

## CHANNEL PARTNER AGREEMENT

**Vocus Pty Ltd (ABN 78 127 842 853)**

**(Vocus)**

of Level 10, 452 Flinders Street, Melbourne VIC 3000

AND

The party referred to in item 1 of the Contract Details

**(Channel Partner)**

### Background

- A. Vocus supplies telecommunications products and services.
- B. Vocus wants to appoint the Channel Partner as a non-exclusive sales agent for Vocus to market, promote and solicit to customers its products and services for the Term in accordance with this agreement.
- C. Vocus will contract directly with customers referred by the Channel Partner and pay the Channel Partner a commission.

### Contract Details

1.	Channel Partner	[insert name] ABN: [insert ABN] Address: [insert]
2.	Term	3 years.
3.	Start Date	[insert]
4.	End Date	[insert]
5.	Extension	The parties may by mutual written agreement extend the Term.
6.	Vocus details for notices	Vocus Pty Ltd Address: Level 10, 452 Flinders Street, Melbourne VIC 3000 Email: (Attention: General Counsel)
7.	Channel Partner details for notices	[insert name] Position: [insert] Address: [insert] Email: [insert]
8.	Channel Partner bank details for Commission payments	Bank name: [insert] Account name: [insert] BSB: [insert] Account No: [insert]
9.	Vocus Policies	(a) Security Policies (b) Privacy Policy (c) Work Health & Safety Policies and Environment Policy
10.	Required Insurance	(a) Workers' compensation insurance in accordance with applicable legislation. (b) Professional indemnity insurance for not less than A\$20,000,000 in respect of each occurrence and in the aggregate. (c) Public liability insurance with a limit of liability not less than A\$20,000,000 per occurrence and unlimited in the aggregate. (d) Cyber insurance for not less than A\$5,000,000 in respect of each occurrence and in the aggregate.

Executed by each party as an Agreement:

**Executed** for and on behalf of **Vocus Pty Ltd**  
(ABN 78 127 842 853) by its duly authorised  
representative

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Authorised Officer Signature

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Print Name

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Date

**Executed** for and on behalf of **Channel**  
**Partner** by its duly authorised representative

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Authorised Officer Signature

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Print Name

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Date

## Agreement

WORKING TOGETHER TO PROMOTE VOCUS SERVICES	
<b>1. Joint Obligations</b>	<p>Each party must:</p> <ul style="list-style-type: none"> <li>1.1 co-operate with and assist the other party to perform their obligations under this agreement;</li> <li>1.2 comply with Applicable Law;</li> <li>1.3 not do anything which will or might bring the other party into disrepute;</li> <li>1.4 not warrant or represent anything on the other party's behalf, without the other party's prior written consent; and</li> <li>1.5 not create commitments or obligations for the other party, without other party's prior written consent unless expressly permitted by this agreement.</li> </ul>
<b>2. Vocus' Obligations</b>	<ul style="list-style-type: none"> <li>2.1 Vocus must: <ul style="list-style-type: none"> <li>2.1.1 assist the Channel Partner to complete the Accreditation;</li> <li>2.1.2 provide the Channel Partner with current Documentation;</li> <li>2.1.3 train the Channel Partner as required; and</li> <li>2.1.4 pay the Channel Partner Commission pursuant to Schedule 3, including any bonus commission for specified Services as notified by Vocus from time to time.</li> </ul> </li> <li>2.2 Vocus is under no obligation to enter into a Vocus Customer Agreement with a customer referred by the Channel Partner.</li> </ul>
<b>3. Channel Partner Obligations</b>	<p>Channel Partner must:</p> <ul style="list-style-type: none"> <li>3.1 successfully complete the Accreditation;</li> <li>3.2 ensure its Representatives possess the necessary skills, experience, and qualifications to perform its obligations in this agreement;</li> <li>3.3 participate in events, functions and quarterly review meetings arranged by Vocus;</li> <li>3.4 promote the Services to customers and encourage customers to sign an Application and a Vocus Customer Agreement;</li> <li>3.5 make customers aware of material terms of the Vocus Customer Agreement;</li> <li>3.6 ensure each Application is completed and promptly submitted to Vocus;</li> <li>3.7 use its best efforts to achieve the Sales Target;</li> <li>3.8 not wholesale or resell any service that is the same as or substantially similar to the Services, without Vocus' prior written consent;</li> <li>3.9 keep accurate and complete Records; and</li> <li>3.10 comply with: <ul style="list-style-type: none"> <li>3.10.1 the Documentation;</li> <li>3.10.2 Vocus Policies; and</li> <li>3.10.3 Vocus' reasonable directions or directions from a Regulator.</li> </ul> </li> </ul>
<b>4. Channel Partner Level</b>	<ul style="list-style-type: none"> <li>4.1 All channel partners start at the 'Ruby' Channel Partner Level.</li> </ul>

	<p>4.2 If the Channel Partner exceeds its Sales Target over a full Financial Year period, it will move up to the next Channel Partner Level.</p> <p>4.3 If the Channel Partner does not meet its Sales Target over a full Financial Year period, it will move down to the next Channel Partner Level.</p> <p>4.4 The Channel Partner will be paid a Commission for the next Channel Partner Level for all future Sales Activities only.</p>
<b>5. Temporary sales incentives</b>	<p>5.1 During the Term, Vocus may offer the Channel Partner temporary sales incentives and bonus commission in relation to specified Services.</p> <p>5.2 To be eligible for bonus commission, Channel Partner must comply with any obligations specified by Vocus in relation to any temporary sales incentives.</p>
<b>6. Vocus may audit Channel Partner records</b>	<p>6.1 On written request, the Channel Partner must provide Vocus with its Records within 3 days to allow Vocus to audit the Channel Partner's compliance with this agreement.</p> <p>6.2 On written request, Channel Partner must provide Vocus with Records of all telemarketing calls made the previous month in the manner and form specified by Vocus.</p> <p>6.3 If an audit shows that the Channel Partner or its Representatives have not complied with this agreement, the Channel Partner must immediately address the non-compliance.</p>
<b>PRIVACY, CONFIDENTIALITY AND DATA PROTECTION</b>	
<b>7. Privacy</b>	<p>Channel Partner must:</p> <p>7.1 implement and comply with a privacy policy, and take necessary steps to protect all Personal Information against any misuse, interference, loss, unauthorised access, modification, or disclosure;</p> <p>7.2 notify Vocus within 48 hours of becoming aware of any suspected or actual breach of its obligations under this clause, and immediately take all reasonably necessary steps to remedy such breach; and</p> <p>7.3 indemnify Vocus against all costs, expenses, losses, proceedings, and claims, brought or incurred, because of Channel Partner's failure to comply with its obligations under this clause or Applicable Law relating to Personal Information.</p>
<b>8. Confidentiality</b>	<p>Each party will keep Confidential Information confidential, and may disclose if:</p> <p>8.1 required by law;</p> <p>8.2 the Confidential Information is or becomes public knowledge, other than due to a breach of this agreement by the party disclosing or using that Confidential Information; and</p> <p>8.3 the other party consents in writing.</p>
<b>9. Data security</b>	<p>Channel Partner must:</p> <p>9.1 implement, maintain, and enforce appropriate and industry best practice security procedures and safeguards to protect against, and remedy, any misuse, loss, interference, unauthorised access, modification, or disclosure of data in the Channel Partner's possession or control; and</p>

	9.2 notify Vocus within 48 hours of becoming aware of any suspected or actual data breach.
<b>10. Insurance</b>	Channel Partner must effect and maintain the Required Insurance.
<b>11. Publicity</b>	Channel Partner must not make media statements or respond to media enquiries about the agreement, the Sales Activities or its dealings with Vocus or customers, without Vocus' prior written consent, referring all media enquiries to Vocus in the first instance.
<b>INTELLECTUAL PROPERTY</b>	
<b>12. Ownership</b>	Each party retains ownership of its own Intellectual Property.
<b>13. Vocus Intellectual Property</b>	<p>Channel Partner must not:</p> <p>13.1 vary or amend any Documentation; or</p> <p>13.2 remove, tamper with, or obliterate any trade mark, service mark, trade name or logo on any Documentation or, in relation to the Services, any packaging or labelling.</p>
<b>LIABILITY</b>	
<b>14. Warranties</b>	<p>Each party warrants that:</p> <p>14.1 it has obtained all necessary authorisations to enter into this agreement and perform its obligations under this agreement;</p> <p>14.2 it is not insolvent and is able to perform its obligations under this agreement;</p> <p>14.3 it is not aware of any impediments to the performance of its obligations under this agreement; and</p> <p>14.4 all information disclosed to the other party in respect of this agreement is, or will be when disclosed, complete and accurate,</p> <p>and each such warranty is deemed to be continually repeated throughout the Term.</p>
<b>15. Mutual Indemnity</b>	<p>Each party (the <b>Indemnifying Party</b>) indemnifies the other party, its Representatives and Related Bodies Corporate (<b>Indemnified Parties</b>) against all losses, damages, liabilities, claims, and expenses incurred arising out of:</p> <p>15.1 any breach by the Indemnifying Party of this agreement; or</p> <p>15.2 any grossly negligent act or omission of the Indemnifying Party or any of its Representatives relating to this agreement,</p> <p>provided that such indemnity is reduced proportionately to the extent that the Indemnified Party caused or contributed to such losses, damages, liabilities, claims or expenses.</p>
<b>16. No indirect loss</b>	<p>Neither party is liable for:</p> <p>16.1 any loss (direct or indirect) of profit, revenue, anticipated profits or savings, or goodwill;</p> <p>16.2 any loss of or corruption of data;</p> <p>16.3 loss or damage to credit rating or increased financing costs; or</p> <p>16.4 any indirect or consequential losses, regardless of whether they were contemplated by either of the parties when the agreement was entered into,</p>

	unless such liability cannot be excluded under the Applicable Law.
<b>17. Liability cap</b>	<p>Both parties liability under the agreement (whether in contract, tort (including negligence), breach of statutory duty, under statute, indemnity or otherwise) during the Term of the agreement will be:</p> <p>17.1 for the first 12 months of the agreement from the Start Date, \$100,000; and</p> <p>17.2 after that, the amount of all Commission paid (and not subject to clawback) by Vocus to the Channel Partner in the previous 12-month period.</p>
<b>18. Uncapped liability</b>	<p>The liability cap does not limit either party's liability for:</p> <p>18.1 death, personal injury caused by negligence or wilful conduct;</p> <p>18.2 fraud;</p> <p>18.3 breach of privacy;</p> <p>18.4 breach of Confidential Information;</p> <p>18.5 breach of Applicable Law;</p> <p>18.6 breach of data requirements; or</p> <p>18.7 Regulator fines.</p>
<b>TERMINATION</b>	
<b>19. Both parties can terminate</b>	Both parties can terminate the agreement at any time by giving 30 days' written notice to the other party.
<b>20. Vocus can terminate</b>	<p>Vocus may terminate the agreement immediately if the Channel Partner:</p> <p>20.1 commits an irremediable breach of this agreement;</p> <p>20.2 fails to remedy a breach of the agreement within 14 days' of Vocus' written notice;</p> <p>20.3 promotes Services without Accreditation;</p> <p>20.4 engages in conduct which involves falsification of documents, dishonesty, serious misconduct, or conduct amounting to fraud, or</p> <p>20.5 acts in a manner which adversely affects Vocus' reputation, trademarks, or the Services; or</p> <p>20.6 becomes bankrupt or insolvent or an administrator, receiver or scheme administrator is appointed to manage its business or assets.</p>
<b>21. Effect of termination</b>	<p>If this agreement is terminated, Channel Partner must:</p> <p>21.1 stop all Sales Activities and use of Vocus trademarks; and</p> <p>21.2 return all copies of Confidential Information and any equipment or Documentation owned by Vocus.</p>
<b>22. Force Majeure</b>	<p>Where any failure or delay by a party (<b>Affected Party</b>) in the performance of its obligations is caused, directly or indirectly, by a Force Majeure Event:</p> <p>22.1 the Affected Party must as soon as practicable give the other party written notice of that fact;</p> <p>22.2 the Affected Party is not liable for that failure or delay; and</p>

	22.3	the Affected Party's obligations under this agreement is suspended, to the extent of the Force Majeure Event, for the duration of the Force Majeure Event.
<b>DISPUTES</b>		
<b>23. Good faith discussions</b>		The parties will meet and discuss in good faith any dispute between them arising out of this agreement.
<b>24. Senior representative resolution</b>		If there is a dispute, both parties' senior representatives must meet within 14 days to try to attempt to resolve it. If the dispute remains unresolved for 30 days either party may commence court proceedings.
<b>25. Interlocutory relief</b>		Nothing in the agreement prevents either party from seeking urgent interlocutory relief.
<b>GENERAL</b>		
<b>26. Method of Delivery of Notices</b>		Any written notice required under this agreement must be signed by a duly authorised senior representative of the party giving that notice and will be deemed validly given if: <div> <div>26.1</div> <div>delivered by hand to the intended recipient's address as set out in the Contract Details; or</div> </div> <div> <div>26.2</div> <div>sent by email to the intended recipient's email as set out in the Contract Details and the sender's email machine confirms transmission to the intended recipient.</div> </div>
<b>27. Assignment</b>		Neither party may transfer or assign any of its liabilities or rights under this agreement without the other party's prior written consent.
<b>28. Severance</b>		Any provision of the agreement found to be unenforceable does not form part of the agreement, but the remaining provisions continue in full force.
<b>29. Parties' Relationship</b>		Nothing expressed or implied in this agreement will constitute either party as the partner, agent, employee or officer of, or as a joint venturer with, the other party.
<b>30. Entire Agreement</b>		The agreement represents the entire agreement between the parties relating to its subject matter and supersedes any previous agreements between the parties.
<b>31. No reliance</b>		The parties acknowledge that, in entering into the agreement, neither party has relied upon any statement or warranty made, or agreed to, by any person, except those expressly provided for by the agreement.
<b>32. Further assurances</b>		Each party will do all things and execute all documents reasonably required in order to give effect to the provisions and intent of this agreement.
<b>33. Amendment</b>		No amendment or extension to this agreement will be effective unless it is recorded in writing, signed by a duly authorised senior representative of each party.
<b>34. Waiver</b>		Any waiver by either party of any of its rights or remedies under this agreement will be effective only if it is recorded in writing, signed by a duly authorised senior representative of that party. If the waiver relates to a breach of any provision of this agreement, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision.

<b>35. Counterparts</b>	This agreement may be executed in one or more counterpart copies which, read together, will constitute the same instrument.
<b>36. Governing law and jurisdiction</b>	This agreement is governed by the laws of Australia. The parties submit to the exclusive jurisdiction of the courts of the State of Victoria in respect of all matters relating to this agreement.



## Schedule 1 – DEFINITIONS

<b>Accreditation</b>	Successful completion of a course/s conducted by Vocus in relation to a Service.
<b>Applicable Law</b>	Any law, regulation, binding code of practice, rule or requirement of any relevant government or governmental agency, professional or regulatory authority, applicable to the performance of any obligations under this agreement or the Services, including but is not limited to: <ul style="list-style-type: none"> <li>a) the <i>Privacy Act 1988</i> (Cth) and Australian Privacy Principles;</li> <li>b) the <i>Competition and Consumer Act 2010</i> (Cth) and Australian Consumer Law, as well as any other fair trading and consumer protection laws;</li> <li>c) the <i>Spam Act 2003</i> (Cth) and <i>Do Not Call Register Act 2006</i> (Cth);</li> <li>d) the <i>Telecommunications Act 1997</i> (Cth) and</li> <li>e) <i>Telecommunications Consumer Protections Code</i>.</li> </ul>
<b>Application</b>	The application form completed by a customer or potential customer, in the form specified by Vocus.
<b>Channel Partner Level</b>	The level of the Channel Partner, being Ruby, Sapphire, or Diamond, as detailed in Schedule 2.
<b>Clawback</b>	Recovery of Commission previously paid by Vocus to the Channel Partner.
<b>Commission</b>	Money paid by Vocus to the Channel Partner by electronic funds transfer for performing Sales Activities, calculated in accordance with Schedule 2. Commission is paid based on the % of the MRR for the sale of a Service.
<b>Confidential Information</b>	Information relating to: <ul style="list-style-type: none"> <li>a) the customer (including Personal Information) or the terms of this agreement; or</li> <li>b) the Services (directly or indirectly); or</li> <li>c) disclosed by either party to the other party on the express basis that such information is confidential; or</li> <li>d) which might reasonably be expected by either party to be confidential in nature.</li> </ul>
<b>Documentation</b>	Information or instructions, marketing collateral, promotional material, Applications, brochures published by Vocus, Vocus Customer Agreement, compliance documents, guidelines, and related information by Vocus in connection with the Services.
<b>Financial Year</b>	A period from 1 July to 30 June occurring throughout the Term.
<b>Force Majeure Event</b>	Any event which prevents a party from performing, or delays the performance of, any of its obligations under this agreement including (without limitation): <ul style="list-style-type: none"> <li>a) forces of nature, any act of God, fire, storm, inundation or explosion;</li> <li>b) any strike, lockout, industrial action, war, sabotage, riot, act of terrorism, any denial of service attack, insurrection, civil commotion, national</li> </ul>

	<p>emergency (whether in fact or in law), power shortage, epidemic, quarantine, radiation or radioactive contamination;</p> <p>c) any action or inaction by any organ of government or Government Agency or property owner;</p> <p>d) a change in any law including any new law; or</p> <p>e) to the extent that act, event, or cause is beyond the reasonable control of the affected party.</p>
<b>Intellectual Property</b>	Patents, registered designs, petty patents, utility models, plant variety rights, trade marks (including logos and get-up), domain names, copyright, circuit layouts, rights in computer software and data bases, rights in inventions, confidential information, know-how and trade secrets and all other intellectual property, whether registered or unregistered (including applications for the grant of any of the foregoing) and all rights or forms of protection having equivalent or similar effect.
<b>Monthly Recurring Revenue (MRR)</b>	The amount charged to a customer by Vocus each month.
<b>Personal Information</b>	As defined in the <i>Privacy Act 1988</i> (Cth).
<b>Records</b>	Records of Sales Activities with customers or potential customers, notes and recordings of any telephone conversations (including telemarketing calls), time sheets, complaints and any locations attended on a monthly basis for each door-to-door activity.
<b>Regulator</b>	<p>Includes the:</p> <ul style="list-style-type: none"> <li>a) Australian Communications and Media Authority ('ACMA');</li> <li>b) Telecommunications Industry Ombudsman ('TIO');</li> <li>c) Australian Competition and Consumer Commission ('ACCC');</li> <li>d) Australian Securities and Investments Commission ('ASIC');</li> <li>e) Communications Alliance Ltd; and</li> <li>f) any other authority or agency which has lawful authority over any of the subject matter of the agreement.</li> </ul>
<b>Related Body Corporate</b>	The meaning given in the <i>Corporations Act 2001</i> (Cth).
<b>Representatives</b>	Employees, directors, officers, and assigns of a party (whether current or former).
<b>Sales Activities</b>	<p>Sales activities relating to the Services, in line with Vocus sales processes, including but not limited to:</p> <ul style="list-style-type: none"> <li>a) referring prospective customers to Vocus;</li> <li>b) discussing Services offerings with a prospective customer; and</li> <li>c) procuring that customer to execute a Vocus Customer Agreement.</li> </ul>
<b>Sales Target</b>	Sales targets to be achieved over a 12-month period, by the Channel Partner for their Channel Partner Level, as outlined in Schedule 2.
<b>Services</b>	Services supplied by Vocus, which the Channel Partner has been accredited.

<b>Term</b>	The period in Item 2 of the Contract Details, expressed in years commencing on the Start Date;
<b>Vocus Customer Agreement</b>	The terms and conditions upon which Vocus supplies Services to customers.





### Schedule 3 – COMMISSION TERMS & CONDITIONS

COMMISSION TERMS & CONDITIONS	
<b>1. Commission</b>	<p>Vocus will:</p> <ul style="list-style-type: none"><li>1.1 make Commission payments in 2 instalments, 60% within 30 days after the calendar month in which the customer signs the Vocus Customer Agreement and the remaining balance of 40% 60 days later; and</li><li>1.2 notify the Channel Partner of any changes to Commissions, including calculations of Commission payments by providing 30 days' written notice.</li></ul>
CLAWBACKS	
<b>2. Clawbacks</b>	<ul style="list-style-type: none"><li>2.1 Vocus will not have to pay Commission and may recover Commission already paid to the Channel Partner where:<ul style="list-style-type: none"><li>2.1.1 Vocus decides not to provide the Services;</li><li>2.1.2 a customer was improperly or incorrectly signed up by the Channel Partner;</li><li>2.1.3 a customer was induced to apply for the Service or sign a Vocus Customer Agreement as a result of misleading or deceptive conduct or negligence by the Channel Partner or its Representatives; and</li><li>2.1.4 a customer cancels or terminates the Service within 90 days from the date that the Service is provisioned on the Vocus network.</li></ul></li><li>2.2 If a customer did not consent to be supplied with Services and Vocus is required to re-transfer the customer to another service provider, Vocus will charge the Channel Partner the following expenses by deducting the amount from the next Commission payment or issuing the Channel Partner with an invoice:<ul style="list-style-type: none"><li>2.2.1 \$500.00 in respect of the wasted internal costs, and any other external administration costs incurred in establishing, activating and then retransferring the customer; and</li><li>2.2.2 \$1000.00 to the extent that the customer's complaint results in a formal complaint investigation with a Regulator.</li></ul></li><li>2.3 If Vocus is entitled to recover Commission already paid to a Channel Partner, it will deduct the amount from the next Commission payment or issue the Channel Partner with an invoice.</li></ul>
<b>3. Disputes</b>	<p>Channel Partner must reconcile all Commissions before raising a dispute with Vocus for any paid or unpaid Commission, within 6 months of the Commission being due.</p>