

## CITYGRO CERTIFIED RESELLER PARTNER AGREEMENT

(Name of Certified Partner: \_\_\_\_\_)

THIS INDEPENDENT PARTNER AGREEMENT (the “**Agreement**”) is effective as of \_\_\_\_\_, 20\_\_, by and between CITYGRO, INC., a Delaware corporation, located at 44 Exchange Place, SLC UT 84111 (“**CityGro**”) and \_\_\_\_\_, a \_\_\_\_\_ located at \_\_\_\_\_ (“**Reseller**”).

In consideration of the mutual promises set forth herein, the sufficiency of which is hereby acknowledged by each of the parties hereto, the parties hereby agree as follows:

1. Scope of Services. Subject to the terms of this Agreement, Reseller intends to market, sell and support CityGro products and services (“**Services**”). Such **Services** include, but are not limited to, the following: (i) solutions for capturing customer information, (ii) software to track customer behavior and (iii) a communication platform with text messaging and email capabilities.
2. Fees, Payments and Expenses.
  - a. Fees. Reseller shall pay all fees for each End User in accordance with the fee schedule set forth on Schedule 1. Unless otherwise agreed to in writing as an addendum to this agreement, CityGro will not be responsible to collect any payments from the End User or for the payment of any additional compensation in connection to a Sale or Reseller Fee.
  - b. Right to Adjust Fees. CityGro reserves the right to correct or adjust any **Monthly Fee** owed to CityGro if, in CityGro’s sole discretion, (i) Reseller has acted in a fraudulent manner; (ii) Reseller has breached any portion of this agreement; (iii) Reseller is obligated to indemnify CityGro for actual or anticipated losses; (iv) or Reseller is more than 30 days delinquent on any outstanding balance.
  - c. Fee Schedule. CityGro will invoice Reseller via email on or before the 5<sup>th</sup> of every month for all relative subscription fees accrued during the previous month. Reseller shall make payment no later than the 15<sup>th</sup> day of each month for all fees due.
  - d. End User Billing and Collection. Reseller shall be solely responsible for billing End Users and collecting their payments. Reseller will be liable for all fees for subscriptions due from associated End Users.
  - e. Payment of Fees Due. Reseller shall have an authorized Credit Card on file by which all monthly fees amounting to less than \$5,000 (five thousand dollars) shall be paid. CityGro reserves the right to switch Reseller to invoice billing at any time and for any reason. Invoices will be payable through a check, wire transfer or ACH payment.
  - f. Late Payment. In the event that CityGro does not receive payment by the 15<sup>th</sup> calendar day of the month for which the payment is due, CityGro shall have the right to assess a late payment fee, equal to 18% of the outstanding balance or the maximum rate permitted by law, and may suspend, interrupt, or terminate services.
  - g. Active vs Inactive Resellers. Resellers are considered active if they bring on any new accounts during a twelve-month period. Resellers are considered inactive if the Reseller has not added any new account in twelve consecutive months.
  - h. Service Continuation. In the event that Reseller fails to pay any outstanding amounts within 30 (thirty) days of any uncontested amount due, CityGro shall have the right to assume responsibility for any customer accounts for which payments are due. In this event, these accounts would be branded, billed and supported directly by CityGro. The transition of an account SHALL NOT relieve Reseller of the liability for outstanding fees due.
  - i. Yearly Minimums. Reseller is required to pay a yearly minimum of \$5,000 (FIVE THOUSAND DOLLARS) PRIOR to being authorized to sell and support CityGro Products.

- j. Credit of Fees Paid. All fees paid by Reseller to satisfy yearly minimums will be credited to the Reseller's account. Reseller may use this credit to pay subscription fees on behalf of its clients. Payments for equipment, including but not limited to (i) tablets, (ii) enclosures and (iii) additional hardware CANNOT be paid by Reseller credit.

### 3. Appointment of License.

- a. Appointment. Subject to the terms and conditions set forth herein, CityGro hereby appoints Reseller as CityGro's independent, authorized, non-exclusive white label reseller of CityGro Services, and Reseller hereby accepts such appointment.
- b. License Grant. Subject to the terms and conditions of this Agreement, CityGro hereby grants to Reseller a non-transferrable, non-exclusive, non-sublicensable license that may be solely exercised to: (i) promote the CityGro software to End Users, (ii) use, install, operate and support the CityGro software for End Users in accordance with the terms and conditions found at [www.citygro.com/terms](http://www.citygro.com/terms) and (iii) market the CityGro software under the Reseller's own brand and without the use of CityGro logos.
- c. Restrictions on Use. Reseller shall not, and shall ensure that other third parties shall not (i) modify, adapt, alter, translate, copy, display (publically or otherwise) or create derivative works based on the Licensed Software; (ii) merge or bundle the licensed software with other software without written consent from CityGro; (iii) sublicense, lease, rent, or loan the Licensed Software except as expressly permitted in 3 (b); (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the licensed Software.

### 4. Reseller Marketing Restrictions.

- a. Representation of CityGro Services. Reseller is authorized to market, brand, and distribute CityGro services under its own brand. CityGro shall provide reseller with the ability to remove and replace all CityGro logos with the desired use of Reseller's Logos. Even when operating under Reseller's own brand, Reseller will be required to comply with the marketing restrictions outlined in this agreement.
- b. Posting links to CityGro. If Reseller chooses to operate under the CityGro brand, Reseller will be provided an affiliate link by which Reseller will receive credit for anyone referred to the CityGro website (See 5. Protection of Reseller and Prospect Relationships). Reseller may post any number of links on Reseller website(s) directed to the CityGro website. The position, location, prominence and nature of such links on Reseller website shall comply with any requirements specified in this Agreement, but shall otherwise be at Reseller's discretion.
- c. Reseller Representation of CityGro. Reseller may claim to be an Authorized Reseller of CityGro Products. but shall not make any representation, warranty or other statement concerning CityGro, the Destination Sites, or CityGro's services, except as expressly authorized by this Agreement. Reseller shall not advertise or promote advertisements that are misleading and/or which claim inflated discounts, in CityGro's sole discretion. Reseller may only advertise or promote advertisements that state the actual discount that a visitor may derive by clicking on a Link.
- d. Email and Text Marketing. Reseller shall not send any email, SMS text message, or other form of electronic message or advertisement containing CityGro's name, product, website address, metatag or any other type of identifier to any recipient unless the recipient has directly consented to receive such communication from Reseller or unless Reseller has a pre-existing business relationship with the recipient. In addition, Reseller shall provide all recipients of any such communication with the ability to opt out of further communications from Reseller by permitting such recipient to "one click unsubscribe," or call a toll free number. In short, Reseller must follow ALL aspects of the 2003 CAN SPAM Act.

- e. Online Advertising.
  - i. The CityGro Domain. Reseller may not use [www.citygro.com](http://www.citygro.com), or ANY variation of CityGro's brand terms as the domain name or URL in any paid search engine marketing campaign, except upon prior written consent by CityGro.
  - ii. Pay Per Click. Reseller SHALL NOT bid on or use any word, keyword or term in a Pay-Per-Click campaign which contains CityGro's registered or unregistered trademarks or any word, keyword or term that is likely to cause confusion regarding Reseller's affiliation with CityGro. Examples of CityGro Keywords include, but are not limited to the following: [www.citygro.com](http://www.citygro.com), [citygro.com](http://citygro.com), [www.citygro](http://www.citygro), [citigrow](http://citigrow), [citigro](http://citigro), [citygrow](http://citygrow), [citygro.co](http://citygro.co), etc.
  - iii. Fat-finger or Typo Squatter Redirects. Reseller shall not use any fat-finger or typosquatter domain name to redirect Internet traffic to Reseller website or the Destination Sites without CityGro prior written approval. A fat-finger or typosquatter domain name is a domain name that amounts to a misspelling of any registered or unregistered CityGro trademark. Examples of fat-finger or typosquatter domain names include, BUT ARE NOT LIMITED to the following: [itygro.com](http://itygro.com), [citygr.com](http://citygr.com), [citgro.com](http://citgro.com), etc.
  - iv. Domains, Sub-domains and URL Paths. Reseller shall not place CityGro Keywords in Reseller domain or sub-domain. Examples of non-permissible use are: [citygro.yourwebsite.com](http://citygro.yourwebsite.com), [citygro.yourwebsite.co](http://citygro.yourwebsite.co), [yourwebsite.citygro.co](http://yourwebsite.citygro.co), and [yourwebsite.citygro.com](http://yourwebsite.citygro.com). Reseller may place CityGro Keywords in Reseller URL path. An example of permissible use is: [yourdomain.com/citygro](http://yourdomain.com/citygro).
  - v. Traffic Intercept and Redirects. Reseller shall not employ the use of any manual or automated software, device, application, robot or any other technology which attempts to intercept or redirect traffic or referrals to or from any website without the prior written consent of CityGro.
  - vi. Misrepresenting the CityGro Website. Reseller shall not frame the CityGro website so that it appears to viewers of Reseller website that such viewer is viewing the Destination Sites. Reseller shall not do anything to its website or any website it controls that makes such website appear as though it is the CityGro website.
- 5. Protection of Reseller and Prospect Relationships. CityGro will protect the Reseller's right to sell a specific client based on the Reseller being the first to introduce CityGro to the client. In the event that a dispute arises between multiple resellers, CityGro reserves the right to credit the appropriate reseller at their sole discretion. CityGro will base their decision on the Reseller who can prove first written contact while maintaining a continuous relationship. CityGro will make every effort possible to identify the source of all leads and forward the lead to the appropriate Reseller.
- 6. Expenses. Reseller will not be reimbursed for any expenses incurred in connection with the Agreement without the prior written approval of CityGro.
- 7. Minimum Advertised Price. Reseller will not advertise any price below the advertised price offered by CityGro. CityGro reserves the right to change prices at any time and for any reason. In such event, CityGro will provide to Reseller an updated pricing sheet with an applicable revision date (such revision date not to be effective less than 30 days after written notice is sent to Reseller). All new Contracts after such revision date are to be based upon the revised pricing. If the modified fees set forth on a revised Schedule 1 are not acceptable to Reseller, then Reseller may elect to terminate this Agreement.
- 8. Processing New Subscriptions. Upon sale of a new End User subscription, Reseller will be responsible to create a new account by inputting all necessary information into the Reseller's "MySales" account provided to Reseller by CityGro. CityGro will authorize all new accounts within 24 hours of creation. Reseller will automatically be added as an administrator to all new accounts and shall have access to manage the account and create additional administrators. Reseller will be responsible for assigning all End User administrators.

9. Support Obligations.

- a. Support to End User by Reseller. Reseller shall provide support to End Users on terms at least as favorable as the terms under which Reseller provides support to End Users for any comparable Reseller product.
- b. Support to End User by CityGro. CityGro will not provide support to End User unless otherwise determined by both CityGro and Reseller. CityGro will provide answers to frequently asked questions on CityGro's website ([www.citygro.com/faqs](http://www.citygro.com/faqs)) as well as a submission form for Reseller and/or End Users to submit technical service questions. Unless agreed upon by CityGro and Reseller, CityGro will respond to all support issues submitted from Reseller or End User directly to Reseller. Reseller will then be responsible to communicate with the End User.
- c. Support to Reseller by CityGro. CityGro will provide training and support to Reseller over the phone and through screen sharing technology. CityGro will also provide training and instructional videos accessible to Reseller through the CityGro website at <http://citygro.com/videos/>.

10. Term of Agreement. The term of this Agreement shall commence on the date first set forth above, and shall continue indefinitely until terminated by either party. Either party may terminate the agreement by providing at least 30 days' written notice to the other party. Additionally, CityGro may terminate this Agreement at any time for any reason. However, unless unforeseen circumstances arise, CityGro will not terminate the agreement unless, in CityGro's sole discretion, it feels the Reseller has participated or is participating in: fraud, bankruptcy, material misrepresentation, cessation of business operations for more than 30 calendar days, a material breach of this Agreement or a material breach of any applicable user agreement for access to the CityGro's web site by Reseller. Typically, CityGro will send Reseller notice of such cases and give Reseller 10 days to cure such breach – if communication from Reseller is immediate. In the event that CityGro terminates this agreement and Reseller has NOT participated in any breach of this agreement, Reseller's right to commissions will survive the termination of this agreement and CityGro will pay commission as outlined in this agreement.

11. Independent Contractor Status. The relationship of Reseller to CityGro is that of an independent contractor, and nothing herein shall be construed or deemed as creating any other relationship.

12. Reseller's Representatives. Reseller shall be solely responsible for the actions of its employees, agents, and independent contractors ("**Agents**"). All equipment and tools used by Reseller and its Agents to provide the Services (e.g., cell phones, computers, etc.) shall be furnished by Reseller, at Reseller's sole cost and expense.

13. Compliance with Laws and Ordinances. Reseller and Reseller's Agents shall comply with all applicable laws, ordinances, codes, standards and regulations and with all requirements of governmental authorities having jurisdiction with respect to the performance of the Services.

14. Territory. No territories are currently designated by CityGro. However, CityGro reserves the right to establish one or more exclusive geographical territories, or territories defined by industry or market, for the benefit of a protected party. If CityGro grants an exclusive territory to a third party, CityGro agrees to provide at least 30 days' prior written notice to Reseller of such exclusive territory. In such instance, Reseller will be permitted to maintain existing Contracts in such territory so long as this Agreement is in force. After such notice is delivered to Reseller, Reseller agrees not to solicit Contracts in such designated territory.

15. Confidential Information; Non-Disclosure; Non-compete; Non-Circumvent.

- a. Defined. "**Confidential Information**" means any trade or business information, business model, electronic data capture technology, automated messaging process (i.e., electronic capture, verification, and communication based on behavior and interests), financial information, protected health information, and other information confidential in nature that relates to the disclosing party's business or to the business of the CityGro's subscribers. Confidential Information does not include any information, materials, data or

- know-how which (i) is in the possession of the non-disclosing party at the time of disclosure, as shown by the non-disclosing party's files and records immediately prior to the time of disclosure; (ii) prior to or after the time of disclosure becomes public knowledge or part of the public domain, not as a result of any inaction or action of the non-disclosing party; (iii) is disclosed to the non-disclosing party by another third party having the right to disclose such information without any violation of any rights of, or obligations to, the disclosing party or the applicable subscriber; or (iv) is approved for release in writing by the disclosing party.
- b. Non-Disclosure. Each party agrees to maintain the Confidential Information of the other party in confidence and to use such Confidential Information only as necessary to carry out the purpose for which it was disclosed. Each party agrees not to disclose the Confidential Information of the other party without such other party's prior written consent.
  - c. Non-Compete. Reseller agrees not to compete directly or indirectly against CityGro with respect to ratings and verification services for anytime during the term of this Agreement and for a period of eighteen (18) months thereafter.
  - d. Non-Disparagement. Each party agrees not to make any false, disparaging, or derogatory statements about the other party or any subscriber.
  - e. Non-Circumvent. In no event may the Reseller attempt to circumvent CityGro with respect to contacts, relationships, agreements, customers, manufacturers, or other Confidential Information provided to the Reseller in order to enter into a transaction (directly or indirectly) other than in connection with the Services. In no event may CityGro attempt to circumvent the Reseller with respect to the Reseller's contacts and relationships introduced to CityGro by Reseller as long as the Agreement is in force.
16. Indemnification. Each party ("**Indemnifying Party**") agrees to indemnify, defend, and hold harmless the other party ("**Indemnitee**") from and against any and all claims, losses, liabilities, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees and costs and expenses of dispute resolution) and damages and injuries (including, without limitation, injuries to persons, loss of life, damage to property, wherever occurring) arising out the Indemnifying Party's breach of any of the provisions of this Agreement or the Indemnifying Party's negligence or intentional wrongdoing in the performance of the Services; *provided, however*, that the Indemnifying Party shall not be required to indemnify the Indemnitee against any of the above mentioned claims or losses which are caused by the gross negligence of the Indemnifying party. Indemnitee's obligations with respect to indemnification hereunder shall remain effective notwithstanding completion of the Services or the termination of this Agreement.
17. Arbitration. Any dispute, controversy or claim, which relates in any way to this Agreement which has not been resolved by the parties shall be arbitrated in Salt Lake City, Utah in accordance with the Rules of the American Arbitration Association. CityGro and Reseller each shall bear their own fees, costs and expenses of the arbitration. Any award rendered shall be final and any judgment thereon may be enforced in any court having jurisdiction.
18. Attorneys' Fees. Subject to arbitration required by Section 13, in the event of any action at law or equity to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs in addition to any other relief to which such party may be entitled.
19. Assignability. Reseller may not assign this Agreement without the prior written consent of the CityGro.
20. Notices, Etc. All notices shall be in writing and sent by certified mail, overnight delivery, fax, or email to the respective party's last known address.
21. Amendments, Etc. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by each of the parties hereto.
22. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all previous understandings, agreements, communications, and representations, whether written or oral, concerning the treatment of information and other matters to which this Agreement relates.

23. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Utah.

24. Counterparts. A signature delivered by fax, pdf, or other electronic means shall be deemed an original signature for all purposes, and may be delivered in counterparts.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITYGRO:

CityGro, Inc., a Utah Corporation

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Title: \_\_\_\_\_

RESELLER:

Name of Entity: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Title: \_\_\_\_\_

SCHEDULE 1

**Partner Pricing**

<b>PRODUCT / SERVICE</b>	<b>AFFILIATE PARTNER</b>	<b>RESELLER PARTNER</b>	<b>CERTIFIED PARTNER</b>
Subscription Fee (Monthly or Yearly)	10%	30%	50%
Additional Text Messages and Emails	10%	30%	30%
Equipment (tablets, enclosures, hardware)	0%	0%	0%
Custom Programming / Design	0%	0%	0%

Equipment, Customer Programming, and design will be quoted at CityGro's cost and therefore will not be commissionable.

**CityGro End User Pricing**

<b>Product</b>	<b>Monthly Fees</b>	<b>Additional License (needed for each tablet)</b>	<b>Additional Accounts</b>	<b>Additional Messaging text/email</b>
SMS - Text Only <ul style="list-style-type: none"> <li>• 1 SMS Keyword (\$5 per additional Keyword)</li> <li>• 1,000 Texts</li> <li>• 10,000 Emails</li> </ul>	\$50.00  \$5 / Additional Keyword	-	-	\$.025 / .001
Quick Capture <ul style="list-style-type: none"> <li>• Single Tablet License</li> <li>• Capture only license</li> <li>• Welcome Page, Data Page, Selection Page, Splash Page</li> <li>• Exportable data list</li> </ul>	\$45.00	\$25	\$35	NA
QuickGro <ul style="list-style-type: none"> <li>• Single Tablet License</li> <li>• Basic Page Flow: Welcome, Data, Selection, Splash</li> <li>• 1 SMS Keyword</li> <li>• 1,000 Texts</li> <li>• 10,000 Emails</li> </ul>	\$75	\$25	\$65	\$.025 / .001
ProGro <ul style="list-style-type: none"> <li>• Single Tablet License</li> <li>• Pro Suite Page Flow: Welcome, Data, Selection, Splash, offers, html, message, gift card</li> <li>• Pro Suite Tools: Web-forms, integrations, dynamic page flows.</li> <li>• 1 SMS Keyword</li> <li>• 1,000 Texts</li> <li>• 10,000 Emails</li> </ul>	\$125	\$25	\$65	\$.025 / .001