor or any other person or entity and any personal property therefrom, and may hold, operate and manage the same, receive all rents, earnings, incomes, issues and proceeds and do the things the receiver finds necessary to preserve and protect the Premises, whether during pendency of foreclosure, during a redemption period, if any, or otherwise.

SECTION 8.5 RIGHTS UNDER UNIFORM COMMERCIAL CODE. In addition to the rights available to a mortgagee of real property, Mortgagee shall also have all the rights, remedies and recourse available to a secured party under the Code including the right to proceed under the provisions of the Code governing default as to any Collateral as defined in this Mortgage which may be included on the Premises or which may be deemed nonrealty in a foreclosure of this Mortgage or to proceed as to such Collateral in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

SECTION 8.6 RIGHT TO DISCONTINUE PROCEEDINGS. In the event Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted under this Mortgage and shall thereafter elect to discontinue or abandon the same for any reason, Mortgagee shall have the unqualified right to do so and in such event Mortgagor and Mortgagee shall be restored to their former positions with respect to the Indebtedness in which case this Mortgage and all rights, remedies and recourse of Mortgagee shall continue as if such action or exercise of a right had not been invoked.

SECTION 8.7 WAIVERS. Mortgagor also waives the benefit of all laws now existing or that may hereinafter be enacted providing for (i) any appraisal before sale of any portion of the Premises, and (ii) in any way extending the time for the enforcement and collection of the Note or the Mortgage or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter enforced providing for any appraisal, valuation, stay, extension or redemption and Mortgagor, to the extent permitted by law, waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the Mortgage and marshaling in the event of foreclosure of the liens hereby created.

#### ARTICLE 9 HAZARDOUS MATERIALS

SECTION 9.1 DEFINITIONS. The term "Hazardous Materials or Wastes" shall mean any hazardous or toxic materials, pollutants, chemicals, or contaminants, including without limitation asbestos, polychlorinated biphenyls (PCBs) and petroleum products as defined, determined or identified as such in any Laws, as hereinafter defined. The term "Laws" means any federal, state or local laws, rules or regulations (whether now existing or hereinafter enacted or promulgated) including, without limitation, the Clean Water Act, 33 U.S.C. ss. 1251 et seq. (1972), the Clean Air Act, 42 U.S.C. ss. 7401 et seq. (1970), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Subsection 1802, and The Resource Conservation and Recovery Act, 42 U.S.C. Subsection 6901 et seq., and any similar state laws, as well as any judicial or administrative interpretation thereof, including any judicial or administrative orders or judgments.

SECTION 9.2 REPRESENTATIONS BY MORTGAGOR. Mortgagor hereby represents to Mortgagee that: (a) to the best of Mortgagor's knowledge after due inquiry, the Premises has never been used either by previous owners or occupants or by Mortgagor or current occupants to generate, manufacture, refine, transport, treat, store, handle or dispose of asbestos or any Hazardous Materials or Wastes and no such Hazardous Materials or Wastes exist on the Premises or in its soil or groundwater; (b) to the best of Mortgagor's knowledge after due inquiry, no portion of the improvements on the Premises has been constructed with asbestos, asbestos-containing materials, urea formaldehyde insulation or any other chemical or substance which has been determined to be a hazard to health and/or the environment; (c) to the best of Mortgagor's knowledge after due inquiry, there are not now nor have there been electrical transformers or other equipment which have dielectric fluid-containing polychlorinated biphenyls (PCBs) located in, on or under the Premises; (d) to the best of Mortgagor's knowledge after due inquiry, the Premises has never contained any underground storage tanks; and (e) Mortgagor has not received nor does it have any knowledge of any summons, citation, directive, letter or other communication, written or oral, from any

local, state or federal governmental agency concerning (i) the existence of Hazardous Materials or Wastes on the Premises or in the immediate vicinity or (ii) the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Hazardous Materials or Wastes onto the Premises or into waters or other lands.

The above representations shall not be deemed to include Hazardous Materials or Wastes which are used in the ordinary course of the operation of businesses on the Premises and which are stored, used and disposed of in accordance with all applicable Laws and ordinances and for which any necessary permits have been obtained.

SECTION 9.3 COVENANTS OF MORTGAGOR. Mortgagor hereby covenants to Mortgagee that: (a) Mortgagor shall (i) comply and shall cause all occupants of the Premises to comply with all federal, state and local laws, rules, regulations and orders with respect to the discharge, generation, removal, transportation, storage and handling of Hazardous Materials or Wastes, (ii) remove any Hazardous Materials or Wastes immediately upon discovery of same, in accordance with applicable laws, ordinances and orders of governmental authorities having jurisdiction thereof, (iii) pay or cause to be paid all costs associated with such removal; and (iv) indemnify Mortgagee from and against all losses, claims and costs arising out of the migration of Hazardous Materials or Wastes from or through the Premises onto or under other properties; (b) Mortgagor shall keep the Premises free of any lien imposed pursuant to any state or federal law, rule, regulation or order in connection with the existence of Hazardous Materials or Wastes on the Premises; (c) Mortgagor shall not install or permit to be installed or to exist in or on the Premises any asbestos, asbestos-containing materials, urea formaldehyde insulation or any other chemical or substance which has been determined to be a hazard to health and environment; and (d) Mortgagor shall not cause or permit to exist, as a result of an intentional or unintentional act or omission on the part of Mortgagor or any occupant of the Premises, a releasing, spilling, leaking, pumping, emitting, pouring, emptying or dumping of any Hazardous Materials or Wastes onto the Premises or into waters or other lands; and (e) Mortgagor shall give all notifications and prepare all reports required by Laws or any other law with respect to Hazardous Materials or Wastes existing on, released from or emitted from the Premises.

The above covenants shall not be deemed to prohibit Hazardous Materials or Wastes which are used in the ordinary course of the operation of businesses on the Premises and which are stored, used and disposed of in accordance with all applicable Laws and ordinances and for which any necessary permits have been obtained.

SECTION 9.4 EVENTS OF DEFAULT AND REMEDIES. It shall constitute an Event of Default hereunder and Mortgagee shall be entitled to exercise all remedies available to it hereunder if: (a) any of Mortgagor's representations contained in Section 9.2 hereof prove to be false, inaccurate or misleading; (b) Mortgagor shall fail to comply with the covenants contained in Section 9.3 hereof; (c) any Hazardous Materials or Wastes are hereafter found to exist on the Premises or in its soil or groundwater; or (d) any summons, citation, directive, letter or other communication, written or oral, shall be issued by any local, state or federal governmental agency concerning the matters described in Section 9.2(e)(i) and (ii) above, provided, in any such case, the Mortgagor shall have failed to cure such default within thirty (30) days after giving written notice thereof to the Mortgagor (or, if the default is of a nature that it cannot reasonably be cured within such thirty (30) day period, such additional period of time not to exceed sixty (60) additional days as may be reasonably required so long as Mortgagor has immediately commenced its cure and thereafter diligently prosecutes such cure to completion). The existence of Hazardous Materials or Wastes which are used in the ordinary course of the operation of businesses on the Premises and which are stored, used and disposed of in accordance with all applicable Laws and ordinances and for which any necessary permits have been obtained shall not constitute an Event of Default under this Section 9.4. Mortgagor hereby grants Mortgagee and its employees and agents an irrevocable and non-exclusive license to enter the Premises, subject to rights of tenants and upon reasonable prior notice, in order to inspect, and to conduct testing and remove Hazardous Materials or Wastes. All costs of such inspection, testing and removal shall immediately become due and payable to Mortgagee, shall be secured by this Mortgage and shall constitute additional Indebtedness.

SECTION 9.5 INDEMNIFICATION. Mortgagor hereby agrees to defend, indemnify and hold harmless Mortgagee, its directors, officers, employees, agents, contractors, subcontractors, licensees, invitees, successors and assigns ("Indemnified Parties") from and against any and all claims, losses, damages, liabilities, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees, and costs incurred in the investigation, defense and settlement of claims or remediation of contamination) incurred by the Indemnified Parties as a result of or in connection with the presence or removal of Hazardous Materials or Wastes or as a result of or in connection with activities prohibited under this Article. Mortgagor shall bear, pay and discharge, as and when the same become due and payable, any and all such judgments or claims for damages, penalties or otherwise, against the Indemnified Parties, shall hold the Indemnified Parties harmless against all claims, losses, damages, liabilities, costs and expenses, and shall assume the burden and expense of defending all suits, administrative proceedings, and negotiations of any description with any and all persons, political subdivisions or government agencies arising out of any of the occurrences set forth in this Article. This indemnification shall remain in full force and effect and shall survive the repayment of the Indebtedness and the satisfaction of the documents securing the same, as well as the exercise of any remedy by Mortgagee hereunder or under the other documents securing this Mortgage, including a foreclosure of this Mortgage or the acceptance of a deed in lieu of foreclosure.

The indemnities contained herein shall not apply to actions taken by

any party or to Hazardous Materials or Wastes first existing on the Premises after the date on which the Mortgagor is no longer fee owner of the Premises.

SECTION 9.6 LOSS OF VALUE. Mortgagor hereby assures Mortgagee that Mortgagee will not suffer loss due to diminution of value of the Premises, whether during the term hereof or thereafter, due to Hazardous Material or Wastes upon the Premises, except for those Mortgagor proves were introduced onto the Premises after title has passed to Mortgagee by foreclosure or otherwise and will, upon demand, reimburse Mortgagee for any such loss of value.

ARTICLE 10  
MISCELLANEOUS

SECTION 10.1 RELEASE OF MORTGAGE. When all Indebtedness has been paid, this Mortgage and all assignments herein contained shall, except as otherwise provided herein, terminate and shall be released by Mortgagee at Mortgagor's expense.

SECTION 10.2 CHOICE OF LAW. This Mortgage is made and executed under the laws of the State of Rhode Island and is intended to be governed by the laws of said State without resort to its conflicts of laws rules.

SECTION 10.3 SUCCESSORS AND ASSIGNS. This Mortgage and each and every covenant agreement and other provision hereof shall be binding upon Mortgagor and its successors and assigns, including, without limitation each and every person or entity that may, from time to time, be record owner of the Premises and any person, or entity, other than Mortgagee, having an interest therein, shall run with the land and shall inure to the benefit of Mortgagee and its successors and assigns. As used herein the words "successors and assigns" shall also be deemed to include the heirs, representatives, administrators and executors of any natural person who is a party to this Mortgage. Nothing in this Section shall be construed to constitute consent by Mortgagee to assignment by Mortgagor.

SECTION 10.4 PARTIAL INVALIDITY. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid, illegal or unenforceable, the validity and enforceability of the other terms of this Mortgage shall in no way be affected thereby.

SECTION 10.5 CAPTIONS AND HEADINGS. The captions and headings of the various sections of this Mortgage are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

SECTION 10.6 NOTICES. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing and either (a) mailed by certified mail, return receipt requested, or (b) sent by an overnight carrier which provides for a return receipt, or (c) sent by facsimile followed up by mailing of such notice by either of the methods set forth in 10.6(a) or (b) above on the day of sending such facsimile or the next succeeding business day. Any such notice shall be sent to the respective party's address as set forth on Page 1 of this Mortgage or to such other address as such party may, by notice in writing, designate as its address. Any such notice shall constitute service of notice hereunder three (3) days after the mailing thereof by certified mail, one (1) day after the sending thereof by overnight carrier, and on the same day as the sending of a facsimile pursuant to the terms hereof.

SECTION 10.7 BUILDING USE. During the entire term of the Note and this Mortgage, Mortgagor agrees not to convert the Premises to a condominium or cooperative of any kind or to any use other than an office, research and development, manufacturing or warehouse building. Further, Mortgagor acknowledges that the second and third floor of the Premises shall only be used for office purposes and not converted for any other approved use of the Premises. In that connection, Mortgagor covenants that the sale of units and/or recording of condominium or cooperative documents on the Premises or any part thereof shall constitute an Event of Default hereunder.

SECTION 10.8 MANAGEMENT OF THE PREMISES. Mortgagor acknowledges that the successful management of the Premises is of critical importance to Mortgagee and a primary inducement in the making of the loan evidenced by the Note and secured by this Mortgage. In the event management becomes unsatisfactory, Mortgagee shall notify Mortgagor of the same and Mortgagor shall, within thirty (30) days of such notice, correct any management deficiencies. Failure to so correct shall constitute an Event of Default hereunder. Present management of the Premises by Mortgagor is acceptable to Mortgagee at this time.

SECTION 10.9 AMENDMENT/MODIFICATION. Amendment to, waiver of or modification of any provision of this Mortgage must be made in writing. No oral waiver, amendment, or modification may be implied.

SECTION 10.10 REPRESENTATIONS OF MORTGAGOR. Mortgagor affirmatively represents and warrants that the written terms of the Note, this Mortgage, the Assignment of Leases, the Assignment of Rents, the financing statements, any other Loan Documents and any other documents executed in connection with the Loan, and each of them, accurately reflect the understanding of Mortgagor, as to all matters addressed therein, and Mortgagor further represents and warrants that there are no other agreements or understandings, written or oral, which exist between Mortgagor and Mortgagee relating to the matters addressed in said documents.

SECTION 10.11 MORTGAGEE'S EXPENSE. Should Mortgagee make any payments hereunder or under the Note or under any of the other documents securing the Note or incur any liability, loss or damage under or by reason of this Mortgage, the Note or any of the other documents securing the Note, or in the defense of any claims or demands, the amount thereof, and afl costs and expenses, including all filing, recording, and title fees and any other expenses relating to the Loan, including without limitation filing fees for UCC continuation statements and any expense involving modification thereto, reasonable attorneys' fees, and

any and all costs and expenses incurred in connection with making, performing, or collecting the Indebtedness or exercising any of Mortgagee's rights under the Note, the Mortgage or any other Loan Documents, including reasonable attorneys' fees, the cost of appraisals and the cost of any environmental inspections (as provided in Section 9.4) in connection therewith, and all claims for brokerage and finder's fees which may be made in connection with the making of the Loan, together with interest thereon, at the Default Rate as defined in the Note, shall become part of the Indebtedness and shall be secured by this Mortgage and the other Loan Documents and Mortgagor hereby agrees to reimburse Mortgagee therefor immediately upon demand. Such sums, costs and expenses shall be, until so paid, part of the Indebtedness and Mortgagee shall be entitled, to the extent permitted by law, to receive and retain the full amount of the Indebtedness in any action for redemption by Mortgagor, for an accounting for the proceeds of a foreclosure sale or of insurance proceeds or for apportionment of an eminent domain damage award.

SECTION 10.12 MORTGAGEE'S RIGHT TO COUNSEL. If Mortgagee retains attorneys to enforce any of the terms hereof or the Note or of any of the other Loan Documents or because of the breach by Mortgagor of any of the terms hereof or of any of the Loan Documents, or for the recovery of any Indebtedness secured hereby or by any of the other Loan Documents, Mortgagor shall pay to Mortgagee reasonable attorneys' fees, and all costs and expenses, whether or not an action is actually commenced and the right to such reasonable attorneys' fees, and all costs and expenses shall be deemed to have accrued on the date such attorneys are retained, shall include fees and costs in connection with litigation, arbitration, mediation and/or administrative proceedings, and shall be enforceable whether or not such action is prosecuted to judgment and shall include all appeals. Attorneys' fees and expenses shall for purposes of this Mortgage include all paralegal, electronic research, legal specialists and all other costs in connection with that performance of Mortgagee's attorneys.

If Mortgagee is, by reason of being the holder of this Mortgage, made a party defendant of any litigation concerning this Mortgage or the Premises or any part thereof or therein, or the construction, maintenance, operation or the occupancy or use thereof by Mortgagor, then Mortgagor shall indemnify, defend and hold Mortgagee harmless from and against all liability by reason of said litigation, including reasonable attorneys' fees, and all costs and expenses incurred by Mortgagee in any such litigation or other proceedings, whether or not any such litigation or other proceedings is prosecuted to judgment or other determination.

SECTION 10.13 OTHER REPRESENTATIONS AND WARRANTIES. All statements contained in any loan application, certificate or other instrument delivered by or on behalf of Mortgagor to Mortgagee or Mortgagee's representatives in connection with the Loan shall constitute representations and warranties made by Mortgagor hereunder. Such representations and warranties made hereunder and thereunder shall survive the delivery of this Mortgage, and any misrepresentations thereunder shall be deemed as misrepresentations hereunder.

SECTION 10.14 LIMITATION OF INTEREST. It is the intent of Mortgagor and Mortgagee in the execution of this Mortgage and the Note and all other instruments securing the Note to contract in strict compliance with the usury laws of the State of Rhode Island governing the Note. In furtherance thereof, Mortgagee and Mortgagor stipulate and agree that none of the terms and provisions contained herein or in the Note or in any Loan Document shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of Rhode Island. Mortgagor, or any guarantors, endorser or other party now or hereafter becoming liable for the payment of the Note shall never be required to pay interest on the Note at a rate in excess of the maximum interest that may be lawfully charged under the laws of the State of Rhode Island and the provisions of this Section shall control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent conflict herewith. If, from any circumstances whatsoever fulfillment of any provision of the Note, this Mortgage or any Loan Document, at the time performance of such provision shall be due, shall involve transcending the limit on interest presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then Mortgagee may, at its option (i) reduce the obligations to be fulfilled to such limit on interest, or (ii) apply the amount that would exceed such limit on interest to the reduction of the outstanding principal balance of the Note, and not to the payment of interest, with the same force and effect as though the Mortgagor had specifically designated such sums to be so applied to principal and Mortgagee had agreed to accept such extra payment(s) as a prepayment without a fee, so that in no event shall any exaction be possible under the Note that is in excess of the applicable limit on interest.

SECTION 10.15 TIME OF TILE ESSENCE. Mortgagor agrees that time is of the essence with respect to all of the covenants, agreements and representations under this Mortgage.

SECTION 10.16 SURVIVAL OF REPRESENTATIONS, WARRANTIES AND COVENANTS. All representations covenants and warranties contained herein or in any other Loan Document, executed by Mortgagor in connection herewith shall survive the delivery of the Note, this Mortgage and all other Loan Documents, executed in connection herewith and the provisions hereof shall continue to inure to the benefit of Mortgagee, its successors and assigns.

SECTION 10.17 WAIVER OF JURY TRIAL. No party to this Mortgage or any assignee, successor, heir or personal representative of a party shall seek a jury trial in any lawsuit, proceeding, counterclaim, or any other litigation proceedings based upon or arising out of this Mortgage, any related agreement or instrument, any other collateral for the Indebtedness or the dealings or the relationship between or among the parties, or any of them. No party will seek to consolidate any such action. in which a jury trial has been waived, with any

other action in which a jury trial cannot or has not been waived. The provisions of this paragraph have been fully discussed by the parties hereto, and these provisions shall be subject to no exceptions. No party has in any way agreed with or represented to any other party that the provisions of this paragraph will not be fully enforced in all instances.

SECTION 10.18 MINIMUM REQUIREMENT. Mortgagor recognizes that the requirements imposed upon Mortgagor hereunder, including, without limitation, insurance requirements, are minimum requirements as determined by Mortgagee and do not constitute a representation that the requirements are complete or adequate. Mortgagor understands that it is Mortgagor's duty and responsibility to act prudently and responsibly at all times for Mortgagor's protection and for the protection of the Premises.

SECTION 10.19 OPEN END ADVANCE MORTGAGE. This Mortgage permits and secures any and all current and future advances to the Mortgagor evidenced by (or pursuant to) any one or more of the following: the Note, the Assignment of Leases, the Assignment of Rents or any other Loan Documents, such other note or notes as may be signed by the Mortgagor payable to Mortgagee and such other agreements) as may be entered into by Mortgagor with Mortgagee and signed by Mortgagor. The unpaid principal balance of indebtedness outstanding under this Mortgage shall at no time exceed \$3,000,000.00. Mortgagee will accept notices pursuant to Sections 34-25-10(b) and 34-25-11 of the General Laws of the State of Rhode Island at the address and in the manner set forth in this Mortgage.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed and delivered by its this 11th day of January, 1999

KVH Industries, Inc., a Delaware corporation "MORTGAGOR"

By: \_\_\_\_\_ (Printed), Title

STATE OF Rhode Island ) ) SS: COUNTY OF Newport ) )

In Newport, on the 11th day of January, 1999, before me personally appeared Richard C. Forsyth to me known and known by me to be the of KVH Industries, Inc., a Delaware corporation and the person executing the foregoing document on behalf of said corporation, and he acknowledged said document executed by him to be his free act and deed, his free act and deed in said capacity and the free act and deed of said corporation.

Print Name: Eneida M. DeJesus Notary Public My Commission Expires: 7/6/2002

This document prepared by and after recording should be returned to Michael D. Moriarty, Attorney at Law, LOCKE REYNOLDS BOYD & WEISELL, 1000 Capital Center South, 201 North Illinois Street, Indianapolis, IN 46204, (317) 237-3800.

EXHIBIT "A"

To

OPEN END MORTGAGE, AND SECURITY AGREEMENT  
AND FIXTURE FINANCING STATEMENT  
WITH ASSIGNMENT OF LEASES AND RENTS

Legal Description:

That certain parcel of land with all buildings and improvements situated thereon, located on the northerly side of East Main Road in the Town of Middletown, County of Newport, State of Rhode Island being bounded and described as follows:

Beginning at a point on the northerly line of East Main Road, said point being the most southwesterly corner of the parcel herein described, and the most southeasterly corner of land now or formerly of Israel M. Resnikoff and David T. Chase;

Thence running North 84(Degree) 49' 31" East, along the northerly line of East Main Road, a distance of forty-nine and ninety-three one hundredths (49.93) feet to a bound;

Thence running northeasterly along a curve bounded southeasterly having an interior central angle of 89(Degree) 58' 23", a radius of forty and zero one hundredths (40.00) feet, and an arc length of sixty-two and eighty-one hundredths (62.81) feet to a bound;

Thence running northeasterly bounded southeasterly along a curve having an exterior central angle of 18(Degree) 35' 51", a radius of one thousand five and zero one hundredths (1005.00) feet and an arc length of three hundred twenty-six and twenty-one one hundredths (326.21) feet to a bound;

Thence running northeasterly, bounded southeasterly along a curve having an exterior central angle of 75(Degree) 49' 32", a radius of three hundred fifty and zero one-hundredths (350.00) feet, an arc length of four hundred sixty-three and nineteen one hundredths (463.19) feet to a point, the last three course bounding Enterprise Road;

Thence running on a line having a bearing of North 06(Degree) 51' 02" West, bounded easterly by Lot 2 of land now or formerly of Gilbane Properties, Inc., a distance of two hundred sixty and fifty-nine one hundredths (260.59) feet to a point;

Thence turning and running on a line having a bearing of South 83(Degree) 08' 58" West, bounded northerly by land now or formerly of Saint Lucy's Church a distance of twenty-four and eighty-two one hundredths (24.82) feet to a point;

Thence running on a line having a bearing of South 82(Degree) 33' 11" West, bounded northerly by a parcel of land now or formerly of James A. and Zenaila Taylor, Frank and Ruth Norlin, Mark S. Silva, and Lucelle and Roger Choumaid, a distance of two hundred thirty-five and ninety-six one hundredths (235.96) feet to a point;

Thence running along a line having a bearing of South 83(Degree) 53' 42" West bounded northerly by land now or formerly of Lucelle and Roger Choumaid, Donald M. and Maureen Guerrero, Donna A. and Carol J. Wells, and Daniel S. and Donna M. Kinricks, a distance of two hundred fifty-six and eighty-two one hundredths (256.82) feet to a point;

Thence running along a line having a bearing of South 86(Degree) 13' 46" West, bounded northerly by land now or formerly of Mary Elizabeth Ward, and Joseph E. and Alice V. Neves a distance of one hundred seventy-four and eighty-four one hundredths (174.84) feet to a point;

Thence running on a line having a bearing of South 84(Degree) 31' 11" West, bounded northerly by land now or formerly of Alfred M. Freitas a distance of two hundred fifty-seven and eight one hundredths (257.08) feet to point;

Thence running on a line having a bearing of South 01(Degree) 06' 48" West, bounded westerly a distance of one hundred seventeen and seven one hundredths (117.07) feet to a point;

Thence running on a line having a bearing of South 02(Degree) 17' 22" East, bounded westerly a distance of one hundred forty-seven and ninety-one one hundredths (147.91) feet to a point, the last two courses bounding on land now or formerly of Manuel M. and Mary E. Reis;

Thence running on a line having a bearing of North 84(Degree) 09' 56" East, bounded southerly a distance of three hundred ninety-nine and eighty-two one hundredths (399.82) feet to a point;

Thence running southeasterly bounded southwesterly, along a curve having an exterior central angle of 103(Degree) 51' 26", a radius of two hundred and zero one hundredths (200.00) feet, and an arc length of three hundred sixty-two and fifty-three one hundredths (362.53) feet to a point;

Thence running along a line having a bearing of South 08(Degree) 01' 22" West, bounded westerly a distance of one hundred forty-seven and forty

one-hundredths (147.40) feet to a point;

Thence running on a line having a bearing South 20(Degree) 32' 06" West, bounded westerly a distance of two hundred and eighty-three one hundredths (200.83) feet to a point;

Thence running on a line having a bearing of South 04(Degree) 08' 50" East, bounded westerly a distance of seventeen and eighteen one hundredths (17.18) feet to a point, said point being the point and place of beginning, the last five courses bounding on land now or formerly of Israel M. Resnikoff and David T. Chase;

Being the same premises conveyed to Rhode Island Industrial Facilities Corporation dated by deed from Middletown Technology Associates, III, L.P., recorded with the Records of Land Evidence in the Town of Middletown in Book 174 at page 25.

Being the same premises shown on the plan entitled "Plan of Land in Middletown, Rhode Island, Prepared By Vanasse/Hangen Engineering, Inc., dated July 28, 1986, and recorded with said Records of Land Evidence in Planning Book 13, Page 303".

Said premises have the benefits of all appurtenant rights and easements.



EXHIBIT "B"  
To

MORTGAGE AND SECURITY AGREEMENT  
AND FIXTURE FINANCING STATEMENT  
WITH ASSIGNMENT OF LEASES AND RENTS

Permitted Encumbrances:

1. Real estate taxes and municipal charges which are not yet due and payable.
2. Restrictions recorded in Book 160 at Page 234.
3. Easement as set forth in Book 156 at Page 841.
4. Easement as set forth in Book 149 at Page 28.

IDS Life Insurance Company  
Loan #694-001790

PROMISSORY NOTE

\$3,000,000.00  
January 11, 1999  
Middletown, Rhode Island

1. Agreement to Pay. For value received, the undersigned KVH Industries, Inc., a Delaware corporation (hereinafter referred to as "Borrower") (whose mailing address is 50 Enterprise Center, Middletown, Rhode Island 02842), hereby agrees and promises to pay to order of IDS Life Insurance Company, a Minnesota corporation, its endorsees, successors and assigns (hereinafter referred to as "Lender"), at its principal office and mailing address at do American Express Financial Corporation, 733 Marquette Avenue, Minneapolis, Minnesota 55440, Attention: Real Estate Loan Management, Unit #401, or such other address as Lender may from time to time designate, the principal sum of Three Million and 00/100 Dollars and 00/100 Dollars (\$3,000,000.00) or so much as may from time to time be disbursed hereon, together with interest on the unpaid principal balance hereof from the date hereof until said amounts shall have been paid in full at the rate provided for herein and all other sums due as provided herein, payable in lawful money of the United States of America, which shall be legal tender for public and private debt at the time of payment (the "Loan").

2. Interest Rate. The outstanding principal balance hereof shall bear interest at the rate of seven percent (7.0%) per annum (the "Regular Rate") computed on the basis of the actual days elapsed on the assumption that each month contains thirty (30) days and each year contains three hundred sixty (360) days.

3. Monthly Payment; Maturity Date. Principal and interest upon this Note shall be paid as follows:

(a) On the date hereof, interest only at the Regular Rate shall be due and payable on the unpaid principal balance hereof equal to accrued interest from the date of disbursement hereunder through the last day of January, 1999.

(b) On the first day of March, 1999, and continuing on the first day of each month thereafter through and including January 1, 2009, interest at the Regular Rate and principal payments shall be made in two hundred thirty-nine (239) equal installments of Twenty-three Thousand Two Hundred Fifty-eight and 97/100 Dollars (\$23,258.97) each (based on a twenty (20) year amortization of the principal amount of this Note commencing on February 1, 1999).

(c) On the first day of February, 2009 (the "Maturity Date"), a final payment shall be due and payable in the amount of the entire unpaid principal and interest on this Note.

(d) This is a balloon note, and on the Maturity Date a substantial portion of the principal amount of this Note will remain unpaid by the monthly payments above required.

(e) All payments shall be applied first to late charges due hereunder, second to any prepayment fee due hereunder, third to accrued interest at the rate then in effect under the terms hereof, and fourth to principal. However, upon the occurrence of an Event of Default (as hereinafter defined), any monies received shall be applied, at the option and discretion of Lender, to any sums due under the Note or instrument securing this Note, including, without limitation, reasonable attorneys' fees, and other costs of collection as provided herein.

(f) All payments hereunder which are due on a Saturday, Sunday or holiday shall be deemed to be payable on the next business day.

4. Default Interest Rate. Upon the earlier to occur of (a) the date on which the indebtedness evidenced hereby is accelerated by Lender, or (b) the date on which an Event of Default (as hereinafter defined) occurs which is not cured within thirty (30) days, or (c) upon nonpayment at the Maturity Date, the interest rate payable hereunder shall thereafter increase and shall be payable on the whole of the unpaid principal balance at a rate equal to the lesser of (i) four percent (4%) per annum in excess of the rate of interest then in effect under the terms of this Note or (ii) the highest rate of interest permitted under the laws of the State of Rhode Island (hereinafter referred to as the "Default Rate"). Interest on this Note at the Default Rate shall be immediately due and payable without notice or demand. The Default Rate shall be applicable whether or not Lender has exercised its option to accelerate the maturity of this Note and declare the entire unpaid principal indebtedness to be due and payable. The Default Rate shall continue until Borrower has cured all defaults as permitted herein, Borrower has paid all indebtedness evidenced by this Note in full, or all foreclosure proceedings have been completed and all redemption periods have expired, whichever shall occur first. This provision shall not be deemed to excuse a default and shall not be deemed a waiver of any other rights Lender may have, including the right to declare the entire unpaid principal balance and accrued interest immediately due and payable.

5. Late Charge. Any monthly installment payment, including monthly payments of escrows for real estate taxes, special assessments and/or insurance premiums required by the "Mortgage" (as hereinafter defined) not made by Borrower within ten (10) days of the due date shall be subject to a late payment charge equal to five percent (5%) of the amount of such monthly payment. The late charge shall apply individually to all payments past due with no daily adjustment and shall be used to defray the cost of Lender incident to collecting such late payment.

This provision shall not be deemed to excuse a late payment or be deemed a waiver of any other rights Lender may have, including the right to declare the entire unpaid principal balance and accrued interest immediately due and payable.

6. Security. This Note is given to evidence an actual loan in the above amount and is the Note referred to in and secured by:

(a) An Open End Mortgage, And Security Agreement And Fixture Financing Statement With Assignment Of Leases And Rents (the "Mortgage") given by Borrower, as mortgagor, to Lender, as mortgagee, of a contemporaneous date herewith, encumbering certain real property and the improvements thereon located in the Town of Middletown, County of Newport, State of Rhode Island (the "Premises"); and

(b) An Assignment of Leases (the "Assignment of Leases") and Assignment of Rents (the "Assignment of Rents") given by Borrower, as assignor, to Lender, as assignee, of a contemporaneous date herewith, assigning to assignee all of the rents, issues, profits and leases of the Premises; and

(c) Other collateral security agreements (the "Security Documents") given Borrower or guarantors of the Loan to Lender, all of a contemporaneous date herewith.

(d) A Hazardous Materials Indemnity Agreement (the "Hazardous Materials Agreement") given by Borrower to Lender of a contemporaneous date herewith providing indemnification to Lender for claims, losses, liabilities, etc. for matters arising out of Hazardous Materials or violation of Laws (as those two terms are more particularly defined in the Hazardous Materials Agreement).

Reference is hereby made to the Mortgage, the Assignment of Leases, the Assignment of Rents, the Security Documents and the Hazardous Materials Agreement (which are incorporated herein by reference as fully and with the same effect as if set forth herein at length) for a description of Premises, a statement of the covenants and agreements, a statement of the rights and remedies and securities afforded thereby and all other matters contained therein. The Note, Mortgage, Assignment of Leases, Assignment of Rents, Hazardous Materials Agreement and Security Documents shall be referred to collectively as the Loan Documents.

7. Default and Acceleration. If a default be made in any payment of principal, interest or any other sum or charge when due in accordance with the terms and conditions of this Note or the Mortgage, or if an Event of Default (as that term is defined in the Mortgage) occurs in the Mortgage, or if there is a nonmonetary default in or nonperformance of any term or obligation of any of the Loan Documents after the expiration of thirty (30) days of the giving of notice by Lender to Borrower of such nonmonetary default or nonperformance (or if such nonmonetary default cannot be cured within thirty (30) days, then such cure period shall be extended for an additional thirty (30) days for a total cure period not to exceed sixty (60) days so long as Borrower is continuously and diligently pursuing such cure), such event shall constitute an Event of Default hereunder (an "Event of Default"), and the entire unpaid principal balance, together with accrued interest thereon and the prepayment fee, if appropriate, shall become, without notice, immediately due and payable at the option of Lender.

8. Loan Year. "Loan Year" shall mean a period consisting of twelve (12) consecutive months commencing on the First day of the first calendar month subsequent to the date hereof, or on any anniversary thereof, the First Loan Year being a Loan Year commencing the First day of February, 1999. If the date hereof is the first day of a month, the first Loan Year shall commence on the date hereof.

9. Prepayment Privilege. For and in consideration of the prepayment fee described in this Section, to which Borrower and Lender have agreed, the indebtedness evidenced hereby may be prepaid in accordance with the provisions of this Section and not otherwise.

(a) Borrower shall have the right to repay this Note in full, but not in part during the entire term hereof provided that any such payment of the principal balance of this Note, for whatever reason, whether voluntary or involuntary, shall be subject to a prepayment fee which shall be calculated as provided in this Section 9(a). In no event shall the above calculation result in a reduction of the principal balance or accrued interest at prepayment. The prepayment fee shall be calculated as follows:

(i) The annualized yield to maturity, on the date a prepayment is made of a certain U.S. Government Note maturing on the Maturity Date (the "Calculation Date"), is hereby defined as the "Reinvestment Yield". Quotations supplied by the Federal Reserve Bank of New York shall be the source of this

determination. Any government note that is designated with the footnote "f" or with similar feature in the future shall not be considered in connection with the computation to be made. If there is no quotation for a U. S. Government Note maturing on the Calculation Date at such time as such prepayment is made, the Lender shall select a U.S. Government Note having a maturity date most closely approximate to the Calculation Date as quoted by the Federal Reserve Bank of New York for purposes of determining the Reinvestment Yield pursuant to this subsection. In the event that there is more than one U.S. Government Note maturing on the Calculation Date at the time such prepayment is made, Lender shall have the right to select the applicable U.S. Government Note. In the event that such quotes are no longer available, then Lender shall have the sole right to select a reasonably alternative basis on which to determine the Reinvestment Yield.

Footnote "f" relates to Government Notes which are redeemable at par and accrued interest to the date of payment, at any time, upon the death of the owner at the option of the duly constituted representative of the owner's estate.

(ii) Calculate the monthly interest payment that would be received by reinvesting the proceeds of the prepayment at an interest rate equivalent to the Reinvestment Yield. The result is hereby defined as the "Reinvestment Payment".

(iii) Subtract the Reinvestment Payment from an amount equal to the monthly interest payment that would be received by reinvesting the proceeds of the prepayment at an interest rate equal to the then applicable rate of the Note. The result is hereby defined as the "Prepayment Differential". In the event that the Reinvestment Yield is greater than the applicable rate, the Prepayment Differential shall equal zero.

(iv) Calculate the present value of the Prepayment Differential using a discount factor equal to the Reinvestment Yield (monthly compounding) to the number of months remaining from the date of such prepayment until the Calculation Date. Such amount shall equal the prepayment due hereunder.

(b) No prepayment fee shall be due if the indebtedness evidenced hereby is paid in full during the last ninety (90) days prior to the Maturity Date.

(c) At the option of Lender, this Note is also subject to mandatory prepayment, without prepayment fee of any kind, upon certain events set forth in the Mortgage; further, if Lender, at its option, does not make proceeds of insurance or condemnation awards available for repair or restoration of the Premises, Borrower may prepay this Loan in full within ninety (90) days of notice of nonavailability without a prepayment fee.

(d) Prepayments (other than prepayments pursuant to subsection (c) above) shall be made only upon advance written notice of at least thirty (30) days to Lender and shall be made on a regularly scheduled installment payment date. Notice of prepayment shall not suspend nor reduce required installment payments.

(e) In the event an Event of Default shall occur under the terms of the Loan Documents and Lender shall accelerate the Loan as part of a foreclosure proceeding or otherwise and Borrower shall then tender payment of the Loan in full, or Lender shall obtain judgment for any portion of the Loan, such tender or judgment shall constitute prepayment and the fee provided for in this Section shall be due.

Borrower hereby expressly agrees that such prepayment fee constitutes additional bargained-for consideration given by Borrower to Lender in order to induce Lender to make the Loan to Borrower.

10. Payment Upon an Event of Default. Upon the occurrence of an Event of Default and following acceleration of maturity hereof by Lender, a tender of payment of or entry of judgment for the amount necessary to satisfy the entire unpaid principal balance due and payable shall be deemed to constitute an attempted evasion of the aforesaid restrictions on the right of prepayment and shall be deemed a prepayment hereunder, and such a payment or judgment must, therefore, include the prepayment fee then in effect under the terms hereof. Lender shall have the right to include and bid in such prepayment fee as an amount due to Lender in connection with any foreclosure sale.

11. Effect of Application of Insurance or Condemnation Proceeds. Notwithstanding anything herein to the contrary, in the event that Lender is unwilling to make the proceeds of a condemnation award or insurance settlement on the Premises available for repair or restoration and elects to apply such award or settlement towards the reduction of the principal balance of this Note pursuant to the terms of the Mortgage, and the proceeds thereof do not pay in full the balance outstanding on this Note, provided the Borrower does not elect to pay the Loan in full without any prepayment fee as provided in Section 10(c) hereof, then the unpaid principal balance shall be reamortized over the remaining portion of the amortization period and the debt service payments set forth in Section 3(1)) hereof shall be reduced accordingly.

12. Costs of Collection. Borrower agrees that if, and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of Lender's rights hereunder, or under the Mortgage, the Assignment of Leases, Assignment of Rents or any other Security Document or Loan Document securing payment of this Note, Borrower will pay to Lender its reasonable

attorneys' and paralegals' fees, and costs, including, without limitation, all fees and costs incurred in litigation, mediation, arbitration, bankruptcy and administrative proceedings, and appeals therefrom, and all court costs and other expenses, including, without limitation, appraisal fees and costs of environmental review, incurred in connection therewith.

13. Time. Time is of the essence of this Note and each of the provisions hereof.

14. Governing Law. This Note shall be governed by the laws of the State of Rhode Island without resort to Rhode Island's conflict of laws rules

15. Interest Limitation. All agreements between Borrower and Lender are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of maturity of the indebtedness evidenced hereby or otherwise, shall the amount paid or agreed to be paid to Lender for the use, forbearance, loaning or detention of the indebtedness evidenced hereby exceed the maximum permissible under applicable law. If from any circumstance whatsoever, fulfillment of any provision hereof or of the Mortgage, Assignment of Leases or any other Security Document or Loan Document at any time given the amount paid or agreed to be paid shall exceed the maximum permissible under applicable law, then, the obligation to be fulfilled shall automatically be reduced to the limit permitted by applicable law, and if from any circumstance Lender should ever receive as interest an amount which would exceed the highest lawful rate of interest, such amount which would be in excess of such highest lawful rate of interest shall be applied to the reduction of the principal balance evidenced hereby and not to the payment of interest. This provision shall control every other provision of all agreements between Borrower and Lender and shall be binding upon and available to any subsequent holder of this Note.

16. Waivers by Borrower.

(a) Borrower and all other persons or entities liable for all or part of the principal balance evidenced by this Note severally hereby waive presentment for payment, protest and notice of non-payment.

(b) Borrower and all persons and entities liable for all or part of the principal balance evidenced by this Note hereby consent, without affecting their liability, to the granting, with or without notice, of any extension or alteration of time for payment of any sum or sums due hereunder or under the Loan Documents, or for the performance of any covenant, condition or agreement contained herein or therein on the ground of any other indulgence, or the taking or releasing or subordinating of any security for the indebtedness hereunder, or the acceptance of additional security of any kind, or any other modification or amendment of this Note or of any of the Loan Documents, any release of, or resort to any party liable for payment hereof, and agree that such action will in no way release or discharge the liability of such parties, whether or not granted or done with the knowledge or consent of such parties.

(c) Borrower and all persons and entities liable for all or a part of the principal balance evidenced by this Note hereby waive and renounce, to the extent permitted by applicable law, all rights to the benefits of any statute of limitations and any moratorium, reinstatement, marshalling, forbearance, valuation, stay, extension, redemption, appraisal, exemption and homestead now provided, or which may hereafter be provided, by the Constitution or laws of the United States of America or the State of Rhode Island, both as to itself and in and to all of its property, real and personal, against the enforcement and collection of the obligations evidenced by this Note and the Loan Documents.

(d) Borrower and all the persons liable for all or a part of the principal balance evidenced by this Note waive any right to set off and/or recoupment against Lender in connection with claims against Lender relating to any other claim it now or hereafter may have against Lender, and agrees it will not urge or assert any claim including but not limited to a set off and/or recoupment, it may have now or hereafter, against Lender as a defense against payment of this Note.

17. No Waiver by Lender.

(a) Lender shall not be deemed to have waived any of its rights or remedies under this Note unless such waiver is expressed in writing by Lender, and no delay or omission by Lender in exercising, or failure by Lender on any one or more occasions to exercise, any of Lender's rights hereunder or under the Loan Documents, or at law or in equity, including, without limitation, Lender's right, after the occurrence of any Event of Default by Borrower, to declare the entire indebtedness evidenced hereby immediately due and payable, shall be construed as a novation of this Note or shall operate as a waiver or prevent the subsequent exercise of any or all such rights.

(b) Acceptance by Lender of any portion or all of any sum payable hereunder, whether before, on or after the due date of such payment shall not be a waiver of Lender's right either to require prompt payment when due of all other sums payable hereunder or to exercise any of Lender's rights, powers and remedies hereunder or under the Loan Documents. A waiver of any right in writing on one occasion shall not be construed as a waiver of Lender's rights to insist thereafter upon strict compliance with the terms hereof without previous notice of such intention being given to Borrower, and no exercise of any right by Lender shall constitute or be deemed to constitute an election of remedies by Lender precluding the subsequent exercise by Lender of any

or all of the rights, powers and remedies available to it hereunder or under the Loan Documents, or at law or in equity. Borrower expressly waives the benefit of any statute or rule of law or of equity now provided, or which may hereafter be provided, which would produce a result contrary to, or in conflict with, the foregoing.

18. Disbursements. Funds representing the proceeds of the indebtedness evidenced hereby which are disbursed by Lender by mail, wire transfer or other delivery to Borrower, to escrows or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and to have been received by Borrower as of the date of such mailing, wire transfer, or other delivery and until repaid, notwithstanding the fact that such funds may not at any time have been remitted by such escrows to Borrower or for its benefit.

19. Exempted Transaction. Borrower agrees that (a) the payment obligations evidenced by this Note and the other instruments securing this Note are exempted transactions under the Truth in Lending Act 15 USC ss. 1601, et seq.; (b) the proceeds of the indebtedness evidenced by this Note will not be used for the purchase of the registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System; and (c) on the Maturity Date, Lender shall not have any obligation to refinance the indebtedness evidenced by this Note or to extend further credit to Borrower.

20. Captions. The captions to the Sections of this Note are for convenience only and shall not be deemed part of the text of the respective Sections and shall not vary, by implication or otherwise, any of the provisions of this Note.

21. Due-on-Sale-and-Encumbrance Call Provisions. The Mortgage provides for certain rights on the part of the Lender to call all outstanding principal and accrued interest on this Note due and payable in full together with the prepayment premium then in effect under the terms of this Note in the event that (a) Borrower should sell, convey, contract to sell or convey, assign or encumber any property, real or personal, encumbered by the Mortgage in violation of Section 2.9 of the Mortgage, or (b) certain corporate stock interests in the Borrower should be sold, conveyed, assigned or encumbered in violation of Section 2.9 of the Mortgage, without, in each instance, the prior written consent of the Lender. Reference to the Mortgage must be made for the terms of these provisions. Such provisions are incorporated herein by this reference.

22. Notices. All notices required or committed to be given hereunder to Borrower or Lender shall be given in the manner and to the place as provided in the Mortgage for notices to the "Mortgagor" or the "Mortgage".

23. Limitations on Sale or Financing. The Mortgage includes certain limitations on the right of Borrower to sell, convey, contract to sell, convey, assign or encumber any property, real or personal, encumbered by the Mortgage or to sell, convey, assign or encumber certain interests in Borrower. Reference to the Mortgage must be made for the terms of these provisions. Such provisions are incorporated herein by this reference.

24. Joint and Several Liability. The promises and agreements herein shall be construed to be and are hereby declared to be the joint and several promises and agreements of all Borrowers and shall constitute the joint and several obligations of each Borrower and shall be fully binding upon and enforceable against each Borrower. Neither the death nor release of any person or party to this Note shall affect or release the joint and several liability of any other person or party. Lender may at its option enforce this Note against one or all of Borrowers, and Lender shall not be required to resort to enforcement against each Borrower and the failure to proceed against or join any Borrower shall not affect the joint and several liability of any other Borrower.

25. Miscellaneous. The provisions of this Note may not be waived, changed or discharged orally, but only by an agreement in writing signed by Borrower and Lender; and any oral waiver, change or discharge of any term or provision of this Note shall be without authority and of no force or effect. The invalidity or unenforceability of any provision of this Note shall not affect the validity or enforceability of any other term or provision hereof.

26. Jury Trial. NEITHER BORROWER, LENDER, ANY GUARANTOR OR ANY OTHER PERSON OR ENTITY LIABLE FOR THE INDEBTEDNESS EVIDENCED HEREBY, OR ANY ASSIGNEE, SUCCESSOR, HEIR OR PERSONAL REPRESENTATIVE OF LENDER, BORROWER, ANY GUARANTOR OR ANY OTHER PERSON OR ENTITY SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS NOTE, THE MORTGAGE, OR ANY INSTRUMENT SECURING THIS NOTE, ANY COLLATERAL FOR THE PAYMENT HEREOF OR THE DEALINGS OR THE RELATIONSHIP BETWEEN OR AMONG SUCH PERSONS OR ENTITIES, OR ANY OF THEM. NEITHER LENDER, BORROWER NOR ANY GUARANTOR OR ANY SUCH OTHER PERSON OR ENTITY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS SECTION HAVE BEEN FULLY DISCUSSED BY THE PARTIES HERETO, AND THE PROVISIONS HEREOF SHALL BE SUBJECT TO NO EXCEPTIONS. NO PARTY HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES BORROWER ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY LENDER THAT THE PROVISIONS OF THIS SECTION CONSTITUTE A MATERIAL INDUCEMENT UPON WHICH LENDER HAS RELIED, IS RELYING AND WILL RELY IN MAKING THE LOAN. BORROWER ACKNOWLEDGES THAT IT HAS CONSULTED WITH AN ATTORNEY AND FULLY UNDERSTANDS THE LEGAL EFFECT OF THE PROVISIONS OF THIS SECTION.

Borrower has executed this Promissory Note as of the date and year first above written.

"BORROWER"

KVH Industries, Inc., a Delaware corporation

By:  
(Signature), Title

(Printed), Title

## COMMERCIAL AND INDUSTRIAL LEASE AGREEMENT

THIS LEASE is made as of the 30th day of January 1 1998, between COLE TAYLOR BANK, not personally but as Trustee under Trust Agreement dated September 30, 1997, and known as TRUST No.97-7559 as Lessor, and KVH INDUSTRIES, INC as Lessee.

Lessor hereby leases to Lessee, and Lessee hereby accepts, the following described Premises, hereinafter referred to as the "Premises", in the Village of Tinley Park, County of Will, State of Illinois.

To wit: approximately 22,979 rentable square feet (RSF) of space subject to a final space plan, as described on Exhibit A attached hereto within 101,052 total rentable square feet of Building space, located at 8400 W. 1 85th Street, Tinley Park, IL (the "Building") together with the loading bays adjacent to the Premises and the appurtenant right, in common with other tenants, to use the common walkways, driveways and other common elements of the Building, for a Term of seven (7) years and zero (0) months, beginning on the 1st day of April, 1998, and ending on the 31st day of March 2005 for which Lessee agrees to pay the Lessor base rent ("Base Rent1"), in monthly installments (refer to base rent schedule below) each due and payable on the first day of each and every month of the Term hereof, without set-off or deduction, in advance at 18020 S. Oak Park Avenue, Tinley Park, IL or at such other place as Lessor may designate from time to time, in writing. All charges, costs and sums required to be paid by Lessee to Lessor under this Lease in addition to Base Rent shall be deemed "Additional Rent" and Base Rent and Additional Rent shall hereinafter collectively be referred to as "Rent". Lessee's covenant to pay Rent shall be independent of every other covenant in this Lease.

## BASE RENT SCHEDULE

Months	1 - 12	\$12,676.75/mo
Months	13 - 24	\$13,057.05/mo
Months	25 - 36	\$13,448.76/mo
Months	37 - 48	\$13,852.23/mo
Months	49 - 60	\$14,267.79/mo
Months	61 - 72	\$14,695.83/mo
Months	73 - 84	\$15,136.70/mo

1. USE OF PREMISES: Lessee agrees to use and occupy the Premises only for the following use: Office/Warehouse/Assembly/Manufacturing and for no other purpose without Lessor's consent.

2. POSSESSION AT BEGINNING OF TERM: Improvements to the Premises ("Initial Tenant Improvements") are to be made by Lessor, as described on an addendum to this Lease in the form of a space plan and written specifications mutually agreed to by Lessor and Lessee (the "Plans and Specifications"). If such improvements to be made by Lessor shall require further definition or approval by Lessee, Lessee shall give review and approval or disapproval promptly and on a reasonable basis upon request therefore by Lessor. Lessee shall be responsible for all costs, including lost rent, resulting from any delays in review, approvals or otherwise caused by Lessee. Lessor shall use due diligence to complete the Initial Tenant Improvements and give possession of the Premises as nearly as possible at the beginning of the Term of this lease, and Rent shall abate prorata, and the expiration date shall be extended, for the period of any delay in so doing (subject to force majeure and Lessee's responsibility for delays caused by Lessee). Lessee shall make no other claim against Lessor for any such delay.

With respect to the Initial Tenant Improvements to the Premises as specified in the final Plans and Specifications, Lessor shall indicate, prior to finalizing the Plans and Specifications, which improvements, if any, that Lessee may be required to remove from the Premises at the expiration of the Term (as the same may be extended) of this Lease (the "Removal Initial Improvements"), and which such improvements, if any, that Lessee may be required to leave at the Premises at the expiration of the Term (as the same may be extended) of this Lease (the "Forfeited Initial Improvements"). Lessee shall remove the Removal Initial Improvements prior to the expiration of the Term unless notified by Lessor in writing thirty (30) days prior to such expiration (as the same may be extended), repairing any damage to the Premises caused by such removal. Lessee shall have no obligation to remove any of the Initial Tenant Improvements made to the Premises specified in the final Plans and Specifications. Except for the Forfeited Initial Improvements, Lessee shall have the right, but not the obligation, to remove from the Premises Lessee's improvements to the Premises, provided that Lessee repair any damage to the Premises caused by such removal.

3. INSURANCE: Lessee shall not do or permit anything to be done or keep or permit anything to be kept in the Premises which would increase the fire or other casualty insurance rate on the Building or the property therein or which would result in insurance companies of good standing to refuse to insure the Building or any such property on a standard risk basis. If use of the Premises by Lessee so increases such cost of insurance, Lessee shall pay such increased cost to Landlord on demand as Additional Rent, but such demand, or acceptance of such payment, shall not be construed as consent by Lessor to Lessee's such use or limit Lessor's further remedies under this Lease.

## 4. TAXES, INSURANCE. EXPENSES:

A. In addition to all other amounts set forth in this Lease, Lessee shall pay to Lessor, as Additional Rent, Lessee's prorata share of the total real estate taxes levied on the Building and becoming due and payable in each year of the Term. Such Additional Rent shall be prorated to reflect the actual Term of the Lease during the first and



last Lease years. Should the State of Illinois or any political subdivision thereof, or other governmental authority having jurisdiction over the Building, impose a tax, assessment, charge or fee or increase any existing tax, assessment charge or fee which Lessor shall be required to pay, either by way of substitution for such real estate taxes or otherwise or impose an income or franchise tax or tax on rents in addition to or as a substitution for a general tax levied against the Building, such taxes, assessments, charges or fees shall be deemed to constitute a real estate tax hereunder. In the case of special taxes or assessments which may be payable in installments, only the amount of each Installment and interest thereon paid during a calendar year shall be included in taxes for that year. In addition, Lessee shall pay to Lessor, as additional rent, Lessee's prorata share of Lessor's reasonable costs and expenses (including reasonable attorneys' fees) in contesting or attempting to reduce any taxes.

Notwithstanding the foregoing, real estate taxes shall exclude include (a) federal, state or local income, franchise or estate taxes, and (b) interest and penalties assessed by reason of Lessor's failure to pay such real estate taxes when due. Lessor agrees that if any special taxes or assessment shall be levied against the Building, to elect to pay such assessment over the longest period of time permitted by law.

B. Lessee shall also pay to Lessor as Additional Rent, in each year of the Term, Lessee's prorata share of the expenses incurred by Lessor for fire, flood, extended coverage, rent loss, umbrella, public liability and property damage insurance on the Building in each year of the Term.

Such insurance expenses shall exclude premiums to the extent any unusual Lessee activity (other than that caused by Lessee) causes Lessor's existing insurance premiums to increase or requires Lessor to purchase additional insurance, but only to the extent such additional cost can be identified by the insurer.

C. Lessee will pay to Lessor as further Additional Rent in each year of the Term, Lessee's prorata share of the costs of operating, maintaining, managing, protecting and repairing the Building, in addition to the items set forth in Subparagraphs A and B above. Expenses to be reimbursed by Lessee shall be in accordance with GAAP Accounting and will include without limitation, gardening and landscaping, repairs and replacement of building components, paving, curbs, sidewalks, landscaping, drainage and lighting facilities, as may from time to time, be necessary, painting, caulking, lighting, sanitary control, removal of snow, trash, rubbish, garbage and other refuse (related to common areas), and ten percent (10%) of all the foregoing costs to cover Lessor's administrative and overhead expenses on the Building in each year of the Term.

Such expenses shall exclude:

- (1) Expenses incurred by Lessor in connection with services or other benefits of a type which are not building standard services or benefits provided to Lessees generally, but which are provided only to specific Lessees;
- (2) Any items to the extent such items are reimbursable to Lessor by Lessee (other than through Additional Rent), by other Lessees or occupants of the Building, or by any third parties;
- (3) Salaries of officers and executives of Lessor not connected with the operation of the Building;
- (4) All costs related to the preparation of any portion of the Building for occupancy by a Lessee or other occupant;
- (5) All costs incurred by the negligent acts or omissions of Lessor, its agents and employees;
- (6) Advertising and promotional expenses associated with the marketing of vacant space in the Building;
- (7) Costs properly chargeable to the capital account, except for capital expenditures to the extent they reduce other operating expenses or such capital expenditures that are required by changes in any governmental law or regulation, in which case such expenditures, plus interest on the unamortized principal investment at ten and one-half percent (10.5%) per annum, shall be amortized over the life of the improvements and shall be included in Common Area Expenses;
- (8) The cost of correcting defects in the initial construction of the Building;
- (9) Depreciation and amortization, except to the extent provided above;
- (10) Interest, mortgage charges and real estate taxes;
- (11) Costs and expenses incurred by Lessor in connection with the repair of damage to the Building or Property caused by fire or other casualty, insured or required to be insured against hereunder;
- (12) The cost of any item for which Lessor is reimbursed through condemnation awards;
- (13) Payments for rented equipment, the cost of which equipment would constitute a capital expenditure if the equipment were purchased; and
- (14) Costs incurred due to violation by Lessor or any other tenant of the Building of any lease or any laws, rules, regulations or ordinances applicable to the Building.

D. It is intended that the Additional Rent described in Subparagraphs A, B and C above shall commence as of the commencement of the Lease Term and shall be paid as nearly as possible in equal monthly installments during the Term of the Lease. Accordingly, Lessor may notify Lessee of Lessor's reasonable estimate of the amount for which Lessee will be obligated hereunder and on the first day of the month after Lessor so notifies Lessee that Additional Rent is due hereunder, Lessee shall pay Lessor a sum equal to 1/12 of such Additional Rent multiplied by the number of months which has passed during the year. Thereafter, Lessee shall pay 1/12th of such Additional Rent on the first day of each ensuing month including months in the succeeding year until a new determination has been made. Lessor will submit invoices and such backup data to Lessee from time to time but not more than once each year of the term to substantiate the computation and allocation of Additional Rent, and actual Additional Rent shall be reconciled with estimated payments after each year of the Lease Term.

For all purposes of this Lease, Lessee's prorata share shall be 22.74%.

F. Audit. Within sixty (60) days of receipt of notice for Additional Rent each year of the term, Lessee shall have the right to cause Lessor's determination of Additional Rent to be audited by a certified public accountant reasonably acceptable to Lessor. The determination by such accountant shall be final. If such audit shall indicate that Lessor's determination of any of the foregoing is (i) overstated, or (ii) understated, then in the case of (i) Lessor shall credit the difference against monthly installments of Rent next thereafter coming due (or refund the difference if the Lease Term has ended and Lessee has no further obligation to Lessor), or in the case of (ii) Lessee shall pay to Lessor, as Additional Rent, the amount of such excess. The cost of such audit shall be paid for by Lessee. Lessor's obligation under this Paragraph 4F shall survive the expiration of the Lease Term or earlier termination of this Lease.

5. INDEMNITY AND PUBLIC LIABILITY: Lessee covenants at all times to save Lessor harmless from all loss, liability, cost, expense or damages that may incur or which may be claimed with respect to any person or persons, corporation, or property on or about the Premises or resulting from any act done or omission by or through the Lessee, its agents, employees, invitees, or any person on the Premises by reason of Lessee's use (except to the extent caused by the negligent or willful acts and or omissions of Lessor, or those acting through Lessor). Lessor covenants at all times to save Lessee harmless from all loss, liability, costs, expense or damages that may incur or which may be claimed with respect to any person or persons, corporation or property as a result of any act done and or omission by Lessor its agents, employees or invitees. Lessee further covenants and agrees to maintain at all times, during the Term of this Lease, comprehensive public liability insurance reasonably satisfactory to Lessor, protecting and indemnifying Lessor in an amount of not less than ONE MILLION DOLLARS (\$1, 000,000.00), combined single limit for bodily injury or property damage. Lessee shall furnish Lessor with copies of such policies or a current certificate or certificates of insurance, evidencing such insurance so maintained by Lessee. These copies or certificates shall include an endorsement which states that insurance shall not be canceled except upon not less than thirty days (30) prior written notice to Lessor, and will include Lessor and Lessor's management agent as additional insured on the liability insurance policy. As additionally insured on the liability insurance policy maintained by Lessee, the following will be listed:

(i) TCB Development Corporation, its affiliates and subsidiaries, managing agent for Cole Taylor Trust No.97-7559 as its interests may appear.

A. Lessor's Insurance. Lessor agrees throughout the Term of this Lease, including any extension periods, to maintain property insurance on the Building insuring against loss or damage to the Building on a comprehensive all risk basis, including, but not limited to, fire, windstorm and other hazards, casualties and contingencies, vandalism and malicious mischief as are usually covered by extended coverage policies, and flood in an amount not less than the full repair and replacement value of the Building and Lessor's fixtures therein.

6. ASSIGNMENT. SUBLETTING AND TERMINATION: Lessee shall not assign, transfer or encumber this Lease and shall not sublease the Premises or any part thereof or allow any other person to be in possession thereof without the prior written consent of Lessor in each and every case, which will not be unreasonably withheld conditioned or delayed. If Lessee makes a permitted assignment of this Lease, Lessee shall have no further obligations or liability under this Lease after such assignment.

Notwithstanding the foregoing, Lessor's consent shall not be required for any assignment or sublet to an entity controlling, controlled by, in common control with Lessee, nor to any entity that succeeds to Lessee's interest in this Lease by reason of merger, acquisition, consolidation or reorganization; provided, however, such successor entity shall have a net worth comparable to Lessee as of the date of initial Lease commencement.

7. SIGNS AND ADVERTISEMENTS: Lessee shall not put upon nor permit to be put upon any part of the Premises or the Building, any signs, billboards or advertisements without the prior written consent of Lessor, which will not be unreasonably withheld, conditioned or delayed. Lessor acknowledges and agrees that Lessee should be permitted to install monument signage, subject to municipal requirements and park covenants.

8. ACCEPTANCE. MAINTENANCE. AND REPAIR: Lessee has inspected and knows the condition of the Premises and accepts the same in their present condition (subject to completion by Lessor of any improvements to be completed by Lessor

as expressly provided herein. Lessee shall take good care of the Premises and the equipment and fixtures therein (including, but not limited to, replacement of parts and components of heating and air conditioning equipment) and shall keep the same in good working order and condition, including particularly, but not limited to, protecting water pipes, heating and air conditioning equipment, plumbing, windows, doors, frames, glass, and dock bumpers, fixtures, appliances, and sprinkler system from becoming frozen or being damaged. At the expiration of the term, Lessee shall surrender the Premises broom clean, in as good condition as the reasonable use thereof will permit. All damage or injury to the Premises not caused by fire or other casualty, all violations of any codes, laws or ordinances, respecting the Premises arising out of Lessee's acts or omissions, and all damage to glass, windows, walls, ceilings, flooring and doors shall be promptly repaired and corrected by Lessee. Lessee shall maintain a service and repair contract as approved by Lessor on the heating and air conditioning system at the Premises.

9. LESSOR'S RIGHT OF ENTRY: Lessor or Lessor's agent may enter the Premises at reasonable hours upon reasonable prior notice (except in case of emergency) to examine the same and to do anything Lessor may be required to do hereunder or which Lessor may deem necessary for the good of the Premises or the Building; and, during the last 120 days of this lease, Lessor may display a "For Rent" sign on, and show the Premises.

10. PARKING LOT MAINTENANCE: Lessee shall insure that the parking lot is not damaged by placement or movement by Lessee or those acting through Lessee, of trash containers, trucks or otherwise and Lessee shall be responsible for the repair of same during the Term of the lease and upon termination thereof. Lessee understands and agrees that no personal property shall be stored in the parking area or outside the Building without prior written consent of Lessor.

11. MAINTENANCE AND REPAIR BY LESSOR: Lessor shall keep in repair, the structural portions of the roof, floor, foundation and exterior walls (exclusive of inside surfaces), gutters and downspouts of the Building (with the costs therefore to be included in the costs recovered under Paragraph 4C above and subject to the exclusions listed in Paragraph 4C), except as to damage arising from the negligence of the Lessee, but nothing herein shall be construed as requiring Lessor to repair any front or other part installed by the Lessee. Lessor reserves the right to the exclusive use of the roof and exterior walls.

If by reason of inability to obtain and utilize labor, materials or supplies; circumstances directly or indirectly the result of a state of war or national or local emergency; any laws, rules, orders, regulations or requirements of any governmental authority now or hereafter in force; strikes or riots; accident in, damage to or the making or repairs, replacements, or improvements to the Premises or any of the equipment thereof; or by reason of any other cause beyond the reasonable control of Lessor, Lessor shall be unable to perform or shall be delayed in the performance of any covenant to supply any service, such nonperformance or delay in performance shall not render Lessor liable in any respect for damages to either person or property, constitute a total or partial eviction, constructive or otherwise, work an abatement of rent or relieve Tenant from the fulfillment of any covenant or agreement contained in this Lease. Notwithstanding the foregoing if any of the foregoing shall render the Premises unusable by Lessee for more than fourteen (14) consecutive days, Lessee shall be entitled to an equitable abatement of the rent due hereunder to the extent and for such period of unuseability to the extent Lessor is covered by applicable insurance.

12. DAMAGE BY CASUALTY: Throughout the term of this Lease, Lessor shall maintain commercial property insurance policy with a special broad causes of loss from (formerly known as "all risk" insurance) covering the Building (including the Premises), with an agreed amount endorsement, in an amount not less than the full replacement cost of the Building, subject to a customary deductible limit not greater than \$10,000.00. The proceeds of such insurance shall be received in trust and applied to the repair and reconstruction of the Building (including repairs to the Premises). In case the Premises or the Building shall be destroyed or shall be so damaged by fire or other casualty as to become untenable, then in such event, all rent otherwise accruing under this Lease shall abate until the damage is repaired or restored and, if this Lease shall be terminated in the manner provided below, from the date of such damage or destruction and Lessee shall immediately surrender the Premises and all interest therein to Lessor, and Lessee shall pay Rent only to the time of such fire or casualty. Notwithstanding the above, Lessor shall be obligated to rebuild the Building (including the Premises) to the extent that insurance proceeds (together with the so-called "deductible") will cover the cost of the rebuilding and restoration. In the event Lessor has not started rebuilding within three (3) months of damage or completed construction within seven (7) months of damage, Lessee, at Lessee's option, may cancel this Lease provided such damage was not caused by Lessee. In case this Lease is not so terminated, this Lease shall continue in full force and effect and the Lessor shall repair the Building and the Premises with all reasonable promptness, placing the same in as good a condition as they were at the time of the damage or destruction, and for that purpose may enter said Premises. In such event, rent shall abate in proportion to the extent and duration of untenability. In either event, Lessee shall remove all rubbish, debris, merchandise, furniture, equipment and other of its personal property, within ten (10) days or less after the request of the Lessor. If the Premises shall be but slightly injured by fire or other casualty, so as not to render the same untenable and unfit for occupancy, then the Lessor shall repair the same with all reasonable promptness, and in that case the rent shall not abate. No compensation or claim shall be made by or allowed to the Lessee by reason of any inconvenience or annoyance arising from

the necessity of repairing any portion of the Building or the Premises, however this necessity may occur. Notwithstanding anything to the contrary herein set forth, but provided that Lessor maintains the insurance required under this Paragraph 1 2, Lessor shall not be obligated to repair or restore the Premises or the Building if the damage or destruction is due to an uninsured casualty or to the extent that any Mortgagee applies proceeds of insurance to reduce its loan balance and the remaining proceeds available to Lessor plus the "deductible" amount and any self insured amounts are not sufficient to pay for such repair or restoration.

13. PERSONAL PROPERTY: Lessor shall not be liable for any loss or damage to any merchandise, fixtures, equipment or personal property of Lessee or any other party in or about the Premises, regardless of the cause of such loss or damage and shall not be required to repair or replace such personal property in the event of a casualty loss. Lessee will maintain insurance on all property of Lessee and any other party which at any time is at or in the Premises, such insurance to be for the full value of such property and to include a waiver of all rights, including subrogation, against Lessor and its agents and employees for damage to such property

14. ALTERATIONS: Lessee shall not make any alterations or additions in or to the Premises, without the prior written consent of Lessor not to be unreasonably withheld, delayed or conditioned. At the time Lessor grants its consent, Lessor shall indicate which such alterations, additions or improvements, if any that Lessee may be required to remove from the Premises at the expiration of the Term (as the same may be extended) of this Lease (the "Removal Alterations"), and which such alterations, additions or improvements, if any that Lessee may be required to leave at the Premises at the expiration of the Term (as the same may be extended) of this Lease (the "Forfeited Alterations"). Lessee shall remove the Removal Alterations prior to the expiration of the Term unless notified by Lessor in writing 30 days prior to such expiration (as the same may be extended), repairing any damage to the Premises caused by such removal. Lessee shall surrender the Forfeited Alterations to Lessor at the expiration of the Term or earlier termination of this Lease. Except for the Removal Alterations, Lessee shall have no obligation to remove any alterations, additions or improvements made during the Term (as the same may be extended) of this Lease, to which Lessor has given its consent. Except for the Forfeited Alterations, Lessee shall have the right, but not the obligation, to remove from the Premises alterations, additions and improvements made during the Term (as the same may be extended) of this Lease, provided that Lessee repair any damage to the Premises caused by such removal. Lessor agrees that Lessee shall have the right to install a security system in the Premises and a concrete pad and security fencing on the exterior of the Building to house gas (non-fuel) tanks for use in Lessee's business subject to Landlord reasonable approval.

15. UTILITIES AND SERVICES: Lessee shall obtain and pay for all electricity, gas, water, fuel and any services or utilities used in or assessed against the Premises including, but not limited to, any charges for the burglar and fire monitoring systems which shall include line and installation charge if necessary, unless otherwise herein expressly provided.

16. PUBLIC REQUIREMENTS: Lessee shall, at its own cost and expense, promptly and properly observe, comply with and execute, all present and future orders, regulations, directions, rules, laws, ordinances and requirements of all Governmental authorities, (included but not limited to, State, Municipal, County and Federal Governments and their departments, bureaus, boards, and officials), and shall comply with Loss Control Requirements issued by Lessor's insurance company(ies), affecting the Premises and Lessee's use thereof, and save Lessor harmless from expense or damage resulting from failure to do so. Notwithstanding the foregoing, Lessee shall have no obligation to make alterations or improvements to the Premises as a result of the foregoing unless required as a result of Lessee's unique use of the Premises.

17. CONDUCT OF OPERATIONS: Lessee agrees to conduct its business in a manner that will not be objectionable to other tenants in the Building including noise, vibration, odor, or fumes. In the event Lessor determines that Lessee is conducting its operations in a manner so as to be objectionable to other tenants, Lessee agrees, upon notice from Lessor, to promptly modify the conduct of its operations to eliminate such objectionable operations.

1 8. FIXTURES: Subject to the rights and obligations contained in paragraphs 2 and 14, all buildings, repairs, alterations, additions, improvements, installations, and any other fixtures used in the operation of the Premises or Building (as distinguished from operations incident to the business of Lessee) shall belong to Lessor and remain and be surrendered with the Premises as a part thereof at the expiration of this Lease or any extension thereof. All of Lessee's trade fixtures and all personal property, fixtures, apparatus, machinery and equipment, now or hereafter located upon the Premises, other than Building fixtures as defined above, shall be and remain the personal property of Lessee and the same are herein referred to as "Lessee's Equipment". Lessee's Equipment may be removed from time to time by Lessee; provided, that if such removal shall injure or damage the Premises, Lessee shall repair the damage and place the Premises in the same condition as it would have been if such equipment had not been installed.

1 9. EMINENT DOMAIN: If the Premises or any substantial part thereof shall be taken by any competent authority under the power of eminent domain or be acquired for any public or quasi-public use or purpose, the Term of this Lease shall cease upon the date when the possession of Premises or the part thereof so taken shall be required for such use, and Lessee shall have no claim against Lessor for the value of any unexpired term of this lease, nor shall Lessee participate in any award. If any condemnation proceeding shall be instituted in which it is sought to take any part of Lessor's Building or the land under it or if the grade of any street or alley adjacent to the Building is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Building to conform to the changed grade, Lessor shall have the

right to cancel this lease after having given written notice of cancellation to Lessee not less than ninety (90) days prior to the date of cancellation designated in the notice. In either of said events, rent at the then current rate shall be apportioned as of the date Lessee shall cease to have use of the Premises. No money or other consideration shall be payable by the Lessor to the Lessee for the right of cancellation and the Lessee shall have no right to share in the condemnation award or in any judgment for damages caused by the taking or the change of the grade. Nothing in this paragraph shall preclude an award being made to Lessee for loss of business or depreciation to and cost of removal of equipment or fixtures or Lessee's cost of moving, provided that such award to Lessee would not reduce the award that would otherwise be payable to Lessor.

20. WAIVER OF SUBROGATION: Lessor and Lessee agree to have all fire and extended coverage insurance which may be carried by either of them endorsed with a clause providing that any release from liability of or waiver of claim for recovery from the other party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured thereunder to recover therefrom and providing further that the insurer waives all rights of subrogation which such insured might have against the other party. Without limiting any release or waiver of liability or recovery contained in any other section of this Lease, but rather in confirmation and furtherance thereof, Lessor waives all claims for recovery from Lessee and Lessee waives all claims for recovery from Lessor, and their respective agents, partners, officers and employees for any loss or damage to any of their respective property insured under valid and collectible insurance policies or which would have been so insured if insurance required by this Lease had been properly maintained.

21. DEFAULT AND REMEDIES: In the event: (a) Lessee fails to pay any Rent (whether Base Rent or Additional Rent or any other sum due hereunder), within five (5) days after written notice from Lessor provided however after second such notice within a twelve (12) month period during the term, no such notice will be required from Lessor; (b) Lessee fails to comply with any other term, provision, condition or covenant of this lease for fifteen (15) days after notice thereof specifying the items in default or additional time as may be reasonably necessary provided Lessee shall have commenced cure within such fifteen (15) day period and is diligently completing the same; (c) Lessee abandons or vacates the Premises; (d) any petition is filed by or against Lessee under any section or chapter of the Federal Bankruptcy Code as amended, or under any similar law or statute of the United States or any state thereof (and in the case of a petition filed against Lessee, the same shall not be dismissed within forty-five (45) days after written notice from Lessor); (e) Lessee becomes insolvent or makes a transfer in fraud of creditors; (f) Lessee makes any assignment for benefit of creditors; or (g) a receiver is appointed for Lessee or any of the assets of Lessee, and the same shall not be dismissed within forty-five (45) days after written notice from Lessor, then in any of such events Lessee shall be in default and, Lessor shall have the option to do any one or more of the following in addition to and not in limitation of any other remedy permitted by law; to enter upon the Premises or any part thereof either with or without the process of law, and to expel, remove and put out Lessee or any other persons who might be thereon, together with all personal property found therein; and, Lessor may terminate this Lease or it may, without terminating this Lease, terminate Lessee's right to possession and relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term of this lease) and at such rental or rentals and upon such other terms and conditions as Lessor in its sole discretion may deem advisable, with the right to repair, renovate, remodel, redecorate, alter and change the Premises. At the option of Lessor, rents received by Lessor from such reletting shall be applied first to the payment of any indebtedness from Lessee to Lessor other than Rent due hereunder; second, to payment of any costs and expenses of such reletting including, but not limited to, attorney's fees, advertising fees and brokerage fees, alterations and changes in the Premises; third, to the payment of Rent due and payable hereunder and interest thereon, and if after applying said rentals there is any deficiency in the Rent and interest to be paid by Lessee under this lease, Lessee shall pay any such deficiency to Lessor and such deficiency shall be calculated and collected by Lessor monthly. No such re-entry or taking possession of said Premises shall be construed as an election of Lessor's part to terminate this Lease unless a written notice of such intention is given to Lessee. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach and default.

Should Lessor at any time terminate this Lease as a result of any default of Lessee hereunder, in addition to any other remedy Lessor may have, Lessor may recover from Lessee a sum, which at the time of such termination of this Lease, represents the then present value of the excess of the aggregate amount of Base Rent and all Additional Rent under Article 4 which would have been payable by Lessee (conclusively presuming the average monthly Additional Rent under Article 4 to be the same as if it were payable for the year, or if less than 365 days have lapsed since the commencement of this Lease, the partial year, immediately preceding such termination) for the period commencing with such termination of this Lease and ending with the date contemplated as the expiration date hereof, as if this Lease had not so terminated, over the fair market rental value (as reasonably determined by Lessor) of the Premises for such period. Lessor shall have the right to seek redress in the courts at any time to correct or remedy any default of Lessee by injunction or otherwise, without such action constituting or being deemed a termination of this Lease, and Lessor, whether this Lease has been or is terminated or not, shall have the absolute right by court action or otherwise to collect any and all amounts of unpaid Rent or any other sums due from Lessee to Lessor under this lease which were or are unpaid at the date of termination. In case it should be necessary for Lessor to bring any action under this Lease, to consult with an attorney concerning or for the enforcement of any Lessor's rights hereunder, the Lessee agrees in each and every such case to pay to Lessor reasonable attorney's fees.

22. SECURITY DEPOSIT:

A. Concurrently with its execution of this Lease, Lessee shall deliver to Lessor \$11,375.00 as security for the performance by Lessee of every covenant and condition of this Lease by Lessee to be performed. Said deposit may be commingled with other funds of Lessor, and shall bear no interest. If Lessee shall default with respect to any covenant or condition of this Lease, including, but not limited to, the payment of any sum due hereunder, then Lessor may use such portion of the security deposit as is necessary to cure such default. In the event, Lessor so uses the security deposit in part or in whole, Lessee will restore the security deposit to the required amount upon notice of said default plus a processing fee of \$50.00 for each incident. Should Lessee comply with all of the covenants and conditions of this Lease, the security deposit or any balance thereof shall be returned to Lessee at the expiration of the Term thereof. The security deposit shall not be deemed an advanced payment of Rent or measure of Lessor's damages for any default hereunder by Lessee.

B. Notwithstanding anything to the contrary herein, the base Rent payable for the first month of the term shall be due and paid to Lessor upon Lessee's execution hereof.

23. WAIVER: The rights and remedies of the Lessor under this Lease, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder allowed by law. A waiver by Lessor of any breach or breaches, default or defaults of Lessee hereunder shall not be deemed or construed to be a continuing waiver of such breach or default nor a waiver of or permission, for any subsequent breach or default, and it is agreed that the acceptance by Lessor of any installment of Rent subsequent to the date the same should have been paid hereunder, shall in no manner alter or affect the covenant and obligation of Lessee to pay subsequent installments of Rent promptly upon the due date thereof. No receipt of money by Lessor after the termination in any way of this Lease shall reinstate, continue or extend the Term. Lessee hereby expressly waives, so far as permitted by law, the service of any notice of intention to re-enter provided for in any statute, except as is herein otherwise provided.

24. NOTICES: Any notice hereunder shall be sufficient if personally delivered, sent by recognized courier or sent by certified mail, addressed to Lessee at the Premises,

Attn: Sid Bennett with copies to: KVH Industries, Inc., 50 Enterprise Center, Middletown, R.I. 02842,

Attn: Chief Financial Officer and Foley, Hoag & Eliot LLP, One Post Office Square, Boston, MA 02109, Attn: Paul R. Murphy, Esq. and to Lessor where Rent is payable. The effective date of such notice shall be upon delivery if personally served, one (1) day after delivery to a courier if served by courier and three (3) days after delivery of same to the United States Post Office if served by mail.

25. SUBORDINATION: In the event Lessor holds title to the Premises by virtue of a lease, then this shall be deemed a sublease and shall remain subject to all of the terms and conditions of such underlying lease, so far as shall be applicable to the Premises herein leased. This Lease shall also be subject and subordinate to any existing or future mortgage or deed of trust placed upon the Premises or the Building. Lessee hereby agrees to execute from time to time any and all instruments in writing provided that Lessee shall receive a commercially reasonable non-disturbance agreement from a future ground Lessor or mortgagee, which may be requested by Lessor to subordinate Lessee's rights under this lease to the lien of any such mortgage or deed of trust. Lessee agrees to attorn to any ground Lessor, mortgagee or other lien holder which succeeds to Lessor's interest under this Lease.

26. SUCCESSORS: The provisions, covenants and conditions of this Lease shall bind and inure to the benefit of the legal representatives, heirs, successors and assigns of each of the parties hereto, except that no assignment or subletting by Lessee without the written consent of Lessor shall vest any right in the assignee or sublessee of the Lessee. When used herein Lessor shall mean the party which is from time to time the Lessor under this Lease, and upon transfer of the interest hereunder of a Lessor, such transferor shall have no further liabilities hereunder. Lessor shall have no personal liability for any agreements or obligations under this Lease, all such personal liability being waived by Lessee on behalf of Lessee and every party claiming by, through or under it. All liability of Lessor, if any, shall be satisfied only out of and against Lessor's interest in the Premises and Building.

27. QUIET POSSESSION: Lessor agrees that so long as Lessee fully complies with all of the terms, covenants and conditions herein contained on Lessee's part to be kept and performed, Lessee shall and may peaceably and quietly have, hold and enjoy the Premises during the term hereof without such possession being disturbed or interfered with by Lessor or by any person claiming by, through or under Lessor.

28. BANKRUPTCY: Neither this Lease nor any interest therein nor any estate hereby created shall pass to any trustee or receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors by operation of law or otherwise during the Term of this Lease or any renewal thereof.

29. ENTIRE AGREEMENT: This Lease contains the entire agreement between the parties, and no modification of this Lease shall be binding upon the parties unless evidenced by an agreement in writing signed by the Lessor and the Lessee after the date hereof. If there be more than one Lessee named herein, the provisions of this lease shall be applicable to and binding upon such Lessees, jointly and severally.

30. ESTOPPEL CERTIFICATE BY LESSEE: Lessee agrees at any time and from time to

time, upon not less than ten (10) days prior written request by Lessor, to execute, acknowledge and deliver to Lessor a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified, and stating the modifications), (ii) the date to which the rental and other charges have been paid in advance, if any, (iii) that Lessor is not in default under any term of this Lease (or if any default exists, Lessee will specify), and (iv) that Lessee is in possession of the Premises and containing such other information or agreements as may be requested, it being intended that any such statement delivered pursuant to this paragraph, may be relied upon by any prospective purchaser of the fee, or mortgagee or assignee of any mortgage upon the fee, of the Premises.

31. FINANCIAL INFORMATION: Lessee shall provide reasonable financial information concerning Lessee and its operations, upon request of Lessor from time to time, in connection with any proposed financing or sale by Lessor.

32. ENCUMBRANCES: Lessee shall not perform any act which shall in any way encumber the title of Lessor in and to the Premises or the Building, nor shall the interest or estate of Lessor in the Premises or the Building be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Lessee. Any claim to, or lien upon, the Premises or the Building arising from any act or omission of Lessee shall accrue only against the leasehold estate of Lessee and shall be subject and subordinate to the paramount title and rights of Lessor in and to the Premises or the Building. Should the Premises or the Building become subject to any mechanics, laborers' or materialmen's lien on account of labor or material furnished to Lessee or claimed to have been furnished to Lessee, Lessee will promptly pay same or cause the same to be released.

33. HOLDING OVER: In the event of a holding over by Lessee after expiration of termination of this Lease without the consent in writing of the Lessor, Lessee shall be deemed a Lessee at sufferance and shall pay as liquidated damages, 150% of Rent for the entire holdover period and any consequential damages incurred by Lessor as a result of such holdover.

34. COMMON AREAS: Lessee agrees to conform with any uniformly applied rules and regulations Lessor may establish from time to time in connection with common areas, including those concerning the parking area and driveways.

35. JANITORIAL SERVICE AND GARBAGE REMOVAL: Lessee at its own expense shall provide its own janitorial service and garbage removal. Lessee shall not permit the undue accumulation of debris in the Premises or in any area immediately adjoining the Premises. Dumpsters will be stored within the Premises prior to and immediately following trash removal.

36. LATE CHARGE: Lessee will pay to Lessor a late charge of ten percent (10%) as Additional Rent on any amount owing to Lessor hereunder which is not paid when due. The late charge will represent a fair and reasonable estimate of the additional cost and expenses Lessor will incur because of Lessee's late payment.

37. SURRENDER OF POSSESSION: Upon the expiration of the term or earlier termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon termination of Lessee's right to possession of the Premises, Lessee will at once surrender and deliver the Premises, together with all improvements thereon not removed by Lessee to Lessor broom clean in the same order, condition and repair, as on the commencement date (or put in during the term), reasonable wear and tear and loss due to fire or other casualty for which Lessee is not responsible hereunder excepted. "Broom Clean" means free from all debris, dirt, rubbish, personal property of Lessee, oil, grease, tire tracks or other substances, inside and outside the Building and on the grounds comprising the Premises and with all lighting fixtures in working order.

Upon termination, Lessee may remove Lessee's Equipment, provided any damage caused by removal of Lessee from the Premises, including any damage caused by removal of Lessee's Equipment shall be repaired and paid for by Lessee. In the event Lessee does not remove Lessee's Equipment and all Lessee's personal property from the Premises within a reasonable time, then, at Lessor's option, Lessee shall be conclusively presumed to have conveyed the same to Lessor under this Lease as a bill of sale without further payment or credit by Lessor to Lessee and Lessor may remove the same and Lessee shall pay the cost of such removal to Lessor upon demand; [avoid, however, Lessee shall have no obligation to remove alterations, additions or improvements to the Premises other than those that are required to be removed by Lessee pursuant to paragraph 2 and paragraph 14 herein, or to restore the Premise at the end of the term except as provided herein.

38. ENVIRONMENTAL MATTERS: Lessee agrees that it will use, handle, treat, transport, store and dispose of any Hazardous Materials (as hereinafter defined) in accordance with the requirements of all applicable laws and regulations, (collectively "Environmental Laws"), including, without limitation, the Occupational Safety & Health Act, as amended, 29 U.S.C. 651 et seq. ("OSHA"), the Comprehensive Environmental Response & Liability Act, as amended, 42 U.S.C. #9601 et seq. ("CERCLA"), the Resources Conservation & Recovery Act, as amended, 42 U.S.C. #9601 et seq. ("RCRA") and the Superfund Amendments and Reauthorization Act, as amended, 42 U.S.C. #9671 et seq. ("SARA") and will transport such Materials in accordance with Department of Transportation Hazardous Materials Table, as amended 49 C.F.R. 172.101 et seq. The term "Hazardous Materials", when used herein, shall include, but shall not be limited to, any substances, materials or wastes that are regulated by any local governmental authority, the state where the demised Premises is located, or the United States of America because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties that may be hazardous to human health or the environment, including asbestos and including any materials or substances

that are listed in the United States Department of Transportation Hazardous Materials Table, CERCLA, RCRA, OSHA and SARA or any other applicable governmental regulation imposing liability or standards of conduct concerning any hazardous, toxic or dangerous substances, waste or material, now or hereafter in effect.

39. **BROKERS:** Lessee represents that Lessee has dealt with only CB Commercial and Colliers, Bennett & Kahnweiler in connection with this Lease transaction. Lessee covenants to pay, hold harmless and indemnify Lessor from and against any and all costs, expense or liability for any compensation, commissions or charges claimed by any other broker or agent with respect to this Lease arising out of any acts of Lessee.

40. **TENANT IMPROVEMENT ALLOWANCE:** Lessor will provide Lessee with a Tenant improvement allowance of \$206,811.00/RSF (the "Tenant Improvement Allowance") as a contribution toward the cost (the "Construction Costs") of completing the Initial Tenant Improvements to the Premises. The Construction Costs shall equal the sum of all actual costs (all of which shall be documented and verifiable) incurred by Lessor in connection with the construction of the Initial Tenant Improvements. All Construction Costs shall be at prices that are consistent with arms' length market rates, and Lessor shall complete the Initial Tenant Improvements using qualified subcontractors, all of whom shall be competitively bid, with the contracts being awarded to the lowest qualified bidder unless otherwise agreed by Lessee. Prior to beginning construction on the Initial Tenant improvements, Lessor agrees to provide Lessee with projections of the Construction Costs, and to periodically update the same. The Construction Costs, in excess of the Tenant Improvement Allowance, plus a fee equal to ten percent (10%) of the Construction Costs (exclusive of engineering, design and other "soft" costs) and Lessor's general condition costs (as set forth in the addendum attached hereto which shall not be in excess of general conditions costs reasonable and customary for the work being performed) shall be paid by Lessee to Lessor within fifteen (15) days after receipt of an invoice from Lessor together with reasonable substantiating documentation reasonably acceptable to Lessee.

41. **LESSEE'S ACCESS.** Lessee shall have access to the Premises seven (7) days per week, twenty-four (24) hours per day.

42. **OPTION TO EXTEND.** So long as Lessee is not in default under this Lease beyond applicable cure periods. Lessee shall have two (2) consecutive options to extend the Term of this Lease for a period of five (5) years each, exercisable by written notice to Lessor delivered not less than twelve (12) months prior to the expiration of the then current Term of this Lease. The Base Rent during either such extension period shall be the then prevailing market rate for comparable space in the market place, inclusive of all inducements and tenant improvements then available. If Lessor and Lessee shall not be able to agree upon a Base Rent for such extension period within 60 days after Lessee shall have delivered to Lessor its extension notice, then Lessee shall have the right to withdraw such extension notice, and the Term of the Lease shall expire on the date originally set forth in the Lease.

43. **OPTION TO CANCEL.** So long as Lessee is not in default under this lease beyond applicable cure periods. Lessee shall have the option to terminate this Lease effective anytime after the sixtieth (60th) month of the Term of this Lease, exercisable by written notice to Lessor delivered not less than twelve (12) months prior to the effective date of such notice. Upon the date of the delivery of written notice of the termination of this Lease, Lessee shall pay to Lessor a termination fee equal to the unamortized portion of any brokerage commission and the tenant improvement allowance provided pursuant to paragraph 40 herein plus four (4) months of the then existing Base Rent, whereupon obligations of Lessee and Lessor hereunder shall cease, this lease shall terminate and be of no further force and effect.

44. **RIGHT OF NOTICE.** In the event Lessor receives an inquiry from a third party for the lease of any space in the Building which is contiguous to the Premises which Lessor considers to be an inquiry that could lead to a lease and provided Lessee is no currently in default under this Lease beyond applicable cure periods, Lessor will notify Lessee that such inquiry has been made and allow Lessee a period (as is determined to be reasonable by Lessor under the circumstances, but which will not delay negotiations with such third party) to discuss the leasing of contiguous space by Lessee. The terms of any lease of contiguous space to Lessee shall be such terms, if any, as Lessor and Lessee may agree to at such time, and neither party shall be obligated to agree to any particular terms, to any prescribed negotiation, or to enter into a lease for contiguous space. Among the factors to be considered in any such discussion between Lessor and Lessee concerning contiguous space shall be the length of the proposed lease, the fair market rental rates for contiguous space at such time, creditworthiness issues and the level of Lessee improvements then existing and to be provided in contiguous space. Upon Lessee's request from time to time, Lessor will advise Lessee as to the expiration date for any lease in contiguous space.

45. **PARKING.** Lessee shall have the right, at no additional cost, to parking spaces in the parking area adjacent to Lessee's Premises in the amount of one and one-half (1.5) space per 1,000 rentable square feet of the Premises (i.e. currently thirty-five (35) parking spaces). Lessee shall further have the right to request Lessor to construct additional parking spaces in such parking area as may be available at an additional cost at fair market value at time of such request.

46. **ADJACENT USES.** Given the unique nature of Lessee's business operations in the Premises, Lessor and Lessee shall agree upon reasonable types of operations for spaces adjacent to the Premises.

47. **ROOF APPURTENANCES.** Lessor reserves the right to the exclusive use of the roof and exterior walls; provided that Lessee shall have the right to erect and



maintain satellite communications equipment and such other devices, at Lessee's cost subject to all legal requirements. At the expiration or termination of the Lease Lessee shall remove the equipment and any associated wiring and repair all damage caused by the location or removal of the equipment.

48. SELF HELP. In the event Lessor fails to perform its obligations hereunder and such failure continues for thirty (30) days after receipt of written notice from Lessee to Lessor (or such lesser period of time as shall be reasonable in the event of an emergency), Lessee may perform such obligations and charge Lessor for all reasonable cost and expenses incurred in connection therewith such amounts incurred by Lessee shall be reimbursed by Lessor within thirty (30) days after demand by Lessee accompanied by copies of appropriate invoices and other evidence of payment

49. BASE BUILDING SPECIFICATIONS. Lessor will provide the base building to Lessee in accordance with Exhibit B. In addition, Lessor will provide 480 volt/800 amp/3 phase electrical power in the warehouse area of the premises.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first above written.

LESSOR

COLE TAYLOR BANK, not personally but as Trustee under Trust Agreement dated September 30, 1 997, and known as TR ST No.97-7559 as Lessor

By.

Title: Trust officer

LESSEE

KVH INDUSTRIES, INC.

By:

Title:

Outline Speculative Warehouse Specifications

TINLEY CROSSING I  
Tinley Park, Illinois

May 1, 1997

Prepared by:  
McShane Construction Corporation  
6400 Shafer Court, Suite 400  
Rosemont, IL 60018  
(847) 2924300

Tinley Crossing I Speculative Warehouse Specifications  
McShane Construction Corporation

PROJECT DATA

Area	Gross Square Footage	Clear Height	Exterior Wall Material
Building	101,052	28' - 0"	Precast and Glass
Car Parking	100		
Truck Docks	Exterior: 12	D.I.D.: 2	

\*Includes building common area room of 645 square feet located on the East wall of Tenant No.1.

GENERAL ITEMS INCLUDED

- A. Site and building design per BOCA 1993 and Village Amendments, Handicap Code and ASHRAE design guidelines.
- B. Quality control, testing and safety program: soil, concrete cylinder and asphalt tests, weld inspection.
- C. Construction liability, workmen's compensation and builder's risk insurance.
- D. Field supervision and project management.
- E. One (1) year guarantee.

SITE DATA

- A. Grading work based on balanced cut and fill and 3,000 psf soil bearing capacity. Temporary off-site detention shall be utilized with drainage swale.
- B. Grading and granular fill at foundation and two inch (2") granular for concrete slab-on-grade.
- C. Stone/asphalt thickness: 8"12.5" car; 10"/3" truck and drive aisle. Shared truck maneuvering on adjacent lot included.
- D. Concrete curbs around car and truck paving areas.
- E. Concrete sidewalks at main entrance and electrical transformer pad.
- F. Sanitary sewer and 1,000 linear feet of fire water piping with three (3) fire hydrants shall be brought from the property line to the building. Storm sewer to outfall to off-site detention on Lot 30.
- G. Three (3) light poles and ten (10) wall packs.
- H. Landscaping, lawn sprinkler and associated work at an allowance of Forty Thousand and No/100 Dollars (\$40,000.00).

BUILDING SHELL

- A. 3,000 psi concrete, 28 day mix design.
- B. Concrete foundations and column pads.
- C. Slab-on-grade shall be six (6) inches thick with fibermesh cured and sealed with Sonneborn Sonosil. Floor flatness 25.
- D. Load bearing, architectural precast office similar to Diehl Center One with punched windows and a stained finish. Glass shall be one inch (1") insulated, tinted pane in aluminum thermobroken frames. "Curved" element to be segmented reflective blue glass.
- E. Load bearing precast on warehouse to extend beyond roof line to act as parapet with reveals and stained flat finish. The R-value of precast is 10. Precast wall between loading docks to be depressed and provide knock-out panels for future docks.
- F. Building steel bay size shall be approximately 40' x 40', with end bay adjusted as per plan. Ship's ladder to the roof.
- G. Single-ply, 45 mil EPDM ballasted roof with ship's ladder and roof hatch. The R-value of the roof system is 14.2. Melt-out smoke vents at a ratio of 1:75 (48 - 4' x 8').
- H. Interior roof drains.
- I. Overhead doors shaft be 8' x 9' at exterior doors and 12' x 14' at the drive-in door. Bollard 6" concrete filled and painted at overhead doors.

J. Twelve (12) 20,000 lb. mechanical dock levelers.

K. ESFR fire sprinkler system in the warehouse area with fire pump.

L. Included from the Commonwealth Edison transformer are 200 amp metering sockets and panel for each tenant and one (1) 150 amp house panel and two (2) 4" empty conduit from transformers to each of four tenants.

M. Addressable fire alarm system main panel at the Electrical Room.

N. Coordination of electrical, telephone and gas services to the building.

#### DEMISING AND OFFICE/WAREHOUSE WALL

A. Three (3) demising walls at 200 linear feet each, for a total of 600 linear feet full height, twenty (20) gauge, six inch (6") metal studs and 5/8" sheet rock fire taped.

B. Office/warehouse walls (total 400 LF) full height, twenty (20) gauge, six inch (6") metal studs, insulation to ten feet (10') and sheet rock full height and taped warehouse side only.

#### EXCLUSIONS

A. Office furniture, demountable partitions, racks, signage and fencing.

B. In-rack fire sprinklers, lockers, mechanical and electrical distribution or hook-up of tenants' equipment. Warehouse destratification fans and summer ventilation.

C. Security, CRT, PA or telephone cables and systems.

D. Truck dock shelters, seals or canopy.

E. Land, survey, environmental items, interim financing and bonds.

F. Unsuitable soils, off-site work. Others to bring sanitary sewer to site.

G. Precast truck screening (to be landscaped).

H. Governmental fees and excess utility charges.

EXHIBIT C  
ATTACHED TO AND MADE PART OF  
LEASE DATED JANUARY 30, 1998  
BETWEEN COLE TAYLOR TRUST No.97-7559, AS LESSOR AND  
KVH INDUSTRIES, INC., AS LESSEE

1. All exterior signs shall be in accordance with Lessor's sign specifications.
2. Lessee shall not place unsightly objects against glass partitions or doors, nor cover any glass window or door with interior sign or signs.
3. Blinds, shades, awnings (except awning frames), window ventilators and other similar equipment visible from outside of the Building shall be installed by Lessee only in accordance with the prior written approval of Lessor.
4. Lessee shall not use any space in the Building for living quarters, whether temporary or permanent.
5. Lessee shall not keep inflammables, such as gasoline, kerosene, naphtha and benzine, or explosives, or any other articles of an intrinsically dangerous nature on the Premises. Lessee may, however, keep on the Premises such chemicals and other materials as are usual and customary for the type of business to be operated by Lessee, provided that all such chemicals and other materials shall be kept in such containers and in such manner as may be required by Lessor's policies of insurance, and further provided that the keeping of such chemicals or materials shall not increase the rate of insurance of any such policies of the Lessor.
6. Lessee shall place all trash and garbage in containers. If excess trash accumulates, Lessee shall arrange for special pickup.
7. All loading and unloading of goods shall be done only at such times in the areas and through the entrances designated for such purpose by Lessor. All vehicles shall use driveways in accordance with designated traffic pattern.
8. Lessee shall have full responsibility for protecting the premises and the property located therein from theft and robbery, and shall keep all doors, windows and transoms securely fastened when not in use.
9. Lessee shall keep the Premises free and clear from rodents, bugs and vermin, and will at Lessee's sole cost and expense use exterminating services when so requested by Lessor.
10. Lessee shall keep the Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.
11. The outside areas of the Premises within the Building and any exterior entry door and loading bays which serve Lessee exclusively shall be kept clean by the Lessee, and the Lessee shall not place or permit any obstructions, merchandise or machines of any kind in such areas.

#### LESSOR EXONERATION RIDER

This LEASE is executed as lessor by COLE TAYLOR BANK, not personally, but solely as Trustee as aforesaid and it is expressly understood and agreed by and between the parties hereto, anything in this Lease to the contrary notwithstanding, that each and all of the covenants, undertakings and agreements in this Lease contained are made and intended not as personal covenants, undertakings and agreements of COLE TAYLOR BANK, or any of its officers, agents or employees, but this Lease is executed and delivered by the undersigned Lessor solely as Trustee as aforesaid and no personal liability or personal responsibility is assumed by, or shall at any time be asserted or enforced against COLE TAYLOR BANK, its officers, agents or employees, on account of any covenants, representations, undertakings or agreements in this Lease contained, or otherwise, either express or implied, all such personal liability, if any, being hereby expressly waived and released, it being understood that the Lessee or anyone claiming by, through or under the Lease shall look solely to the trust property for the enforcement or collection of any such liability. By way of illustration only and without limitation of the foregoing, it is further understood and agreed that neither the Lessor nor the said COLE TAYLOR BANK individually shall have any duty whatsoever with reference to the upkeep, maintenance or repair of said premises and makes no representations with reference to the condition of, or the title to, said premises. The Lessee hereunder is hereby charged with knowledge that the Lessor does not, in fact, have possession of nor exercise any dominion over the trust property or the income or avails therefrom. It is further expressly understood and agreed that this lease is signed by the undersigned Lessor solely for the purpose of subjecting the title to the trust property to the terms of this Lease and for no other purpose whatsoever. Any conveyance of the demised premises by the undersigned Lessor shall operate to release the Lessor and COLE TAYLOR BANK in every capacity from any and all obligations, if any, under this Lease. It is further expressly understood and agreed that no duty shall rest upon the Lessor or COLE TAYLOR BANK to sequester the trust property or the rents, issues and profits arising therefrom, or the profits arising from any sale or other disposition thereof.

TENANT ESTOPPEL CERTIFICATE

January 18, 1999

KeyBank National Association  
10 West Market, 9th Floor  
Indianapolis, Indiana 46204

Attn. Jane Butler

Re: 400 W. 185th Street, Tinley Park, IL

Ladies and Gentlemen:

The undersigned (the "Lessee") is the lessee of approximately 22,979 rental square feet of space (the "Leased Premises") in premises located at the above-captioned address (the "Property"), under the terms of a lease (the "Lease") with Cole Taylor Bank, as Trustee ("Lessor").

At your request, and knowing that you and your successors and assigns will rely upon the accuracy of the information and the representations contained herein in making a loan to the Lessor on the security of; among other things a mortgage on the Property (the "Mortgage"), the Lessee certifies to you and to your successors and assigns, as follows;

1. A true, correct and complete description of the Lease, including all amendments and modifications thereto is attached hereto as Exhibit A.

2. The Lease is a valid lease, is in full force and effect, represents the entire agreement between the parties and is binding and enforceable against Lessee in accordance with its terms.

3. The commencement date of the term of the Lease is April 1, 1998.

4. The Lease has not been modified, supplemented, amended, renewed or otherwise changed in any way, except as indicated therein or by the agreements referred to in Schedule A hereto.

5. No payments are required to be made to the Lessee by the Lessor and all work required by the Lease to have been performed by the Lessor has been completed in accordance with the provisions of the Lease.

6. (a) The fixed or minimum monthly rental presently payable under the terms of the Lease is as set forth in the Lease has been paid through January 31, 1999.

(b) If applicable, the percentage rent payable under the terms of the Lease is as set forth in the Lease and has been paid through N/A.

(c) All escalation rent (e.g. charges for taxes, maintenance and common & areas, cost of living increases, etc.) payable under the terms of the Lease has been paid through January 31, 1999, and the Lessee is not presently contesting its pro rata share thereof.

(d) If applicable, all other additional rent, if any, payable under the terms of the Lease has been paid through N/A.

7. The Lessee claims no offsets, set-offs, rebates, concessions, abatements or "free" rent or defenses against or with respect to any fixed or minimum rent, escalation rent, additional rent, percentage rent or other amount payable under the terms of the Lease. No advance rental or other payment under the Lease has been paid more than 30 days in advance of its due date. Lessor has not provided financing for or made loans or advances to, or invested in, the business of Lessee.

8. Neither the Lessor nor the Lessee is in default in the performance or observance of any of its obligations under the Lease and no event has occurred an no condition exists that, with the giving of notice of the passage of time, or both, would constitute a default under the terms of the Lease, except as follows: N/A

9. The amount of the security deposited under the Lease is \$11,375.00.

10. The Lessee has no option to renew the Lease, cancel the Lease, or options or rights to lease any other space in, or to purchase all or any part of; the Property, except as provided in the Lease.

11. No action or proceeding instituted by the Lessee against the Lessor is pending in any court. There are no actions, voluntary or involuntary, pending against the Lessee under the United States Bankruptcy Code or any bankruptcy law or any state.

12. The Lessee is in actual possession of the Leased Premises.

[EXECUTION PAGE FOLLOWS]



IN WITNESS WHEREOF, the undersigned Lessee has executed and delivered this Estoppel Certificate as of the \_\_\_\_ day of January 1999.

LESSEE:

KVH INDUSTRIES, INC.

By:

Name: Richard C. Forsyth

Title: CFO

SUBORDINATION, NON-DISTURBANCE AND  
ATTORNMEN T AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT (this "Agreement") is made and entered into as of this 18 day of January, 1999, by and among KVH Industries, Inc., a Delaware corporation ("Tenant"), with a mailing address of 50 Enterprise Center, Middletown, Rhode Island 02842, and Cole Taylor Bank, as Trustee wider Trust Agreement dated September 30, 1997 and known as Trust No. 97-7559 ("Landlord"), with a mailing address of 18020 S. Oak Park Avenue, Tinley Park, Illinois, and KeyBank National Association ("Mortgagee"), with a mailing address of 10 West Market, 9th Floor, Indianapolis, Indiana 46204.

RECITALS:

A. Tenant is the Lessee under that certain lease executed between Tenant and Landlord, dated January 30, 1998 (as the same have been or may be modified or amended from time to time, the "Lease"), which demises certain premises described in the Lease consisting of approximately 22,979 rental square feet in the building located at 8400 W. 185th Street, Tinley Park, Illinois (the "Premises") which constitute a portion of the real estate legally described in Schedule I attached hereto and made a part hereof (the "Real Estate").

B. Mortgagee is making a loan (the "Loan") to Landlord which is secured, in part, by the lien of a Mortgage and Security Agreement executed and delivered by Landlord to Mortgagee encumbering the Real Estate (as the same may be modified from time to time, the "Mortgage").

C. As a condition to making the Loan, Mortgagee requires the execution of this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

1. Tenant has delivered or identified in writing to Mortgagee concurrently herewith a true, correct and complete copy of the Lease. Landlord and Tenant each agree not to amend or modify the Lease or, except as specifically permitted in the Lease, accept a termination of the Lease without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld, and that no such amendment, modification or termination (except as specifically permitted in the Lease) will be effective as against Mortgagee or its successors or assigns without such consent.

2. The Lease is and shall be subject and subordinate to the lien of the Mortgage and to all renewals, modifications, consolidations, replacements, and extensions thereof, to the full extent of the principal sum secured by the Mortgage, all interest accrued and from time to time unpaid thereon and any other amounts required to be paid by the terms of the Mortgage and the instruments secured thereby, unless Mortgagee elects to subordinate the Mortgage to the Lease. Tenant will in no event subordinate or agree to subordinate the Lease to any lien or encumbrance affecting the Real Estate or the Premises other than the Mortgage without the express written consent of Mortgagee, and any such attempted subordination or agreement to subordinate without such consent of Mortgagee shall be void and of no force and effect.

3. Tenant agrees that from and after the date hereof in the event of any act or omission by Landlord under the Lease which would give Tenant the right, either immediately or after the lapse of a period of time, to terminate the Lease, or to claim a partial or total eviction, Tenant will not exercise any such right (a) until it has given written notice of such act or omission to Mortgagee in accordance with the provisions of Section 8 hereof, and, until and unless Mortgagee fails to remedy such act or omission within thirty (30) days after receipt of Tenant's notice for any act or omission involving the payment of money or which can reasonably be remedied within said thirty (30) day period, or in the case of any other act or omission which cannot reasonably be remedied within said thirty (30) days period, then Mortgagee shall have as long as necessary to remedy such act or omission (but not more than 60 days) provided (i) Mortgagee commences such remedy and notifies Tenant within said thirty (30) day period of Mortgagee's desire to remedy, and (ii) Mortgagee pursues completion of such remedy with due diligence following such giving of notice and following the time when Mortgagee shall have become entitled under the Mortgage to remedy the same. It is specifically agreed that Tenant shall not, as to Mortgagee, be entitled to require cure of any such default which is personal to Landlord, and therefore not susceptible of cure by Mortgagee, and that no such uncured default shall entitle Tenant to exercise any rights under the Lease with respect to Mortgagee, including without limitation any rights of set-off, off-set, rent abatement or termination, but that the Lease shall remain in full force and effect as between Mortgagee and Tenant except with respect to the provisions which are personal as to Landlord.

4. Tenant agrees that neither the occurrence of any default in the

Mortgage, the institution of proceedings to foreclose the lien thereof, the taking of possession by Mortgagee or by any receiver appointed in any foreclosure proceedings, the entry of a foreclosure decree, the sale of the Real Estate pursuant to such decree, the issuance of a deed to the purchaser at any such sale nor the issuance of a deed of the Real Estate in lieu of foreclosure or in settlement of amount due under the Mortgage will affect any obligation of Tenant under the Lease.

5. Tenant understands that Landlord has executed and delivered to Mortgagee an assignment of the Landlord's interests in the leases of the Real Estate, including the Lease. Under the terms of such assignment, Landlord has agreed that Tenant is entitled to rely on any notices or demands from Mortgagee to make payments to Mortgagee, without any liability or any duty of inquiry on the part of the Tenant regarding whether Landlord is in default under the Mortgage. Accordingly, Tenant further agrees that upon receipt of written notice from Mortgagee of any uncured default by Landlord under the Mortgage or the Note secured by the Mortgage, all checks and payments for all or any part of the rentals and other sums payable by Tenant under the Lease shall be delivered to and drawn to the exclusive order of Mortgagee until Mortgagee or a court of competent jurisdiction shall otherwise direct.

6. In the event Mortgagee should foreclose the Mortgage, Mortgagee will not join Tenant as a party defendant in any foreclosure proceedings, unless Tenant (and only to the extent Tenant) is deemed to be a necessary part, for so long as Tenant is not in default under the Lease beyond any applicable time period with respect to grace or cure. In the event Tenant defaults under the Lease, and such default continues beyond any applicable time period with respect to grace or cure, the obligations of Mortgagee under this Section 6 shall, at Mortgagee's election, become null and void, and Mortgagee may proceed to extinguish the Lease and all of Tenant's rights and interests in and to the Premises through foreclosure of the Mortgage.

7. So long as Tenant shall not be in default under the Lease beyond any applicable grace or cure period, (a) Mortgagee shall not disturb Tenant's possession of the Premises, and, in the event Mortgagee or any designee, successor, or purchaser of the Real Estate (or any portion thereof which shall include the Premises) through foreclosure, deed in lieu of foreclosure, power of sale, any sale or plan of reorganization in bankruptcy, or other enforcement process (herein called a "Transferee"), shall succeed to the interests of the Landlord under the Lease, (i) such occurrence shall be deemed to create direct privity of estate and contract between Tenant and such Mortgagee or Transferee (as the case may be), with the same force and effect as if the Lease had been made directly between Tenant and the Mortgagee or Transferee (as the case may be), subject only to the limitations contained below in this Paragraph 7, and (ii) Tenant shall make full and complete attainment to Mortgagee or such Transferee as the successor landlord under the Lease. In the event that Mortgagee or any Transferee shall, in accordance with the foregoing, succeed to the interest of Landlord under the Lease, Mortgagee and any such Transferee shall not be:

(a) liable for any act or omission of Landlord or any prior landlord, other than to remedy continuing defaults of which Mortgagee has received written Notice;

(b) obligated to Tenant for any security deposit or other sums deposited with any prior landlord (including Landlord) under the Lease and not physically delivered to Mortgagee;

(c) bound by any rent or additional rent which the Tenant might have paid for more than the current month to any prior landlord (including Landlord);

(d) bound by any amendment or modification of the Lease or, except as provided in the Lease, any cancellation or surrender of this Lease made without the express written consent of Mortgagee subsequent to the date hereof;

(e) subject to any offsets, claims or defenses which Tenant might have against any prior landlord (including Landlord);

(f) obligated or liable to Tenant with respect to any moving or relocation allowance for any improvements to the Premises or any part thereof;

(g) bound or liable under any oral notice given by Tenant to Landlord or any prior landlord; or

(h) obligated or liable (financially or otherwise) on account of any representation, warranty, or indemnification obligation of Landlord with respect to hazardous materials, asbestos, or other environmental laws, claims or liabilities, whether expressly stated as such or subsumed within general obligations to comply with laws or preserve the benefits of Tenant's use and enjoyment of the Premises.

8. All notices required or permitted by this Agreement shall be given by (i) hand delivery, (ii) U.S. Registered or Certified Mail, return receipt requested, or a nationally reputable overnight courier service, and shall be addressed to the recipient at the respective address specified in the opening paragraph of this Agreement. No notice shall be effective unless and until actually received.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement as of the date first above written.

Tenant:

KVH INDUSTRIES, INC.

By:

Name: Richard C. Forsyth  
Title: Chief Financial Officer

Landlord:

COLE TAYLOR BANK, as Trustee  
under Trust Agreement dated  
September 30, 1997 and  
known as Trust No. 97-7559

By:

Name:  
Title:

Mortgagee:

KEYBANK NATIONAL ASSOCIATION

By:

Name:  
Title:

State of Rhode Island  
County Newport

Then personally appeared Richard C. Forsyth the Chief Financial Officer of KVH Industries, Inc., and acknowledged the foregoing instrument to be his free act and deed, and the free act and deed of said corporation, before me.

Notary Public  
My commission expires: 7/6/02

State of  
County

Then personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Cole Taylor Bank) as Trustee aforesaid, and acknowledged the foregoing instrument to be his free act and deed, and the free act and deed of said institution, as trustee, before me.

Notary Public  
My commission expires:

State of  
County

Then personally appeared \_\_\_\_\_ the \_\_\_\_\_ of KeyBank National Association, and acknowledged the foregoing instrument to be his free act and deed, and the free act and deed of said institution, before me.

Notary Public  
My commission expires: