

Asset Purchase Agreement

This Asset Purchase Agreement (this "Agreement") is made as of this 1st day of February, 2017, by and between VistaWest Media, LLC, a Missouri limited liability company ("Seller"), and NPG of Idaho, Inc., a Missouri corporation ("Purchaser").

Seller owns and operates low power television station KXPI-LD, Pocatello, Idaho, FCC Facility ID 28231 (the "Station"), pursuant to certain licenses, permits, authorizations and approvals issued by the Federal Communications Commission (the "FCC").

Seller and Purchaser are parties to that certain Shared Services Agreement dated as of July 12, 2013 (the "SSA") whereby Purchaser provides certain services to Seller with respect to the Station.

Purchaser desires to acquire from Seller, and Seller desires to transfer to Purchaser certain assets owned, used or held for use in the operation of the Station, and in connection therewith, Purchaser has agreed to assume certain liabilities of Seller relating to the Station and to modify certain provision of the SAA, all upon the terms and subject to the conditions set forth herein (such transaction sometimes being referred to herein as the "Transaction").

Now, therefore, in consideration of the mutual covenants and agreements contained in this Agreement, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I PURCHASE AND SALE OF ASSETS

1.1. Purchase and Sale of Transferred Assets.

(a) Purchase and Sale. Upon the terms and subject to the conditions set forth herein, at the Closing, Purchaser shall purchase from Seller, and Seller shall sell, convey, transfer, assign and deliver to Purchaser, free and clear of any security interest, pledge, mortgage, lien, charge, adverse claim of ownership or use, restriction on transfer, defect of title, or other encumbrance of any kind or character (collectively, "Liens"), all right, title and interest of Seller in and to the Transferred Assets.

(b) Transferred Assets. For all purposes of and under this Agreement, the term "Transferred Assets" shall mean, refer to and include (i) the FCC licenses, permits, authorizations and approvals listed on Schedule 1.1(b)(i) (the "FCC Licenses"), (ii) the programming contracts related to the Station and the other contracts listed on Schedule 1.1(b)(ii) (the "Transferred Contracts"), and (iii) the other assets listed on Schedule 1.1(b)(iii).

1.2. Assumption of Liabilities.

(a) Assumption. Upon the terms and subject to the conditions set forth herein, at the Closing, Purchaser shall assume from Seller, and Seller shall convey, transfer and assign to Purchaser, the Assumed Liabilities of Seller.

(b) Assumed Liabilities. For all purposes of and under this Agreement, the term "Assumed Liabilities" shall mean, refer to and include the liabilities of Seller (i) under Transferred Contracts validly assigned to Purchaser to the extent attributable to the period at or after the Closing Date, and (ii) relating to the Transferred Assets arising during, or attributable to, any period of time at or after the Closing Date.

(c) Excluded Liabilities. Purchaser shall not assume, and the term "Assumed Liabilities" shall not mean, refer to or include (and, therefore, the "Excluded Liabilities" shall consist of) all Liabilities not expressly assumed by Purchaser, including the following:

(i) any liability of Seller arising out of or relating to any claim or proceeding by any person, whether pending, threatened or asserted before, on or after the Closing Date, to the extent relating to the business or operations of the Station prior to the Closing Date; and

(ii) any and all other Liabilities of Seller whatsoever, whether accrued now or hereafter, whether fixed or contingent, whether known or unknown, or any claims asserted against the Station or any of the Transferred Assets or other items transferred to Purchaser by Seller relating to any event (whether act or omission) prior to the Closing Date, including the payment of all Taxes.

1.3. Purchase Price. The consideration for the Transferred Assets shall be (i) the modification of the SSA in accordance with the SSA Amendment (as defined below), the effect of which is to reduce the Base SSA Amount payable by Seller to Purchaser under the SSA by \$41,667.00 per month (\$500,004.00 per year), (ii) the assumption by Purchaser of the Assumed Liabilities pursuant to Section 1.2, and (iii) the payment by Purchaser to Seller of the sum of Twenty Thousand Dollars (\$20,000.00) (the "Cash Payment").

1.4. Multi-Station Contracts. With respect to each Multi-Station Contract (defined below) that is a Transferred Contract, Seller is assigning to Purchaser only such portion of such Multi-Station Contract as it relates to the Station, pursuant to this Section 1.4. For purposes hereof, the term "Multi-Station Contract" means each contract designated as a "Multi-Station Contract" on Schedule 1.1(b)(ii). Subject to the provisions of this Section 1.4, to the extent that a Multi-Station Contract expressly permits the assignment of the rights and obligations of the Station (and not the rights and obligations of broadcast station KIDK-DT ("KIDK")) or the third party to such Multi-Station Contract consents to the assignment of rights and obligations of the Station (and not KIDK), the Transferred Assets shall include those rights to the extent relating to the Station to the extent attributable to the period at or after the Closing Date under a Multi-Station Contract, subject to the terms and conditions of such Multi-Station Contract (such rights, the "Multi-Station Contract Rights"), and the Assumed Liabilities shall include those obligations to the extent relating to the Station to the extent attributable to the period at or after the Closing Date under a Multi-Station Contract, subject to the terms and conditions of each such Multi-Station Contract (such obligations, the "Multi-Station Contract Obligations"). Subject to the provisions of this Section 1.4, to the extent that a Multi-Station Contract does not expressly permit the assignment of the rights and obligations of the Station (and not KIDK) or the third-party consent is not so obtained, the Multi-Station Contract Obligations shall only include those obligations to the extent relating to the Station to the extent attributable to the period at or after the Closing Date under a Multi-Station Contract to the extent that the corresponding Multi-Station Contract Rights are received by Purchaser. All rights and obligations that arise under a Multi-Station Contract other than the Multi-Station Contract Rights and the Multi-Station Contract Obligations shall in all cases be Excluded Assets and Excluded Liabilities. Subject to any applicable third-party consents, authorizations, approvals, waivers or notices, such assignment of the Multi-Station Contract Rights and the Multi-Station Contract Obligations shall be effectuated, at the election of the Seller, by termination of the Multi-Station Contract in its entirety and the execution of new contracts (with terms no less favorable to Purchaser, and a term not longer, than the current Multi-Station Contract, in all material respects) or by an assignment to and assumption by Purchaser of the Multi-Station Contract Rights and the Multi-Station Contract Obligations under such Multi-Station Contract. The parties shall use commercially reasonable efforts to obtain any such new contracts or assignments to, and assumptions by, Purchaser in accordance with this Section 1.4. Unless requested in writing by

Purchaser, Seller shall take all actions required by the terms of each Multi-Station Contract to prevent the automatic renewal of such Multi-Station Contract solely with respect to the Station.

ARTICLE II THE CLOSING

2.1. Time and Place. The consummation of the Transaction shall (a) take place at a closing (the "Closing") to be held at 10:00 a.m., Central time, on the date which is the third (3rd) business day after satisfaction and fulfillment or, if permissible pursuant to the terms hereof, waiver of the conditions set forth in Sections 6.1 and 6.2, other than those requiring a delivery of a certificate or other document, or the taking of other action, at the Closing, (b) be effective as of 11:59:59 p.m., local Pocatello, Idaho, time, on the Closing Date (the "Effective Time"), and (c) by the exchange of signed documents by e-mail, in each case, unless another time, date or place is mutually agreed upon in writing by Seller and Purchaser. The date on which the Closing is to occur is referred to herein as the "Closing Date."

2.2. Closing Deliveries of Seller. At the Closing, Seller shall deliver, or cause to be delivered, to Purchaser the following (which in the case of any instruments, certificates and other documents shall be dated as of the Closing Date and executed or acknowledged (as applicable) on behalf of Seller by a duly authorized officer thereof):

- (a) A bill of sale in the form attached as **Exhibit A** (the "Bill of Sale");
- (b) An assignment and assumption of the Transferred Contracts in the form attached as **Exhibit B** (the "Assignment and Assumption of Contracts");
- (c) An assignment and assumption of the FCC Licenses in the form attached as **Exhibit C** (the "Assignment and Assumption of FCC Licenses");
- (d) A First Amendment to Shared Services Agreement in the form attached as **Exhibit D** (the "SSA Amendment");
- (e) Any required third party consents with respect to the Transferred Contracts; and
- (f) Such other documents or instruments of transfer (as Purchaser may reasonably request to convey any Transferred Assets to Purchaser.

2.3. Closing Deliveries of Purchaser. At the Closing, Purchaser shall deliver, or cause to be delivered, to Seller the following (which in the case of any instruments, certificates and other documents shall be dated as of the Closing Date and executed or acknowledged (as applicable) on behalf of Purchaser by a duly authorized officer thereof):

- (a) The Cash Payment;
- (b) The Assignment and Assumption of Contracts;
- (c) The Assignment and Assumption of FCC Licenses;
- (d) The SSA Amendment; and
- (e) All other instruments and certificates of assumption, as Seller may reasonably request in order to effectively make Purchaser responsible for all Assumed Liabilities.

2.4. Further Assurances. At and after the Closing, and without further consideration therefor, (a) Seller shall execute, or arrange the execution of, and deliver to Purchaser such further instruments and certificates of conveyance and transfer as Purchaser may reasonably request in order to more effectively convey and transfer the Transferred Assets from Seller to Purchaser in accordance with the terms of this Agreement and (b) Purchaser shall execute, or shall arrange the execution of, and deliver to Seller such further instruments and certificates of assumption as Seller may reasonably request in order to effectively make Purchaser responsible for all Assumed Liabilities in accordance with the terms of this Agreement.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLER

Seller hereby represents and warrants to Purchaser as follows:

3.1. Organization. Seller is duly organized, validly existing and in good standing under the laws of Missouri, with all requisite corporate power and authority to own, operate or lease the Transferred Assets as now owned, operated or leased by it, and to conduct the Station substantially as presently conducted by it, and is qualified to do business in each jurisdiction in which its Transferred Assets are located.

3.2. Authority. Seller has all requisite corporate power and authority to enter into and deliver this Agreement, to perform its obligations hereunder, and to consummate the Transaction. The execution and delivery by Seller of this Agreement, the performance by Seller of its obligations hereunder, and the consummation by Seller of the Transaction, have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by Seller. Assuming the due authorization, execution and delivery of this Agreement by Purchaser, this Agreement constitutes, a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

Purchaser hereby represents and warrants to Seller as follows:

4.1. Organization. Purchaser is duly organized, validly existing and in good standing under the laws of the State of Missouri.

4.2. Authority. Purchaser has all requisite corporate power and authority to enter into and deliver this Agreement, to perform its obligations hereunder, to consummate the Transaction, and to assume and perform the Assumed Liabilities. The execution and delivery by Purchaser of this Agreement, the performance by Purchaser of its obligations hereunder, the consummation by Purchaser of the Transaction, and the assumption and performance of the Assumed Liabilities, have been duly authorized by all necessary corporate action on the part of Purchaser. This Agreement has been duly executed and delivered by Purchaser. Assuming the due authorization, execution and delivery of this Agreement by Seller, this Agreement constitutes a legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

ARTICLE V COVENANTS AND AGREEMENTS

5.1. Conduct of Business. Subject to the SSA, at all times during the period commencing upon the execution and delivery hereof by the parties hereto and terminating upon the earlier of the Closing or the termination of this Agreement pursuant to and in accordance with the terms of Section 7.1,

unless Purchaser shall otherwise consent in writing, and except as otherwise required by law or to enable Seller to comply with its obligations hereunder or as otherwise set forth in Schedule 5.1, Seller shall conduct the operations of the Station in the ordinary course of business, consistent with past practice.

5.2. Further Actions.

(a) Upon the terms and subject to the conditions set forth in this Agreement, Seller and Purchaser shall each use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, and to do, or cause to be done, and to assist and cooperate with the other parties hereto in doing, all things necessary, proper or advisable under applicable laws to consummate the Transaction.

(b) Also in furtherance and not in limitation of Section 5.2(a), Purchaser and Seller each shall prepare and file with the FCC as soon as practicable, but in no event later than five Business Days after the execution of this Agreement, the requisite applications (the "FCC Applications") and other necessary instruments or documents requesting the consent of the FCC to the transfer of the FCC Licenses (the "FCC Consent") and thereafter prosecute such applications with all reasonable diligence to obtain the FCC Consent as soon as practicable; provided, however, except as provided in the following sentence, neither Purchaser nor Seller shall be required to pay consideration to any third party to obtain the FCC Consent. The Purchaser and Seller each shall oppose any petitions to deny or other objections filed with respect to the FCC Applications to the extent such petition or objection relates to such party. Neither Purchaser nor Seller shall take any intentional action that would, or intentionally fail to take such action the failure of which to take would, reasonably be expected to have the effect of materially delaying the receipt of the FCC Consent. If the Closing shall not have occurred for any reason within the original effective period of the FCC Consent, and neither party shall have terminated this Agreement under Section 7.1, Purchaser and Seller shall jointly request that the FCC extend the effective period of the FCC Consent. No extension of the FCC Consent shall limit the right of either party to exercise its rights under Section 7.1.

(c) In connection with the efforts referenced in this Section 5.2 to obtain the FCC Consent, Purchaser and Seller shall each use its respective commercially reasonable efforts to (i) cooperate in all respects with each other in connection with any filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party, (ii) keep the other party informed in all material respects of any material communication received by such party from, or given by such party to, the FCC or any other governmental authority and of any material communication received or given in connection with any proceeding by a private party, (iii) permit the other party the opportunity to review in advance any submissions to any governmental authority or material agreement that relates to the consummation of the Transaction, and (iv) permit the other party to attend any meetings with any governmental authority or participate in any communications with any governmental authority.

5.3. Publicity. Seller and Purchaser shall cooperate with each other in the development and distribution of all news releases and other public disclosures relating to the Transaction. Neither Seller nor Purchaser shall issue or make, or allow to have issued or made, any press release or public announcement concerning the Transaction without the consent of the other party hereto, except as otherwise required by applicable law, but in any event only after giving the other parties hereto a reasonable opportunity to comment on such release or announcement in advance, consistent with such applicable legal requirements.

5.4. Transaction Costs. Each party shall pay all transaction costs and expenses (including legal, accounting and other professional fees and expenses) that it incurs in connection with the negotiation, execution and performance of this Agreement and the consummation of the Transaction; provided, however, that Purchaser will pay (a) all transfer taxes (including sales taxes) associated with the transfer of the Transferred Assets from Seller to Purchaser pursuant to this Agreement, and (b) the FCC filing fees relating to the Transaction.

5.5. Control Prior to Closing. Subject to the SSA, the parties acknowledge and agree that, for the purposes of the Communications Act of 1934, as amended, and the rules and regulations of the FCC (the "Communications Laws") and any other applicable law, this Agreement and, without limitation, the covenants in this ARTICLE V, are not intended to, and shall not be construed to, transfer control of the Station or to give Purchaser any right to, directly or indirectly, control or attempt to control the programming, operations or any other matter relating to the Station prior to the Closing Date, and Seller shall have complete control and authority over the Station, including, without limitation, control and authority over the Station's programming, operations, finances and personnel, until the Closing Date. The parties acknowledge the existence of the SSA pursuant to which Purchaser provides certain services to Seller and the Station and further pursuant to which Seller retains ultimate control and authority over the Station, in accordance with the Communications Laws, as specifically set forth in the SSA.

5.6. Risk of Loss. If, prior to the Closing, any of the Transferred Assets shall be damaged or destroyed by fire or other casualty, Seller shall take all reasonable steps to repair, replace and restore the Transferred Assets to the operating condition they were in prior to the damage or destruction as soon as possible after any loss or damage.

ARTICLE VI CLOSING CONDITIONS

6.1. Conditions to Obligations of Purchaser. The obligations of Purchaser to consummate the Transaction are subject to the satisfaction or fulfillment at or prior to the Closing of the following conditions, any of which may be waived in whole or in part by Purchaser in writing:

(a) All representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing.

(b) Seller shall have performed and complied in all material respects with all the covenants and agreements required by this Agreement to be performed or complied with by it at or prior to the Closing.

(c) There shall be in effect no law or injunction issued by a court of competent jurisdiction making illegal or otherwise prohibiting or restraining the consummation of the Transaction.

(d) The FCC Consent shall have been granted, shall be in full force and effect, without any conditions materially adverse to Purchaser, and on terms that are not materially more onerous to Purchaser than are the terms to Seller under the existing FCC Licenses, in each case, other than those of general applicability to all licensees of low power television stations, and such grant shall have become Final, except that the requirement that such grant shall have become Final may be waived by Purchaser. For purposes of this Agreement, the term "Final" shall mean that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside,

annulled or suspended, with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

(e) Seller shall have delivered to Purchaser all of the certificates, instruments and other documents required to be delivered by it at or prior to the Closing pursuant to Section 2.2.

(f) All Liens shall be released of record and there shall be no Liens in respect of the Transferred Assets.

6.2. Conditions to Obligations of Seller. The obligations of Seller to consummate the Transaction are subject to the satisfaction or fulfillment at or prior to the Closing of the following conditions, any of which may be waived in whole or in part by Seller in writing:

(a) All representations and warranties of Purchaser contained in this Agreement shall be true and correct in all material respects as of the date of this Agreement and at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing.

(b) Purchaser shall have performed and complied in all material respects with the covenants and agreements required by this Agreement to be performed or complied with by it at or prior to the Closing.

(c) There shall be in effect no law or injunction issued by a court of competent jurisdiction making illegal or otherwise prohibiting or restraining the consummation of the Transaction.

(d) The FCC Consent shall have been granted and shall be in full force and effect.

(e) Purchaser shall have delivered to Seller all of the certificates, instruments and other documents required to be delivered by Purchaser at or prior to the Closing pursuant to Section 2.3.

ARTICLE VII TERMINATION

7.1. Termination.

(a) This Agreement may be terminated prior to Closing by either Purchaser, on the one hand, or Seller, on the other hand, upon written notice to the other following the occurrence of any of the following:

(i) by either Purchaser, on the one hand, or Seller, on the other hand, if the other party is in breach or default of this Agreement or does not perform in all material respects the obligations to be performed by it under this Agreement on or prior to the Closing Date and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.1 or Section 6.2, as applicable, if such breach or failure to perform had occurred at the time scheduled for Closing and (B) such breach has not been substantially cured as set forth in Section 7.1(c);

(ii) by either party if there shall be any law that prohibits consummation of the Transaction or if a governmental authority of competent jurisdiction shall have issued a final, non-appealable order enjoining or otherwise prohibiting consummation of the Transaction; or

(iii) by either party if the Closing has not occurred on or prior to the date that is twelve (12) months from the date of this Agreement (the "Upset Date").

(b) This Agreement may be terminated prior to Closing by mutual written consent of Purchaser and Seller.

(c) If either party asserts that the other is in breach or default of this Agreement, the non-defaulting party shall, prior to exercising its right to terminate under Section 7.1(a)(i), provide the defaulting party with notice specifying in reasonable detail the nature of such breach or default. Except for a failure to perform any obligations to be performed at the time scheduled for Closing (to which the cure period described hereinafter shall not apply), the defaulting party shall have 5 days from receipt of such notice to cure such default; provided, however, that if the breach or default is incapable of cure within such 5-day period, the cure period shall be extended as long as the defaulting party is diligently and in good faith attempting to effectuate a cure and there is a reasonable likelihood that a cure will be achieved. Nothing in this Section 7.1(c) shall be interpreted to extend the Upset Date.

7.2. Specific Performance. In the event of failure or threatened failure by Seller to comply with the terms of this Agreement, Purchaser shall be entitled to an injunction restraining such failure or threatened failure and to enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement. In the event of failure or threatened failure by Purchaser to comply with the terms of this Agreement, Seller shall be entitled to an injunction restraining such failure or threatened failure to, and enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement. In the event of a default by either Purchaser or Seller that results in a lawsuit or other proceeding for any remedy available under this Agreement, the prevailing party shall be entitled to reimbursement from the other party of its reasonable legal fees and expenses (whether incurred in arbitration, at trial, or on appeal).

ARTICLE VIII MISCELLANEOUS

8.1. Assignment. Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective representatives, successors and assigns. No party hereto may assign any of its rights or delegate any of its duties hereunder without the prior written consent of the other parties, and any such attempted assignment or delegation without such consent shall be void; provided, however, that Purchaser may assign its rights and delegate its duties to an affiliate of Purchaser.

8.2. Amendments and Waiver; Exclusive Remedies. The terms of this Agreement may be changed only by a written instrument executed by the parties. The failure of any party at any time or times to require compliance with any provision of this Agreement shall in no manner affect the right of such party at a later date to enforce the same. No waiver by any party of any condition or the breach of any covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any condition or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

8.3. **Entire Agreement.** This Agreement and the related documents contained as Exhibits and Schedules hereto or expressly contemplated hereby contain the entire understanding of the parties relating to the subject matter hereof and supersede all prior written or oral and all contemporaneous oral agreements and understandings relating to the subject matter hereof. The Exhibits and Schedules to this Agreement are hereby incorporated by reference into and made a part of this Agreement for all purposes.

8.4. **No Third Party Beneficiary.** This Agreement is made for the sole benefit of the parties hereto, and their respective successors, executors and permitted assigns, and nothing contained herein, express or implied, is intended to or shall confer upon any other person any third party beneficiary right or any other legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

8.5. **Governing Law.** This Agreement will be governed by and construed and interpreted in accordance with the substantive laws of the State of Missouri without giving effect to any conflicts of law, rule or principle that might require the application of the laws of another jurisdiction.

8.6. **Counterparts; Delivery.** This Agreement may be executed and delivered (including by facsimile transmission or by means of portable document format (pdf) transmission by email) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by a duly authorized officer as of the date first above written.

NPG OF IDAHO, INC.

By: 

J. Timothy Hannan, Vice President

VISTAWEST MEDIA, LLC

By: 

Lyle E. Leimkuhler, Manager