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February 9, 2017

RECEIVED

Executive Director Talina R. Matthews  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

FEB 13 2017

PUBLIC SERVICE  
COMMISSION

RE: Gearheart Communications, Inc. dba Coalfields Telephone Company  
Case 2016-00397

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Dear Director Matthews:

Pursuant to ordering paragraph 3 of the above Case, Gearheart Communications, Inc. dba Coalfields Telephone Company provides notice of its compliance with all matters set out in finding paragraphs 3 through 6 as if they were individually so ordered, via this submission of its executed loan document.

Please call or email me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Eileen M Bodamer".

Eileen M Bodamer  
Consultant to Coalfields Telephone Company

Enc.

Cc (email): James Campbell

## LOAN AGREEMENT

THIS LOAN AGREEMENT (the "Agreement") is dated as of November 30, 2016, by and between Bank of America, N.A. (the "Bank") and Gearheart Communications Company, Inc. (the "Borrower").

## 1. FACILITY NO. 1: THE CAPITAL EXPENDITURES LINE OF CREDIT

1.1 Capital Expenditures Line of Credit Amount.

- (a) During the availability period described below, the Bank will provide a capital expenditures line of credit loan to the Borrower. The amount of the capital expenditures line of credit loan (the "Facility No. 1 Commitment") is Eleven Million Dollars (\$11,000,000.00), subject to permanent reduction as provided in Section 1.3(b) below.
- (b) This is a revolving line of credit. During the availability period, the Borrower may repay principal amounts and reborrow them.
- (c) Each loan advance, after the first loan disbursement under this Agreement, shall be used for capital expenditures in connection with the Borrower's business. All equipment, personal property and other items acquired with the proceeds of such loans shall be free and clear of any security interests, liens, encumbrances or rights of others except the security interests of the Bank under any security agreements required under this Agreement. Each request for an advance under the Facility No. 1 Commitment must be accompanied by a copy of the purchase order or invoice for the capital expenditure to be purchased with the proceeds of the loan. The amount of each loan shall not exceed 100% of the purchase price and installation costs, if applicable.
- (d) The Borrower agrees not to permit the outstanding principal balance of the loans under the line of credit to exceed the Facility No. 1 Commitment.

1.2 Availability Period.

The line of credit is available between the date of this Agreement and December 31, 2018, or such earlier date as the availability may terminate as provided in this Agreement (the "Facility No. 1 Expiration Date").

1.3 Repayment Terms; Conversion to Term Loans.

- (a) The Borrower will pay interest on January 1, 2017, and then on the same day of each month thereafter until payment in full of any principal outstanding under this facility.
- (b) On May 1, 2017, Bank will convert the then outstanding principal balance under the Facility No. 1 Commitment from a revolving line of credit loan to a term loan and shall amortize the outstanding principal balance over ten years using a mortgage style amortization. The principal amount converted from the line of credit loan to the term loan shall permanently reduce on a dollar for dollar basis the amount available for borrowings thereafter under the Facility No. 1 Commitment. Interest shall continue to accrue at the rate set forth below. Once amortized, Borrower shall pay principal in consecutive installments, plus accrued interest, payable monthly, commencing on June 1, 2017 and continuing on the same day of each successive month thereafter, with a final payment of all unpaid principal and accrued interest due on October 31, 2023.
- (c) On January 1, 2019, Bank will convert the remaining outstanding principal balance under the Facility No. 1 Commitment from a revolving line of credit loan to a term loan and shall amortize the outstanding principal balance over ten years using a mortgage style amortization. Interest shall continue to accrue at the rate set forth below. Once amortized, Borrower shall pay principal in consecutive installments, plus accrued interest, payable monthly, commencing on February 1,

2019 and continuing on the same day of each successive month thereafter, with a final payment of all unpaid principal and accrued interest due on October 31, 2023.

- (d) The Borrower will repay in full any principal, interest or other charges outstanding under this facility no later than October 31, 2023.

1.4 Interest Rate.

- (a) The interest rate is a rate per year equal to the LIBOR Rate (Adjusted Periodically) plus 1.40 percentage points.
- (b) The interest rate will be adjusted on the first day of each month (the "Adjustment Date") and remain fixed until the next Adjustment Date. If the Adjustment Date in any particular month would otherwise fall on a day that is not a banking day then, at the Bank's option, the Adjustment Date for that particular month will be the first banking day immediately following thereafter.
- (c) The LIBOR Rate (Adjusted Periodically) is a rate of interest equal to the rate per annum equal to the London Interbank Offered Rate (or a comparable or successor rate which is approved by the Bank), as published by Bloomberg (or other commercially available source providing quotations of such rate as selected by the Bank from time to time) as determined for each Adjustment Date at approximately 11:00 a.m. London time two (2) London Banking Days prior to the Adjustment Date, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a term of one month. If such rate is not available at such time for any reason, then the rate for that interest period will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars. If at any time the LIBOR Rate (Adjusted Periodically) is less than zero, such rate shall be deemed to be zero for the purposes of this Agreement

1.5 Prepayments.

- (a) The Borrower may prepay the credit in full or in part at any time. The prepayment will be applied to the most remote payment of principal due under this Agreement.
- (b) Each prepayment, whether voluntary, by reason of acceleration or otherwise, will be accompanied by the amount of accrued interest on the amount prepaid, and, if the prepayment is made during a Fixed Interest Rate Period, the prepayment fee described below. The "Fixed

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- (c) If a prepayment is made on a date on which the interest rate resets, then there will be no prepayment fee.
- (d) If a prepayment fee is payable, the prepayment fee shall be equal to the following: (the amount prepaid) multiplied by (1.00%) multiplied by (a fraction, the numerator of which is the number of days remaining after the prepayment is made before the next Adjustment Date and the denominator of which is 360).

1.6 Promissory Note.

The Borrower's obligation to repay the Facility No. 1 Commitment is evidenced by that certain Promissory Note in the principal amount of \$11,000,000.00 made by Borrower to the order of Bank.

2. COLLATERAL

2.1 Personal Property.

All personal property assets of the Borrower will secure the Borrower's obligations to the Bank under this Agreement. The collateral is further defined in security agreement(s) executed by the owners of the collateral. In addition, all personal property collateral owned by the Borrower securing this Agreement shall also secure all other present and future obligations of the Borrower to the Bank and to any affiliate of the Bank (excluding any consumer credit covered by the federal Truth in Lending law, unless the Borrower has otherwise agreed in writing or received written notice thereof). All personal property collateral securing any other present or future obligations of the Borrower to the Bank shall also secure this Agreement.

### 3. LOAN ADMINISTRATION AND FEES

#### 3.1 Fees.

- (a) Loan Fee. The Borrower agrees to pay a loan fee equal to 25 basis points based on the total aggregate commitment for the Facility No. 1 Commitment. This fee is due on the date of this Agreement.
- (b) Waiver Fee. If the Bank, at its discretion, agrees to waive or amend any terms of this Agreement, the Borrower will, at the Bank's option, pay the Bank a fee for each waiver or amendment in an amount advised by the Bank at the time the Borrower requests the waiver or amendment. Nothing in this paragraph shall imply that the Bank is obligated to agree to any waiver or amendment requested by the Borrower. The Bank may impose additional requirements as a condition to any waiver or amendment.

#### 3.2 Collection of Payments.

- (a) Payments will be made by debit to a deposit account, if direct debit is provided for in this Agreement or is otherwise authorized by the Borrower. For payments not made by direct debit, payments will be made by mail to the address shown on the Borrower's statement, or by such other method as may be permitted by the Bank.
- (b) Each disbursement by the Bank and each payment by the Borrower will be evidenced by records kept by the Bank which will, absent manifest error, be conclusively presumed to be correct and accurate and constitute an account stated between the Borrower and the Bank.
- (c) All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff.

#### 3.3 Intentionally Deleted.

#### 3.4 Borrower's Instructions.

Subject to the terms, conditions and procedures stated elsewhere in this Agreement, the Bank may honor instructions for advances or repayments and any other instructions under this Agreement given by the Borrower (if an individual), or by any one of the individuals the Bank reasonably believes is authorized to sign loan agreements on behalf of the Borrower, or any other individual(s) designated by any one of such authorized signers (each an "Authorized Individual"). The Bank may honor any such instructions made by any one of the Authorized Individuals, whether such instructions are given in writing or by telephone, telefax or Internet and intranet websites designated by the Bank with respect to separate products or services offered by the Bank.

#### 3.5 Direct Debit.

- (a) The Borrower agrees that on the due date of any amount due under this Agreement, the Bank will debit the amount due from Account No. ending xxx-xxxxx- 5978 owned by Borrower, or such

other of the Borrower's accounts with the Bank as designated in writing by the Borrower (collectively, the "Designated Account"). Should there be insufficient funds in the Designated Account to pay all such sums when due, the full amount of such deficiency shall be immediately due and payable by the Borrower.

- (b) The Borrower may terminate this direct debit arrangement at any time by sending written notice to the Bank at the address specified at the end of this Agreement. If the Borrower terminates this arrangement, then the principal amount outstanding under this Agreement will at the option of the Bank bear interest at a rate per annum which is 0.05 percentage point(s) higher than the rate of interest otherwise provided under this Agreement.

3.6 Banking Days.

Unless otherwise provided in this Agreement, a banking day is a day other than a Saturday, Sunday or other day on which commercial banks are authorized to close, or are in fact closed, in the state where the Bank's lending office is located, and, if such day relates to amounts bearing interest at an offshore rate (if any), means any such day on which dealings in dollar deposits are conducted among banks in the offshore dollar interbank market. All payments and disbursements which would be due or which are received on a day which is not a banking day will be due or applied, as applicable, on the next banking day.

3.7 Interest Calculation.

Except as otherwise stated in this Agreement, all interest and fees, if any, will be computed on the basis of a 360-day year and the actual number of days elapsed. This results in more interest or a higher fee than if a 365-day year is used. Installments of principal which are not paid when due under this Agreement shall continue to bear interest until paid. To the extent that any calculation of interest or any fee required to be paid under this Agreement shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

3.8 Default Rate.

Upon the occurrence of any default or after maturity or after judgment has been rendered on any obligation under this Agreement, all amounts outstanding under this Agreement, including any unpaid interest, fees, or costs, will at the option of the Bank bear interest at a rate which is 4.0 percentage points higher than the rate of interest otherwise provided under this Agreement. This may result in compounding of interest. This will not constitute a waiver of any default.

4. CONDITIONS

Before the Bank is required to extend any credit to the Borrower under this Agreement, it must receive any documents and other items it may reasonably require, in form and content acceptable to the Bank, including any items specifically listed below.

4.1 Authorizations.

If the Borrower or any Guarantor is anything other than a natural person, evidence that the execution, delivery and performance by the Borrower and/or such Guarantor of this Agreement and any instrument or agreement required under this Agreement have been duly authorized.

4.2 Governing Documents.

If required by the Bank, a copy of the Borrower's organizational documents.

4.3 Guaranties.

Guaranties signed by Paul D. Gearheart, Linda Gearheart, Susan Schmoltd, John Schmoltd, Elaine Gearheart (collectively, the "individual Guarantors"), Inter Mountain Cable, Inc. and Mikrotec CATV, LLC (collectively, the "corporate Guarantors")(the individual Guarantors and the corporate Guarantors are collectively referred to herein as the "Guarantors").

4.4 Security Agreements.

Signed original security agreements covering the personal property collateral which the Bank requires.

4.5 Perfection and Evidence of Priority.

Evidence that the security interests and liens in favor of the Bank are valid, enforceable, properly perfected in a manner acceptable to the Bank and prior to all others' rights and interests, except those the Bank consents to in writing.

4.6 Payment of Fees.

Payment of all fees and other amounts due and owing to the Bank, including without limitation payment of all accrued and unpaid expenses incurred by the Bank as required by the paragraph entitled "Expenses."

4.7 Repayment of Other Credit Agreement.

Evidence that the existing credit facility with Fifth Third Bank has been or will be repaid and cancelled on or before the first disbursement under this Agreement.

4.8 Good Standing.

Certificates of good standing for the Borrower from its state of formation and from any other state in which the Borrower is required to qualify to conduct its business.

4.9 Legal Opinion.

A written opinion from the Borrower's legal counsel, covering such matters as the Bank may require. The legal counsel and the terms of the opinion must be acceptable to the Bank.

4.10 Landlord Agreement.

For any personal property collateral located on real property which is subject to a mortgage or deed of trust or which is not owned by the Borrower (or the grantor of the security interest), an agreement from the owner of the real property and the holder of any such mortgage or deed of trust.

4.11 Insurance.

Evidence of insurance coverage, as required in the "Covenants" section of this Agreement.

5. REPRESENTATIONS AND WARRANTIES

When the Borrower signs this Agreement, and until the Bank is repaid in full, the Borrower makes the following representations and warranties. Each request for an extension of credit constitutes a renewal of these representations and warranties as of the date of the request:



5.1 Formation.

If the Borrower is anything other than a natural person, it is duly formed and existing under the laws of the state or other jurisdiction where organized.

5.2 Authorization.

This Agreement, and any instrument or agreement required under this Agreement, are within the Borrower's powers, have been duly authorized, and do not conflict with any of its organizational papers.

5.3 Enforceable Agreement.

This Agreement is a legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, and any instrument or agreement required under this Agreement, when executed and delivered, will be similarly legal, valid, binding and enforceable.

5.4 Good Standing.

In each state in which the Borrower does business, it is properly licensed, in good standing, and, where required, in compliance with fictitious name statutes.

5.5 No Conflicts.

This Agreement does not conflict with any law, agreement, or obligation by which the Borrower is bound.

5.6 Financial Information.

All financial and other information that has been or will be supplied to the Bank is sufficiently complete to give the Bank accurate knowledge of the Borrower's (and any Guarantor's) financial condition, including all material contingent liabilities. Since the date of the most recent financial statement provided to the Bank, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of the Borrower (or any Guarantor). If the Borrower is comprised of the trustees of a trust, the above representations shall also pertain to the trustor(s) of the trust.

5.7 Lawsuits.

There is no lawsuit, tax claim or other dispute pending or threatened against the Borrower which, if lost, would impair the Borrower's financial condition or ability to repay the loan, except as have been disclosed in writing to the Bank.

5.8 Collateral.

All collateral required in this Agreement is owned by the grantor of the security interest free of any title defects or any liens or interests of others, except those which have been approved by the Bank in writing.

5.9 Permits, Franchises.

The Borrower possesses all permits, memberships, franchises, contracts and licenses required and all trademark rights, trade name rights, patent rights, copyrights, and fictitious name rights necessary to enable it to conduct the business in which it is now engaged.

5.10 Other Obligations.

The Borrower is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation, except as have been disclosed in writing to the Bank.

5.11 Tax Matters.

The Borrower has no knowledge of any pending assessments or adjustments of its income tax for any year and all taxes due have been paid, except as have been disclosed in writing to the Bank.

5.12 No Event of Default.

There is no event which is, or with notice or lapse of time or both would be, a default under this Agreement.

5.13 Insurance.

The Borrower has obtained, and maintained in effect, the insurance coverage required in the "Covenants" section of this Agreement.

5.14 ERISA Plans.

- (a) Each Plan (other than a multiemployer plan) is in compliance in all material respects with ERISA, the Code and other federal or state law, including all applicable minimum funding standards and there have been no prohibited transactions with respect to any Plan (other than a multiemployer plan), which has resulted or could reasonably be expected to result in a material adverse effect.
- (b) With respect to any Plan subject to Title IV of ERISA:
  - (i) No reportable event has occurred under Section 4043(c) of ERISA which requires notice.
  - (ii) No action by the Borrower or any ERISA Affiliate to terminate or withdraw from any Plan has been taken and no notice of intent to terminate a Plan has been filed under Section 4041 or 4042 of ERISA.
- (c) The following terms have the meanings indicated for purposes of this Agreement:
  - (i) "Code" means the Internal Revenue Code of 1986, as amended.
  - (ii) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.
  - (iii) "ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code.
  - (iv) "Plan" means a plan within the meaning of Section 3(2) of ERISA maintained or contributed to by the Borrower or any ERISA Affiliate, including any multiemployer plan within the meaning of Section 4001(a)(3) of ERISA.

5.15 Government Sanctions.

- (a) The Borrower represents that neither the Borrower, any Obligor, nor any of their respective affiliated entities, including in the case of any Borrower or Obligor that is not a natural person, subsidiaries nor, to the knowledge of the Borrower, any owner, trustee, director, officer,

employee, agent, affiliate or representative of the Borrower or any Obligor is an individual or entity ("Person") currently the subject of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of Treasury's Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, "Sanctions"), nor is the Borrower or any Obligor located, organized or resident in a country or territory that is the subject of Sanctions.

- (b) The Borrower represents and covenants that it will not, directly or indirectly, use the proceeds of the credit provided under this Agreement, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

5.16 Location of Borrower.

The place of business of the Borrower (or, if the Borrower has more than one place of business, its chief executive office) is located as follows: 20 Laynesville Road, Harold, Kentucky 41635.

6. COVENANTS

The Borrower agrees, so long as credit is available under this Agreement and until the Bank is repaid in full:

6.1 Use of Proceeds.

To use the proceeds of Facility No. 1, after the first loan disbursement under this Agreement, only to finance capital expenditures and costs associated with constructing improvements to Borrower owned real property.

6.2 Financial Information.

To provide the following financial information and statements in form and content acceptable to the Bank, and such additional information as requested by the Bank from time to time. The Bank reserves the right, upon written notice to the Borrower, to require the Borrower to deliver financial information and statements to the Bank more frequently than otherwise provided below, and to use such additional information and statements to measure any applicable financial covenants in this Agreement.

- (a) Within 120 days of the fiscal year end the annual financial statements of the Borrower, certified and dated by an authorized financial officer. These financial statements shall include a balance sheet, income statement, and profit and loss statement. These financial statements must be audited (with an opinion satisfactory to the Bank) by a Certified Public Accountant acceptable to the Bank.
- (b) Within 45 days after each period's end (including the last period in each fiscal year) quarterly financial statements of the Borrower certified and dated by an authorized financial officer. These financial statements may be company-prepared.
- (c) Promptly, upon sending or receipt, copies of any management letters and correspondence relating to management letters, sent or received by the Borrower to or from the Borrower's auditor. If no management letter is prepared, the Bank may, in its discretion, request a letter from such auditor stating that no deficiencies were noted that would otherwise be addressed in a management letter.

- (d) Within 15 days of filing, copies of the federal income tax return(s) of the individual Guarantors, including copies of any K-1s and all other schedules, in the form filed with the Internal Revenue Service (as well as any subsequent amendments or supplements); and if requested by the Bank, authentications of such documents (whether in the form of signed copies or otherwise) satisfactory to the Bank or copies of any extensions of the filing date.
- (e) Within 120 days of the calendar year end, personal financial statements of the individual Guarantors.
- (f) Upon delivery of the financial statements required under Sections 6.2(a) and (b) above, a compliance certificate of the Borrower signed by an authorized financial officer and setting forth (i) the information and computations (in sufficient detail) to establish compliance with all financial covenants at the end of the period covered by the financial statements then being furnished; (ii) whether there existed as of the date of such financial statements and whether there exists as of the date of the certificate, any default under this Agreement applicable to the party submitting the information and, if any such default exists, specifying the nature thereof and the action the party is taking and proposes to take with respect thereto; and (iii) on an annual basis, a forecast for Borrower.

6.3 Total Net Debt to Adjusted EBITDA Ratio.

To maintain a ratio of Total Net Debt to Adjusted EBITDA not exceeding 2.0 to 1.0.

"Total Net Debt" is defined as total debt less [(the lesser of the amount of Qualified Cash at the time the ratio is measured or \$10,000,000.00) less \$2,000,000.00].

"Adjusted EBITDA" means net income, plus income taxes, plus interest expense, plus depreciation, depletion, and amortization, plus or minus non-recurring items, minus profit or loss from East Kentucky Network, LLC, plus cash distributions from East Kentucky Network, LLC.

"Qualified Cash" means funds on deposit with Bank and funds on deposit with another lender subject to an account control agreement in favor of Bank.

This ratio will be calculated at the end of each reporting period for which the Bank requires financial statements, using the results of the twelve-month period ending with that reporting period.

6.4 Basic Fixed Charge Coverage Ratio.

To maintain a Basic Fixed Charge Coverage Ratio of at least 1.15:1.0.

"Basic Fixed Charge Coverage Ratio" means the ratio of (Normalized EBITDA minus maintenance capital expenditures, minus taxes, minus distributions) divided by (principal and interest expense).

"Normalized EBITDA" means net income, minus income or plus loss from discontinued operations and extraordinary items, plus income taxes, plus interest expense, plus depreciation, depletion, and amortization, plus or minus non-recurring items, minus profit or loss from East Kentucky Network, LLC, plus cash distributions from East Kentucky Network, LLC not to exceed \$3,000,000.00. If cash distributions from East Kentucky Network, LLC exceed \$3,000,000.00, employee compensation (*i.e.*, bonuses) related to the excess will be added.

This ratio will be calculated at the end of each reporting period for which the Bank requires financial statements, using the results of the twelve-month period ending with that reporting period.

6.5 Ownership of Business.

The Guarantors or trusts for their benefit shall maintain ownership of and shall refrain from using as collateral at least 51% of the voting shares of stock of Borrower.

6.6 Bank as Principal Depository.

To maintain the Bank or one of its affiliates as its principal depository bank, including for the maintenance of business, cash management, operating and administrative deposit accounts.

6.7 Other Debts.

Not to have outstanding or incur any direct or contingent liabilities or lease obligations (other than those to the Bank or to any affiliate of the Bank), or become liable for the liabilities of others, without the Bank's written consent. This does not prohibit:

- (a) Acquiring goods, supplies, or merchandise on normal trade credit.
- (b) Liabilities, lines of credit and leases in existence on the date of this Agreement disclosed in writing to the Bank.

6.8 Other Liens.

Not to create, assume, or allow any security interest or lien (including judicial liens) on property the Borrower now or later owns, except:

- (a) Liens and security interests in favor of the Bank or any affiliate of the Bank.
- (b) Liens outstanding on the date of this Agreement disclosed in writing to the Bank.

6.9 Maintenance of Assets.

- (a) Not to sell, assign, lease, transfer or otherwise dispose of any part of the Borrower's business or the Borrower's assets except inventory sold in the ordinary course of the Borrower's business.
- (b) Not to sell, assign, lease, transfer or otherwise dispose of any assets for less than fair market value, or enter into any agreement to do so.
- (c) Not to enter into any sale and leaseback agreement covering any of its fixed assets.
- (d) To maintain and preserve all rights, privileges, and franchises the Borrower now has.
- (e) To make any repairs, renewals, or replacements to keep the Borrower's properties in good working condition.

6.10 Investments.

Not to have any existing, or make any new, investments in any individual or entity, or make any capital contributions or other transfers of assets to any individual or entity, except for:

- (a) Existing investments disclosed in writing to the Bank.
- (b) Investments in any of the following:
  - (i) certificates of deposit;

- (ii) U.S. treasury bills and other obligations of the federal government;
- (iii) readily marketable securities (including commercial paper, but excluding restricted stock and stock subject to the provisions of Rule 144 of the Securities and Exchange Commission).

6.11 Loans.

Not to make any loans, advances or other extensions of credit to any individual or entity, except for:

- (a) Existing extensions of credit disclosed in writing to the Bank.
- (b) Extensions of credit to the Borrower's current subsidiaries.
- (c) Extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business to non-affiliated entities.
- (d) Existing extensions of credit to affiliated companies and shareholders disclosed in writing to the Bank.
- (e) Extensions of credit to or on behalf of Guarantors on and after the date of this Agreement in an amount not to exceed \$5,000,000.00.

6.12 Change of Management.

Not to make any substantial change in the present executive or management personnel of the Borrower.

6.13 Additional Negative Covenants.

Not to, without the Bank's written consent:

- (a) Enter into any consolidation, merger, or other combination, or become a partner in a partnership, a member of a joint venture, or a member of a limited liability company.
- (b) Acquire or purchase a business or its assets.
- (c) Engage in any business activities substantially different from the Borrower's present business.
- (d) Liquidate or dissolve the Borrower's business.
- (e) Voluntarily suspend its business for more than fifteen (15) days in any forty-five (45) day period.

6.14 Notices to Bank.

To promptly notify the Bank in writing of:

- (a) Any lawsuit in which the claim for damages exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00) against the Borrower or any Obligor.
- (b) Any substantial dispute between any governmental authority and the Borrower or any Obligor.
- (c) Any event of default under this Agreement, or any event which, with notice or lapse of time or both, would constitute an event of default.

- (d) Any change in the Borrower's or any Obligor's name, legal structure, principal residence, or name on any driver's license or special identification card issued by any state (for an individual), state of registration (for a registered entity), place of business, or chief executive office if the Borrower or any Obligor has more than one place of business.

For purposes of this Agreement, "Obligor" shall mean any Guarantor, any party pledging collateral to the Bank, or, if the Borrower is comprised of the trustees of a trust, any trustor.

6.15 Insurance.

- (a) General Business Insurance. To maintain insurance satisfactory to the Bank as to amount, nature and carrier covering property damage (including loss of use and occupancy) to any of the Borrower's properties, business interruption insurance, public liability insurance including coverage for contractual liability, product liability and workers' compensation, and any other insurance which is usual for the Borrower's business. Each policy shall provide for at least thirty (30) days prior notice to the Bank of any cancellation thereof.
- (b) Insurance Covering Collateral. To maintain all risk property damage insurance policies (including without limitation windstorm coverage, and hurricane coverage as applicable) covering the tangible property comprising the collateral. Each insurance policy must be for the full replacement cost of the collateral and include a replacement cost endorsement. The insurance must be issued by an insurance company acceptable to the Bank and must include a lender's loss payable endorsement in favor of the Bank in a form acceptable to the Bank.
- (c) Evidence of Insurance. Upon the request of the Bank, to deliver to the Bank a copy of each insurance policy, or, if permitted by the Bank, a certificate of insurance listing all insurance in force.

6.16 Compliance with Laws.

To comply with the laws (including any fictitious or trade name statute), regulations, and orders of any government body with authority over the Borrower's business, including, without limitation, the Federal Communications Commission. The Bank shall have no obligation to make any advance to the Borrower except in compliance with all applicable laws and regulations and the Borrower shall fully cooperate with the Bank in complying with all such applicable laws and regulations.

6.17 Books and Records.

To maintain adequate books and records.

6.18 Audits.

To allow the Bank and its agents to inspect the Borrower's properties and examine, audit, and make copies of books and records at any reasonable time. If any of the Borrower's properties, books or records are in the possession of a third party, the Borrower authorizes that third party to permit the Bank or its agents to have access to perform inspections or audits and to respond to the Bank's requests for information concerning such properties, books and records.

6.19 Perfection of Liens.

To help the Bank perfect and protect its security interests and liens, and reimburse it for related costs it incurs to protect its security interests and liens.

6.20 Cooperation.

To take any action reasonably requested by the Bank to carry out the intent of this Agreement.

6.21 No Consumer Purpose.

Not to use this loan for personal, family, or household purposes. The Bank may provide the Borrower (or any Guarantor) with certain disclosures intended for loans made for personal, family, or household purposes. The fact that the Bank elects to make such disclosures shall not be deemed a determination by the Bank that the loan will be used for such purposes.

7. HAZARDOUS SUBSTANCES

7.1 Indemnify Regarding Hazardous Substances.

The Borrower will indemnify and hold harmless the Bank from any loss or liability the Bank incurs in connection with or as a result of this Agreement, which directly or indirectly arises out of the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or presence of a hazardous substance. This indemnity will apply whether the hazardous substance is on, under or about the Borrower's property or operations or property leased to the Borrower. The indemnity includes but is not limited to attorneys' fees (including the reasonable estimate of the allocated cost of in-house counsel and staff). The indemnity extends to the Bank, its parent, subsidiaries and all of their directors, officers, employees, agents, successors, attorneys and assigns.

7.2 Compliance Regarding Hazardous Substances.

The Borrower represents and warrants that the Borrower has complied with all current and future laws, regulations and ordinances or other requirements of any governmental authority relating to or imposing liability or standards of conduct concerning protection of health or the environment or hazardous substances.

7.3 Notices Regarding Hazardous Substances.

Until full repayment of the loan, the Borrower will promptly notify the Bank in writing of any threatened or pending investigation of the Borrower or its operations by any governmental agency under any current or future law, regulation or ordinance pertaining to any hazardous substance.

7.4 Site Visits, Observations and Testing.

The Bank and its agents and representatives will have the right at any reasonable time, after giving reasonable notice to the Borrower, to enter and visit any locations where the collateral securing this Agreement (the "Collateral") is located for the purposes of observing the Collateral, taking and removing environmental samples, and conducting tests. The Borrower shall reimburse the Bank on demand for the costs of any such environmental investigation and testing. The Bank will make reasonable efforts during any site visit, observation or testing conducted pursuant to this paragraph to avoid interfering with the Borrower's use of the Collateral. The Bank is under no duty to observe the Collateral or to conduct tests, and any such acts by the Bank will be solely for the purposes of protecting the Bank's security and preserving the Bank's rights under this Agreement. No site visit, observation or testing or any report or findings made as a result thereof ("Environmental Report") (i) will result in a waiver of any default of the Borrower; (ii) impose any liability on the Bank; or (iii) be a representation or warranty of any kind regarding the Collateral (including its condition or value or compliance with any laws) or the Environmental Report (including its accuracy or completeness). In the event the Bank has a duty or obligation under applicable laws, regulations or other requirements to disclose an Environmental Report to the Borrower or any other party, the Borrower authorizes the Bank to make such a disclosure. The Bank may also disclose an Environmental Report to any regulatory authority, and to any other parties as necessary or appropriate in the Bank's judgment. The Borrower further understands and agrees that any Environmental Report or other information regarding a site visit, observation or testing that is disclosed to



the Borrower by the Bank or its agents and representatives is to be evaluated (including any reporting or other disclosure obligations of the Borrower) by the Borrower without advice or assistance from the Bank.

7.5 Definition of Hazardous Substances.

"Hazardous substances" means any substance, material or waste that is or becomes designated or regulated as "toxic," "hazardous," "pollutant," or "contaminant" or a similar designation or regulation under any current or future federal, state or local law (whether under common law, statute, regulation or otherwise) or judicial or administrative interpretation of such, including without limitation petroleum or natural gas.

7.6 Continuing Obligation.

The Borrower's obligations to the Bank under this Article, except the obligation to give notices to the Bank, shall survive termination of this Agreement and repayment of the Borrower's obligations to the Bank under this Agreement.

8. DEFAULT AND REMEDIES

If any of the following events of default occurs, the Bank may do one or more of the following: declare the Borrower in default, stop making any additional credit available to the Borrower, and require the Borrower to repay its entire debt immediately and without prior notice. If an event which, with notice or the passage of time, will constitute an event of default has occurred and is continuing, the Bank has no obligation to make advances or extend additional credit under this Agreement. In addition, if any event of default occurs, the Bank shall have all rights, powers and remedies available under any instruments and agreements required by or executed in connection with this Agreement, as well as all rights and remedies available at law or in equity. If an event of default occurs under the paragraph entitled "Bankruptcy/Receivers," below, with respect to the Borrower, then the entire debt outstanding under this Agreement will automatically be due immediately.

8.1 Failure to Pay.

The Borrower fails to make a payment under this Agreement within five (5) days after the date when due.

8.2 Covenants.

Any default in the performance of or compliance with any obligation, agreement or other provision contained in this Agreement (other than those specifically described as an event of default in this Article) and with respect to any such default that by its nature can be cured, such default shall continue for a period of twenty (20) days from its occurrence.

8.3 Other Bank Agreements.

(a) Any default occurs under any guaranty, subordination agreement, security agreement, deed of trust, mortgage, or other document required by or delivered in connection with this Agreement or any such document is no longer in effect, or any Guarantor purports to revoke or disavow the guaranty; or any representation or warranty made by any Guarantor is false when made or deemed to be made; or

(b) Any default occurs under any other agreement the Borrower (or any Obligor) or any of the Borrower's related entities or affiliates has with the Bank or any affiliate of the Bank. If, in the Bank's opinion, any breach under this subparagraph (b) is capable of being remedied, the breach will not be considered an event of default under this Agreement for a period of twenty (20) days after the date on which the Bank gives written notice of the breach to the Borrower.

8.4 Cross-default.

Any default occurs under any agreement in connection with any credit the Borrower, the corporate Guarantors, (or any Obligor) or any of the Borrower's related entities or affiliates has obtained from anyone else or which the Borrower, the corporate Guarantors, (or any Obligor) or any of the Borrower's or corporate Guarantors' related entities or affiliates has guaranteed.

8.5 False Information.

The Borrower or any Obligor has given the Bank materially false or misleading information or representations.

8.6 Bankruptcy/Receivers.

The Borrower, any Obligor, or any general partner of the Borrower or of any Obligor files a bankruptcy petition, a bankruptcy petition is filed against any of the foregoing parties and such petition is not dismissed within a period of forty-five (45) days after the filing, or the Borrower, any Obligor, or any general partner of the Borrower or of any Obligor makes a general assignment for the benefit of creditors; or a receiver or similar official is appointed for a substantial portion of Borrower's or any Obligor's business; or the business is terminated, or such Obligor is liquidated or dissolved.

8.7 Lien Priority.

The Bank fails to have an enforceable first lien (except for any prior liens to which the Bank has consented in writing) on or security interest in any property given as security for this Agreement (or any guaranty).

8.8 Judgments.

Any notice of judgment lien is filed against the Borrower or any Obligor; or a notice of levy and/or of a writ of attachment or execution, or other like process, is served against the assets of the Borrower or any Obligor in an aggregate amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more.

8.9 Material Adverse Change.

A material adverse change occurs, or is reasonably likely to occur, in the Borrower's (or any Obligor's) business condition (financial or otherwise), operations or properties, or ability to repay the credit; or the Bank determines that it is insecure for any other reason. The death of an individual Guarantor shall not constitute a material adverse change and shall not result in an event of a default under this Agreement; however the foregoing does not restrict the enforceability of an individual Guarantor's guaranty in favor of Bank in the event of an individual Guarantor's death.

8.10 Government Action.

Any government authority, including, but not limited to the Federal Communications Commission, takes action that the Bank believes materially adversely affects the Borrower's or any Obligor's financial condition or ability to repay.

8.11 ERISA Plans.

A reportable event occurs under Section 4043(c) of ERISA, or any Plan termination (or commencement of proceedings to terminate a Plan) or the full or partial withdrawal from a Plan under Section 4041 or 4042 of ERISA occurs; provided such event or events could reasonably be expected, in the judgment of the Bank, to have a material adverse effect.

9. ENFORCING THIS AGREEMENT; MISCELLANEOUS

9.1 GAAP.

Except as otherwise stated in this Agreement, all financial information provided to the Bank and all financial covenants will be made under generally accepted accounting principles, consistently applied.

9.2 Governing Law.

Except to the extent that any law of the United States may apply, this Agreement shall be governed and interpreted according to the laws of Tennessee (the "Governing Law State"), without regard to any choice of law, rules or principles to the contrary. Nothing in this paragraph shall be construed to limit or otherwise affect any rights or remedies of the Bank under federal law.

9.3 Venue and Jurisdiction.

The Borrower agrees that any action or suit against the Bank arising out of or relating to this Agreement shall be filed in federal court or state court located in the Governing Law State. The Borrower agrees that the Bank shall not be deemed to have waived its rights to enforce this section by filing an action or suit against the Borrower in a venue outside of the Governing Law State. If the Bank does commence an action or suit arising out of or relating to this Agreement, the Borrower agrees that the case may be filed in federal court or state court in the Governing Law State. The Bank reserves the right to commence an action or suit in any other jurisdiction where the Borrower, any Guarantor, or any collateral has any presence or is located. The Borrower consents to personal jurisdiction and venue in such forum selected by the Bank and waives any right to contest jurisdiction and venue and the convenience of any such forum. The provisions of this section are material inducements to the Bank's acceptance of this Agreement.

9.4 Successors and Assigns.

This Agreement is binding on the Borrower's and the Bank's successors and assignees. The Borrower agrees that it may not assign this Agreement without the Bank's prior consent. The Bank may sell participations in or assign this loan, and may exchange information about the Borrower (including, without limitation, any information regarding any hazardous substances) with actual or potential participants or assignees. If a participation is sold or the loan is assigned, the purchaser will have the right of set-off against the Borrower.

9.5 Waiver of Jury Trial.

**EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER DOCUMENTS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION AND (c) CERTIFIES THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE.**

9.6 Waiver of Class Actions.

The terms "Claim" or "Claims" refer to any disputes, controversies, claims, counterclaims, allegations of liability, theories of damage, or defenses between Bank of America, N.A., its subsidiaries and affiliates, on the one hand, and the other parties to this Agreement, on the other hand (all of the foregoing each being referred to as a "Party" and collectively as the "Parties"). Whether in state court, federal court, or any other venue, jurisdiction, or before any tribunal, the Parties agree that all aspects of litigation and trial of any Claim will take place without resort to any form of class or representative action. Thus the Parties may only bring Claims against each other in an individual capacity and waive any right they may have to do so as a class representative or a class member in a class or representative action. **THIS CLASS ACTION WAIVER PRECLUDES ANY PARTY FROM PARTICIPATING IN OR BEING REPRESENTED IN ANY CLASS OR REPRESENTATIVE ACTION REGARDING A CLAIM.**

9.7 Severability, Waivers.

If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. The Bank retains all rights, even if it makes a loan after default. If the Bank waives a default, it may enforce a later default. Any consent or waiver under this Agreement must be in writing.

9.8 Expenses.

- (a) The Borrower shall pay to the Bank immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees, expended or incurred by the Bank in connection with (i) the negotiation and preparation of this Agreement and any related agreements, the Bank's continued administration of this Agreement and such related agreements, and the preparation of any amendments and waivers related to this Agreement or such related agreements, (ii) filing, recording and search fees, appraisal fees, field examination fees, title report fees, and documentation fees with respect to any collateral and books and records of the Borrower or any Obligor, (iii) the Bank's costs or losses arising from any changes in law which are allocated to this Agreement or any credit outstanding under this Agreement, and (iv) costs or expenses required to be paid by the Borrower or any Obligor that are paid, incurred or advanced by the Bank.
- (b) The Borrower will indemnify and hold the Bank harmless from any loss, liability, damages, judgments, and costs of any kind relating to or arising directly or indirectly out of (i) this Agreement or any document required hereunder, (ii) any credit extended or committed by the Bank to the Borrower hereunder, and (iii) any litigation or proceeding related to or arising out of this Agreement, any such document, or any such credit, including, without limitation, any act resulting from the Bank complying with instructions the Bank reasonably believes are made by any Authorized Individual. This paragraph will survive this Agreement's termination, and will benefit the Bank and its officers, employees, and agents.
- (c) The Borrower shall reimburse the Bank for any reasonable costs and attorneys' fees incurred by the Bank in connection with (i) the enforcement or preservation of the Bank's rights and remedies and/or the collection of any obligations of the Borrower which become due to the Bank and in connection with any "workout" or restructuring, and (ii) the prosecution or defense of any action in any way related to this Agreement, the credit provided hereunder or any related agreements, including without limitation, any action for declaratory relief, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by the Bank or any other person) relating to the Borrower or any other person or entity.

9.9 Intentionally Deleted.

9.10 Set-Off.

Upon and after the occurrence of an event of default under this Agreement, (a) the Borrower hereby authorizes the Bank, at any time and from time to time, without notice, which is hereby expressly waived by the Borrower, and whether or not the Bank shall have declared any credit subject hereto to be due and payable in accordance with the terms hereof, to set off against, and to appropriate and apply to the payment of, the Borrower's Obligations (whether matured or unmatured, fixed or contingent, liquidated or unliquidated), any and all amounts owing by the Bank to the Borrower (whether payable in U.S. dollars or any other currency, whether matured or unmatured, and in the case of deposits, whether general or special (except trust and escrow accounts), time or demand and however evidenced), and (b) pending any such action, to the extent necessary, to hold such amounts as collateral to secure such Obligations and to return as unpaid for insufficient funds any and all checks and other items drawn against any deposits so held as the Bank, in its sole discretion, may elect. The Borrower hereby grants to the Bank a security interest in all deposits and accounts maintained with the Bank to secure the payment of all Obligations of the Borrower to the Bank under this Agreement and all agreements, instruments and documents related to this Agreement. "Obligations" means all obligations, now or hereafter existing, of the Borrower to the Bank under this Agreement and under any other agreement or instrument executed in connection with this Agreement.

#### 9.11 One Agreement.

This Agreement and any related security or other agreements required by this Agreement constitute the entire agreement between the Borrower and the Bank with respect to each credit subject hereto and supersede all prior negotiations, communications, discussions and correspondence concerning the subject matter hereof. In the event of any conflict between this Agreement and any other agreements required by this Agreement, this Agreement will prevail.

#### 9.12 Notices.

Unless otherwise provided in this Agreement or in another agreement between the Bank and the Borrower, all notices required under this Agreement shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses on the signature page of this Agreement, or sent by facsimile to the fax numbers listed on the signature page, or to such other addresses as the Bank and the Borrower may specify from time to time in writing. Notices and other communications shall be effective (i) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid, (ii) if telecopied, when transmitted, or (iii) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered.

#### 9.13 Headings.

Article and paragraph headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Agreement.

#### 9.14 Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed, shall be deemed to be an original, and all of which when taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of this Agreement (or of any agreement or document required by this Agreement and any amendment to this Agreement) by telecopy or other electronic imaging means shall be as effective as delivery of a manually executed counterpart of this Agreement; provided, however, that the telecopy or other electronic image shall be promptly followed by an original if required by the Bank.

#### 9.15 Borrower Information: Reporting to Credit Bureaus.

The Borrower authorizes the Bank at any time to verify or check any information given by the Borrower to the Bank, check the Borrower's credit references, verify employment, and obtain credit reports. The

Borrower agrees that the Bank shall have the right at all times to disclose and report to credit reporting agencies and credit rating agencies such information pertaining to the Borrower and/or all Guarantors as is consistent with the Bank's policies and practices from time to time in effect.

9.16 Amendments.

This Agreement may be amended or modified only in writing signed by each party hereto.

**(signatures on following page)**

This Agreement is executed as of the date stated at the top of the first page.

Bank of America, N.A

Gearheart Communications Company, Inc.

By \_\_\_\_\_

By Paul D. Gearheart

Typed Name \_\_\_\_\_

Typed Name Paul D. Gearheart

Title \_\_\_\_\_

Title President

Addresses where notices to  
The Bank are to be sent:

Address where notices to  
the Borrower are to be sent:

Bank of America, N.A.  
414 Union Street  
Nashville, TN 37219

Gearheart Communications Company, Inc.  
20 Laynesville Road  
Harold, KY 41635  
Attn: James Campbell, CFO  
Facsimile: 606-412-7494

Facsimile: (615) 749-4890

*Federal law requires Bank of America, N.A. (the "Bank") to provide the following notice. The notice is not part of the foregoing agreement or instrument and may not be altered. Please read the notice carefully.*

**USA PATRIOT ACT NOTICE**

Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account or obtains a loan. The Bank will ask for the Borrower's legal name, address, tax ID number or social security number and other identifying information. The Bank may also ask for additional information or documentation or take other actions reasonably necessary to verify the identity of the Borrower, Guarantors or other related persons.

(signature page to Loan Agreement)

This Agreement is executed as of the date stated at the top of the first page.

Bank of America, N.A

Gearheart Communications Company, Inc.

By [Signature]

By \_\_\_\_\_

Typed Name [Signature]

Typed Name \_\_\_\_\_

Title [Signature]

Title \_\_\_\_\_

Addresses where notices to  
The Bank are to be sent:

Address where notices to  
the Borrower are to be sent:

Bank of America, N.A.  
414 Union Street  
Nashville, TN 37219

Gearheart Communications Company, Inc.  
20 Laynesville Road  
Harold, KY 41635

Attn: \_\_\_\_\_

Facsimile: (615) 749-4890

Facsimile: \_\_\_\_\_

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(signature page to Loan Agreement)