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# Post Paid

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**Standard agreement for the supply of the  
MIBROADBAND Internet DSL service  
(Broadband)  
Post Paid  
(engin™)**

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MIBROADBAND PTY LTD  
ABN 70 080 250 371

## Contact engin

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If you have any concerns or queries regarding engin's Standard Form of Agreement, you may contact us as follows:

Telephone:	Customer Service (Monday to Friday 8am to 9pm and Saturday 9am to 3pm)  1300 305 000
<b>Non-English Speaking queries*:</b>	Translating and Interpreting Service (TIS)  13 14 50
<b>Communication, Speech and/or Hearing impairment*:</b>	NRS: 133 677
Write to:	Customer Contact Support Locked Bag 1002 FRENCHS FOREST NSW 2086
Fax:	02) 9004 4433
Email:	<a href="mailto:feedback@engin.com.au">feedback@engin.com.au</a>
<b>In person:</b>	431 Warringah Road FRENCHS FOREST NSW 2086 (Monday to Friday 9am to 5pm)

\* Non-English speaking, Vision, Deaf, Hearing and Speech impaired persons may also contact engin with the assistance of a friend or relative whose only involvement is to relay, interpret or translate.

If the arrangement is to be permanent an "Authorised Representative" maybe established on the customers account and the customer must be present at all times during every call.

## Introduction

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This Agreement is the standard form of agreement for the supply of MIBROADBAND T/as engin™ Internet DSL Service (Broadband).

This Agreement sets out the terms and conditions on which:

- We will provide the Service to you; and
- You may use the Service provided by us.

Your Agreement for the supply of the service includes:

- Your application;
- This service description, standard pricing table and consumer terms.

**IMPORTANT:**- This agreement must be read in conjunction with the engin VoIP Summary Standard Form of Agreement (SFOA) as the VoIP service is by design included with Naked DSL service. In the case of bundled services (DSL + PSTN = ADSL) this agreement should be read in conjunction with the PSTN (SFOA).

This Agreement is in the following sections:

### **Section 1 – Description of Service Features and Charges**

Describes the Service and its features and sets out the charges applicable to the Service.

### **Section 2 – Pricing Plans**

Sets out the various Pricing Plans available under the Service and the charges specific to each.

### **Section 3 – Dictionary**

Explains the words that have a special meaning in this Agreement.

### **Section 4 – Terms & Conditions**

Sets out the terms and conditions that apply to the Service.

# Contents

Section 1 - Description of Service/Features and Charges .....	7
Part 1 – Service .....	8
Part 2 - Standard Installation and Termination Charges.....	9
Part 3 - Miscellaneous Costs .....	11
3.1 Order Cancellation .....	11
3.2 Order Failure/Reversal.....	11
3.2 Late Payment fee .....	11
3.3 Refer to Drawer fee .....	11
3.4 Reinstatement of a suspended account.....	11
3.5 Third party collections .....	11
3.6 Account split/account merge fee .....	11
3.7 Hardcopy (paper) invoice.....	11
3.8 Access to personal information.....	12
3.9 Incomplete Return Charge .....	12
A \$25.00 fee applies for incomplete returns. ....	12
3.10 Postage & Handling .....	12
3.11 Pricing Plan change .....	12
Section 2- Pricing Plans .....	13
2.1 Afterburner .....	13
2.2 Pricing Plans.....	13
2.3 Index Of Pricing Plans.....	13
Ignition 49 (Commenced 15/12/09 - Current) ~.....	14
Monthly Service Fee - \$49.00.....	14
Ignition 69 (Commenced 15/12/09 - Current) ~.....	15
Monthly Service Fee - \$69.00.....	15
Ignition 79 (Commenced 15/12/09 - Current) ~.....	15
Monthly Service Fee - \$79.00.....	15
Ignition 99 (Commenced 15/12/09 - Current) ~.....	15
Monthly Service Fee - \$99.00.....	15
Ignition 119 (Commenced 15/12/09 - Current) ~.....	16
Monthly Service Fee - \$119.00.....	16
engin Home Plus (Commenced 28/02/07 - Current).....	17
Monthly Service Fee .....	17
engin Mobile Plus (Commenced 19/12/08 - Current) .....	17
Monthly Service Fee .....	17
engin Max (Commenced 26/08/09 - Current).....	17
Monthly Service Fee .....	17
Section 3 – Dictionary .....	19
Section 4 – Terms & Conditions.....	25
1. The Service.....	25
1.1 Service Description .....	25
1.2 Service Availability.....	26
1.3 Customer Service Guarantee Waiver.....	26
1.4 Monitoring Services Installed on Telephone Line .....	26
1.5 Service Provisioning .....	27
1.5.1 Connecting as a New DSL User.....	27
1.5.2 Connecting as a Current DSL User .....	28
1.6 System Requirements .....	28
1.7 Firewall and Security Devices.....	28
1.8 Hardware .....	28
1.9 Functionality .....	29
1.10 Technical Support .....	29
1.11 Usage Information .....	29
1.12 Peak/Off Peak Data Allowance.....	30
1.13 Throttling/Shaping .....	30
1.14 Changing Pricing Plans.....	30
1.15 Forfeiture of Unused Data .....	31
1.16 Appropriate Use/Acceptable Use .....	31
1.17 Content Filtering.....	31
1.18 Service Barring.....	31
1.19 Contributory Loss.....	31
1.20 Variation to the Standard Form of Agreement .....	31
1.21 Fault Reporting.....	32

1.22 Interruptions.....	32
1.23 Service Relocation.....	33
2. What you will be charged for the service .....	33
2.1 The Charges .....	33
2.2 Rounding .....	33
2.3 Variations to Charges and special promotions.....	33
2.4 Variation to engin DSL + PSTN Bundle .....	34
3. Payment for the service.....	34
3.1 Invoicing.....	34
3.2 Invoice charge/s.....	34
3.3 Invoice Frequency .....	34
3.4 Payment of your invoices .....	34
3.5 When must you pay your invoices .....	35
3.6 If you do not pay your invoices on time.....	35
3.7 Excessive Use .....	35
3.8 Security Deposits .....	35
4. Our Obligations .....	35
4.1 To provide the Service.....	35
4.2 Credit Assessment .....	36
4.3 Quality of Service .....	36
4.4 Service Barring .....	37
5. Your Obligations .....	37
5.1 Payment obligations.....	37
5.2 Obligations regarding use of the Service.....	38
5.3 Customer Service .....	40
5.4 Theft of Service.....	40
6. Term of agreement .....	40
6.1 No fixed term agreement:.....	40
6.2 Minimum fixed term agreement: .....	40
7. Suspension of the Service and Termination of this Agreement .....	40
7.1 Suspension for Excessive Usage/Unusual Usage.....	41
7.2 Immediate suspension, limitation and termination in our absolute discretion. 41	
7.3 Immediate suspension, limitation and termination on instruction of certain third parties or for technical problems .....	42
7.4 Suspension, limitation and termination with notice .....	42
7.5 Your right to Cancel the Service .....	42
7.6 Termination as a Result of Porting / Churning away from engin .....	42
7.7 Termination as a Result of Relocation.....	42
8. Consequences of Suspension or Limitation .....	43
9. Consequences of Termination.....	43
10. Obligations on Termination .....	43
11. Assigning the Agreement to a Third Party .....	43
12. Personal Information .....	44
12.1 Provision of Credit and Privacy Act 1988 (Cth) .....	44
12.2 Collection .....	44
12.3 Use .....	45
12.4 Access and Correction.....	45
12.5 Disclosure .....	45
12.6 Acknowledgment .....	46
12.8 Privacy Policy .....	46
12.9 SPAM.....	46
13. Liability and Indemnity .....	46
13.1 Our liability to you .....	46
13.2 Implied representations and warranties and our maximum liability to you .. 47	
13.3 Liability, which we cannot exclude .....	47
13.4 You indemnify us .....	47
14. Miscellaneous Terms .....	47
14.1 Assurances .....	47
14.2 Assignment.....	47
14.3 Enforceability .....	48
14.4 Waiver .....	48
14.5 Variation .....	48
14.6 Standard Form of Agreement.....	48
14.7 Inconsistency.....	48

14.8 Commission .....	48
14.9 Notices .....	49
14.10 Complaints.....	49
14.11 Governing law & jurisdiction.....	49
14.12 No trial period .....	49
14.13 Website.....	50
15. Service Limitations/Differences.....	52
15.1 000 Emergency Services .....	52

## **Section 1 - Description of Service/Features and Charges**

This part of this Agreement describes the features of the Service and sets out the Charges, which apply to the use of each feature of the Service.

This description is in 3 parts:

- Part 1 – Service
- Part 2 – Standard Installation and Termination Charges
- Part 3 – Miscellaneous Costs

## Part 1 – Service

<b>Access</b>	<b>Charges</b>
<p>Enjoy access to the engin DSL Internet Service with an approved modem/router. The engin DSL Internet Service is a broadband service that provides continuous connection to the Internet.</p> <p>To access and use the Service you will be provided with:</p> <ul style="list-style-type: none"><li>• the required equipment you order as part of your application (for example, a DSL modem and DSL line splitter/filter);</li><li>• instructions on self-installation;</li><li>• any additional service features you have selected, and access to Customer Service</li></ul>	<p>engin™ will charge you from the Service start date, monthly in advance, the Monthly Service Fee* applicable to your chosen Pricing Plan.</p> <p>engin operates on a cyclical billing system, which means You will be allocated the invoice issue date closest to your connection date. We will pro-rata the Monthly Service Fee from the date you connect to your invoice issue date.</p> <p>Once connected the cost of the Service will depend on:</p> <ul style="list-style-type: none"><li>• the pricing plan you select</li><li>• your use of the Service, any changes you make to your pricing plan, the additional service features you use or acquire and if you accept the terms of a special offer.</li></ul>

## Part 2 - Standard Installation and Termination Charges

### 2.1 Installation and Termination Charges for engin BB Series DSL Plans

Contract Term	No Minimum Term	12 Month Minim Term available via Telesales only	24 Month Minimum Term
<b>Installation</b> Installation of the engin BB Series DSL Service, which includes the provisioning of the Service and the potential cutover to A/NDSL.	\$140	\$60	\$0
<b>Hardware</b> The cost of the hardware is dependant on the offer you select or if you choose to BYO engin approved hardware.	TBA (where applicable)	TBA (where applicable)	TBA (where applicable)
<b>Service Relocation</b> If the Service is available at your new address, and you wish to continue receiving the Service, we may charge you a relocation fee as set out in Section 4 of this agreement.	\$75	\$75	\$75
<b>Incorrect call out</b> This fee may apply if we make a service call at your residence and the fault is deemed to be caused by factors or equipment unrelated to the engin Network or approved engin hardware i.e. user fault.	\$220	\$220	\$220
<b>Order reschedule</b> This fee may apply if a technician visits your residence and is unable to carry out the required work as you or some other person on your behalf was not available to allow the technician access.	\$10	\$10	\$10
<b>Order cancellation</b> This fee will apply if you cancel your order 48hours after it was placed.	\$55	\$55	\$55
<b>Disconnection Penalty</b> If you cancel the service in excess of 10 days after placing the order or if you disconnect within twelve months of the Service being activated.	\$0	a) \$100 <i>within 12 months</i> Pay back installation and hardware subsidy if within 24 months; OR  b) \$0 <i>after 12 months</i>	a) \$100 <i>within 12 months</i> Pay back installation and hardware subsidy if within 24 months; OR  b) \$0 <i>after 24 months</i>

## 2.1 Installation and Termination Charges for engine Ignition Series DSL Plans

<b>Contract Term</b>	<b>24 Month Minimum Term</b>
<p><b>Installation</b> Installation of the engine Ignition Series DSL Service, which includes the provisioning of the Service and the potential cutover to A/NDSL.</p>	\$0
<p><b>Hardware</b> The cost of the hardware is dependant on the offer you select or if you choose to BYO engine approved hardware.</p>	TBA (where applicable)
<p><b>Service Relocation</b> If the Service is available at your new address, and you wish to continue receiving the Service, we may charge you a relocation fee as set out in Section 4 of this agreement.</p>	\$75
<p><b>Incorrect call out</b> This fee may apply if we make a service call at your residence and the fault is deemed to be caused by factors or equipment unrelated to the engine Network or approved engine hardware i.e. user fault.</p>	\$220
<p><b>Order reschedule</b> This fee may apply if a technician visits your residence and is unable to carry out the required work as you or some other person on your behalf was not available to allow the technician access.</p>	\$10
<p><b>Order cancellation</b> This fee will apply if you cancel your order 48hours after it was placed.</p>	\$55
<p><b>Disconnection Penalty</b> If you cancel the service in excess of 10 days after placing the order or if you disconnect within anytime within the contract term of 24 months.</p>	<p>\$480 punctuated fee. The fee is pro rated for the number of months remaining on your minimum term.</p>

## Part 3 - Miscellaneous Costs

<p align="center"><b>Miscellaneous Cost</b></p> <p align="center">We may charge you for the following</p>	<p align="center"><b>Charges</b></p> <p align="center"><b>(Unless otherwise specified)</b></p>
<p><b>3.1 Order Cancellation</b> An order for the engin DSL Internet Service may be placed online or by contacting engin Sales on 1300 305 000.</p> <p>If an order is cancelled more than 48 hours after the order was placed an administration fee will apply. After receipt of the <i>Completion Advice Report</i> the Cancellation Penalty applies.</p>	<p>\$50.00 (GST inc.)</p>
<p><b>3.2 Order Failure/Reversal</b> The fee may apply where the order fails or a service port/transfer fails as a result inaccurate information provided by the customer.</p>	<p>\$55.00 (GST inc.)</p>
<p><b>3.2 Late Payment fee</b> The late payment fee may apply to customers who do not pay their invoice in full on the Due Date.</p>	<p>\$5.50 (GST inc.)</p>
<p><b>3.3 Refer to Drawer fee</b> Where your cheque or direct debit payment is dishonoured.</p>	<p>\$22.00 per dishonoured payment GST inclusive.</p>
<p><b>3.4 Reinstatement of a suspended account</b> This fee is charged if your account is reconnected, after having been suspended due to non-payment of an invoice/s.</p> <p>Together with this fee you are also required to pay the outstanding invoice/s owing, prior to the reconnection-taking place.</p>	<p>\$27.50 (GST inc.)</p> <p>Please refer to Section 4 – Terms and Conditions of this Agreement.</p>
<p><b>3.5 Third party collections</b> Applicable once an account is passed to a third party collection agency.</p> <p>But only after the account has been disconnected due to non-payment, and previous Credit Control activity deemed futile.</p>	<p>\$55.00 (GST inc.)</p> <p>Please refer to Section 4 – Terms and Conditions of this Agreement.</p>
<p><b>3.6 Account split/account merge fee</b> Applicable when a customer requests to have the phone numbers from their account split into separate accounts. Or to have separate accounts merged into a single account.</p>	<p>\$11.00 (GST inc.)</p>
<p><b>3.7 Hardcopy (paper) invoice</b> The charge applies to each hardcopy invoice you request in addition to your e-mail invoice automatically sent on your invoice issue date each month.</p>	<p>\$5.50 per hardcopy invoice (GST inc.)</p>

<p><b>3.8 Access to personal information</b>  In accordance with the National Privacy Principles, engin must provide the customer with access to the information on request by the customer  To provide a copy of the Customer Details and Notes History file.</p> <p>For a copy of all personal customer information held by engin.</p> <p>Retrieval, access and provision of archived customer information.</p> <p><b>N.B.</b> customer information is archived 3 months after the account is disconnected.  For more information on access and correction refer to section 11.4 of this agreement.</p>	<p>\$7.50 per request, per service number</p> <p>\$12.50 per request, per service number</p> <p>\$32.50 per request, per service number</p>
<p><b>3.9 Incomplete Return Charge</b>  All hardware that is returned to engin, must be returned in the original condition in which it was received by the customer, inclusive of the hardware, all cabling, manuals and any other included parts. If the hardware is returned without all the necessary components, you will be charged a fee. If the hardware is damaged, you will be charged the RRP of the package.</p>	<p>A \$25.00 fee applies for incomplete returns.</p>
<p><b>3.10 Postage &amp; Handling</b>  Orders/hardware purchased directly from engin over the phone or via the website will attract this fee.</p> <p>Providing the ordered product is in stock, engin will endeavour to despatch your order by the following business day.</p> <p>Delivery within Australia is generally 5-7 business days. During festive occasions, sale periods and special promotion offers, delivery may take up to two weeks.</p>	<p>\$14.95 per consignment</p>
<p><b>3.11 Pricing Plan change</b>  To downgrade your monthly access fee from a higher fee, a \$40.00 charge applies. You are limited to one request per month.</p> <p>There is no charge for plan upgrades.</p> <p>To change Pricing Plans contact Customer Service on 1300 305 000.</p>	<p>\$40.00 request per service</p>

## Section 2- Pricing Plans

### 2.1 Afterburner

Rather than change plans or to avoid your DSL Service from being throttled (speed limited) you may purchase an additional 1 GB (Gigabyte) of data allowance at any time during the billing cycle for AU\$5.00.

If you have been throttled and for example exceeded your data allowance by 2 GB, you will require three Afterburners in order to restore your speed to the level received prior to being throttled.

### 2.2 Pricing Plans

This part of this Agreement sets out the various Pricing Plans, which are available under the Service, and the:

- Monthly Service Fee;
- Standard charges;
- Irregular Charges

Details pertaining to the Pricing Plans are also available at [www.engin.com.au](http://www.engin.com.au). We reserve the right to make changes to or close Pricing Plans at our discretion. Any Pricing Plan change that may be detrimental to the customer will be communicated via email to the customers nominated email address a minimum of 21 days before becoming effective.

### 2.3 Index Of Pricing Plans

#### 2.3.1 Residential Pricing Plans

##### 2.3.1.1 engin BB Series DSL Pricing Plans

The following Pricing Plans are designed for residential use under the Service:

<b>BB6 Naked <sup>1</sup></b>	
DSL Monthly Service Fee	\$54.95
Data Quota	2 GB Peak / 4 GB Off Peak

<b>BB15 Naked <sup>1</sup></b>	
DSL Monthly Service Fee	\$64.95
Data Quota	5 GB Peak / 10 GB Off Peak

<b>BB21 Naked <sup>1</sup></b>	
DSL Monthly Service Fee	\$74.95
Data Quota	7 GB Peak / 14GB Off Peak

<b>BB36 Naked <sup>1</sup></b>	
DSL Monthly Service Fee	\$84.95
Data Quota	12 GB Peak / 24 GB Off Peak

<b>BB75 Naked <sup>1</sup></b>	
DSL Monthly Service Fee	\$94.95

Data Quota	25 GB Peak / 50 GB Off Peak
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<b>BB6 Bundled <sup>2</sup></b>	
DSL + PSTN Monthly Service Fee	\$74.95
Data Quota	2 GB Peak / 4 GB Off Peak

<b>BB15 Bundled <sup>2</sup></b>	
DSL Monthly Service Fee	\$84.95
Data Quota	5 GB Peak / 10 GB Off Peak

<b>BB21 Bundled <sup>2</sup></b>	
DSL + PSTN Monthly Service Fee	\$94.95
Data Quota	7 GB Peak / 14GB Off Peak

<b>BB36 Bundled <sup>2</sup></b>	
DSL + PSTN Monthly Service Fee	\$104.95
Data Quota	12 GB Peak / 24 GB Off Peak

<b>BB75 Bundled <sup>2</sup></b>	
DSL + PSTN Monthly Service Fee	\$114.95
Data Quota	25 GB Peak / 50 GB Off Peak

### 2.3.1.2 engin Ignition Series Pricing Plans

The Ignition Series Pricing Plans are inclusive of your ADSL service as well as your PSTN connection. The services are marketed as a bundle and the bundle cannot be reverted to its individual components.

All calls are charged in per minute increments. For example, if you are to make a call for 20 seconds, you will be charged for the whole minute. If you make a call for 63 seconds, you will be charged the equivalent of two minutes of talk time. Unlike plans in the BB Series PSTN Pricing Plans, flagfall is charged for certain types of calls.

The DSL Service has no Peak or Off – Peak Periods.

All ‘Included Calls’ are subject to engin’s Fair Use Policy, available on the engin website, under the Terms and Conditions page.

<b>Ignition 49 (Commenced 15/12/09 - Current) ~</b>		
Monthly Service Fee - \$49.00		
<b>DSL Data Allowance – 2 GB</b>		
<u>Call Type</u>	<u>Flagfall</u>	<u>Rate</u>
<ul style="list-style-type: none"> <li>• Local</li> <li>• National / STD</li> <li>• Mobile</li> <li>• Service Call</li> <li>• International</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• \$0.38</li> <li>• \$0.38</li> <li>• N/A</li> <li>• \$0.20</li> </ul>	<ul style="list-style-type: none"> <li>• Included</li> <li>• \$0.17 per minute</li> <li>• \$0.35 per minute</li> <li>• \$0.28 per call</li> <li>• As advertised online</li> </ul>

<b>Ignition 69 (Commenced 15/12/09 - Current) ~</b>		
Monthly Service Fee - \$69.00		
<b>DSL Data Allowance – 5 GB</b>		
<u>Call Type</u>	<u>Flagfall</u>	<u>Rate</u>
<ul style="list-style-type: none"> <li>• Local</li> <li>• National / STD</li> <li>• Mobile</li> <li>• Service Call</li> <li>• International</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• N/A</li> <li>• \$0.38</li> <li>• N/A</li> <li>• \$0.20</li> </ul>	<ul style="list-style-type: none"> <li>• Included</li> <li>• Included</li> <li>• \$0.35 per minute</li> <li>• \$0.28 per call</li> <li>• As advertised online</li> </ul>

<b>Ignition 79 (Commenced 15/12/09 - Current) ~</b>		
Monthly Service Fee - \$79.00		
<b>DSL Data Allowance – 10 GB</b>		
<u>Call Type</u>	<u>Flagfall</u>	<u>Rate</u>
<ul style="list-style-type: none"> <li>• Local</li> <li>• National / STD</li> <li>• Mobile</li> <li>• Service Call</li> <li>• International</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• N/A</li> <li>• \$0.38</li> <li>• N/A</li> <li>• \$0.20</li> </ul>	<ul style="list-style-type: none"> <li>• Included</li> <li>• Included</li> <li>• \$0.35 per minute</li> <li>• \$0.28 per call</li> <li>• As advertised online</li> </ul>

<b>Ignition 99 (Commenced 15/12/09 - Current) ~</b>		
Monthly Service Fee - \$99.00		
<b>DSL Data Allowance – 25 GB</b>		
<u>Call Type</u>	<u>Flagfall</u>	<u>Rate</u>
<ul style="list-style-type: none"> <li>• Local</li> <li>• National / STD</li> <li>• Mobile</li> <li>• Service Call</li> <li>• International</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• N/A</li> <li>• N/A</li> <li>• N/A</li> <li>• \$0.20</li> </ul>	<ul style="list-style-type: none"> <li>• Included</li> <li>• Included</li> <li>• Included</li> <li>• \$0.28 per call</li> <li>• As advertised online</li> </ul>

<b>Ignition 119 (Commenced 15/12/09 - Current) ~</b>		
Monthly Service Fee - \$119.00		
<b>DSL Data Allowance – 40 GB</b>		
<u>Call Type</u>	<u>Flagfall</u>	<u>Rate</u>
<ul style="list-style-type: none"> <li>• Local</li> <li>• National / STD</li> <li>• Mobile</li> <li>• Service Call</li> <li>• International</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• N/A</li> <li>• N/A</li> <li>• N/A</li> <li>• \$0.20</li> </ul>	<ul style="list-style-type: none"> <li>• Included</li> <li>• Included</li> <li>• Included</li> <li>• \$0.28 per call</li> <li>• As advertised online</li> </ul>

**2.3.2 Business Pricing Plans**

The following Pricing Plans are designed for business use under the Service:

<b>Business BB10 Naked <sup>3</sup></b>	
DSL Monthly Service Fee	\$59.95
Data Quota	10GB Anytime

<b>Business BB25 Naked <sup>3</sup></b>	
DSL Monthly Service Fee	\$79.95
Data Quota	25GB Anytime

<b>Business BB50 Naked <sup>3</sup></b>	
DSL Monthly Service Fee	\$99.95
Data Quota	50 GB Anytime

<b>Business BB100 Naked <sup>3</sup></b>	
DSL Monthly Service Fee	\$129.95
Data Quota	100GB Anytime

If combined with a Business BB Series DSL Service, a Business customer may purchase an associated PSTN service as a ‘bundled’ product from engin at \$24.95.

Business customers may purchase a standard PSTN service as a ‘stand alone’ product from engin. The monthly Service Fee is \$34.95. For call charges, refer to Section 1, Parts 2 and 3.

Additional PSTN Services will not be provided if an existing ULLS has not been provisioned or if a customer wishes to purchase an engin PSTN Service through a Spectrum Sharing arrangement (Having a DSL Service with another provider, and wanting to set up a PSTN Service with engin simultaneously on the same ULLS).

**2.4 VoIP Add On**

All Residential engin BB DSL Services have an incorporated engin VoIP Service by design. By default, you will be charged the rates associated with the engin National Plan, however you may upgrade the incorporated VoIP Service to the options listed below:

<b>engin Home Plus (Commenced 28/02/07 - Current)</b>	
<b>Monthly Service Fee</b>	<b>Call charges (GST inclusive)</b>
\$5.00 per month extra with a designated engin DSL plan (Refer to Section 2.3)	<ul style="list-style-type: none"> <li>• Included local &amp; national calls~</li> <li>• 22c per minute mobile calls</li> <li>• Included to 8 countries~</li> <li>• 20c untimed/13 included countries~</li> <li>• e2e free of engin charges</li> </ul>

<b>engin Mobile Plus (Commenced 19/12/08 - Current)</b>	
<b>Monthly Service Fee</b>	<b>Call charges (GST inclusive)</b>
\$5.00 per month extra with a designated engin DSL plan (Refer to Section 2.3)	<ul style="list-style-type: none"> <li>• 10c untimed local &amp; national calls~</li> <li>• 200 included calls or 400 included minutes (whichever elapses first) to Australian mobiles^^, ~</li> <li>• 27c mobile calls (Once included calls have elapsed)</li> <li>• e2e free of engin charges</li> <li>• Standard International call rates^*</li> </ul>

<b>engin Max (Commenced 26/08/09 - Current)</b>	
<b>Monthly Service Fee</b>	<b>Call charges (GST inclusive)</b>
\$14.95 per month extra with a designated engin DSL plan (Refer to Section 2.3) ~ *^	<ul style="list-style-type: none"> <li>• 600 minutes of included calls to local, national, Australian mobile and selected international destinations</li> <li>• 15c local &amp; national calls (Once 600 included minutes have elapsed)</li> <li>• 27c per minute to Australian mobiles (Once 600 included minutes have elapsed)</li> <li>• Standard International call rates if not included as one of the 100+ countries listed or once 600 included minutes have elapsed</li> <li>• e2e free of engin charges</li> </ul>

<sup>1</sup> Residential Naked plans automatically include the engin VoIP Service by design. If you use the VoIP Service to make calls, where applicable you will be charged the rates associated with the engin [National Plan](#).

<sup>2</sup> Residential Bundled plans: the PSTN Service is not available as a standalone option. Bundled plans automatically include the engin VoIP Service by design. If you use the VoIP Service to make calls, where applicable you will be charged the rates associated with the engin [National Plan](#).

<sup>3</sup> Business Broadband Naked Plans: The Business Broadband Naked Plans are not inclusive of a VoIP Service. VoIP Services must be purchased separately. PSTN Services can also be purchased separately at \$24.95 a month.

~ Plan is for residential use only and subject to a Fair Use Policy available at <http://www.engin.com.au/FairUse.aspx> For the 8 included countries and rates for the 13 or 21 included International countries refer to [www.engin.com.au/plans/InternationalRates.aspx](http://www.engin.com.au/plans/InternationalRates.aspx) included calls, are applicable to voice calls only. Unless otherwise specified in the pricing plan, included calls exclude international numbers and some Special Service numbers, particularly those not charged at local call rates. Unused included calls are not carried forward but forfeited at the end of each billing cycle.

^^ included calls to Australian mobiles under the engin Mobile Plus plan are charged in 60 second blocks i.e. the billing increment is 60 seconds. Therefore a call made for 10 seconds would be billed as a 60 second call, and a 75 second call would be billed as a 120 second call. After the included 400 minutes/200 calls have elapsed, calls will be charged a \$0.27 and will continue to be charged in 60 second increments.

\*^ Included calls under the engin Max plan are charged in 60 second blocks i.e. the billing increment is 60 seconds. Therefore a call made for 10 seconds would be billed as a 60 second call, and a 75 second call would be billed as a 120 second call. After the included 600 minutes have elapsed, calls will be charged at the listed prices and will continue to be charged in 60 second increments for applicable calls. Any unused included minutes will not be carried over to a subsequent billing cycle. The International Destinations associated with the engin Max plan are subject to change without notice. The destinations included in the 600 minute quota are all local and national numbers in Australia (excluding overseas territories e.g. including but not limited to Norfolk Island) standard Australian mobiles (not including satellite or special service mobile connections) and the international destinations listed in the VoIP Standard Form of Agreement. Refer to the VoIP Standard Form of Agreement for a full list of destinations. The DSL Standard Form of Agreement ought to be read in conjunction with the VoIP Standard Form of Agreement and if there is any inconsistency between the documents regarding section 2.4 of the DSL SFOA, the provisions of the VoIP Standard Form of Agreement will prevail to the extent of the inconsistency.

## Section 3 – Dictionary

You should be aware that some words have a special meaning in this Agreement. These words and their special meaning are set out below. When you see one of these words used in this Agreement, it has the meaning as set out below.

**ACMA** Australian Communications and Media Authority

**Act** Broadcasting Services Act 1992

**Acceptable Use Policy** This policy is designed to ensure that *your* use of the *service* does not break any laws, hinder the efficient operation of *our network*, interfere with the rights of *engin Internet customers*, or interfere more generally with the rights of Internet users.

**ADSL** Asymmetric Digital Subscriber Line - A broadband connection technology, which utilises the existing copper, wired telephone networks. It is an asymmetric line meaning that upstream upload and downstream download speeds are different, for example a 256/64KB connection can Download at 256KB/sec but only upload at 64KB/sec. ADSL connections range from 256KB to 1.5MB, which is approximately 30 times the speed of a standard 56Kb modem connection.

This is your Invoice issue date.

**Afterburner** is an additional 1 GB (Gigabyte) allotment of data allowance that can be purchased by the customer at any time during the billing cycle for AU\$5.00.

**ATA** An analogue telephone adaptor (ATA) is a device used to connect a standard telephone to a computer or network so that the user can make calls over the Internet.

**Bandwidth** Usually measured in bits per second, this describes the amount of data a network can transport in a certain period of time. In other words, bandwidth is a capacity for rate of transfer. Low bandwidth networks can cause bottlenecks for data transfer, meaning the network can slow down or, in extreme cases, seize up. Higher bandwidth networks allow more data volume to pass through meaning there are no 'slow' periods when busy.

**Billing Cycle** The period between invoicing when service fees and charges are incurred from use and access to the service.

**Bit (b)** The smallest data unit, with the binary digit value of either 1 or 0. There are 8 bit to a byte.

**Byte (B)** This is a unit of information, which is 8 bits long. It is the unit most computers use to represent a character such as a letter, number or typographic symbol, e.g. "w" or "6". A byte can also be used to store a string of bits that need to be used in some larger unit for application purposes, e.g. the stream of bits that constitute a visual image.

**Broadband** class of communication channel capable of supporting a wide range of frequencies, typically from audio up to video frequencies. A broadband channel can carry multiple signals by dividing the total capacity into multiple, independent bandwidth channels, where each channel operates only on a specific range of frequencies.

**BYO** refers to Bring Your Own *engin* approved device.

**Codec** Unfortunately there are two separate meanings for this one. The main meaning for this is 'coder/ decoder' - usually for digital-to-analogue or analogue-to-digital (e.g. modem). The meaning used with VoIP would be **compression/ decompression**. It is an algorithm (computer jargon for 'solution') that defines how data can be sent and received as efficiently

as possible. Compression reduces the amount of data that needs be sent by cutting out redundant data.

Examples of codecs that we use at the moment are:

G. 711 (A-law and mu-law): 64kbps transfer

G. 729 A + B: 8kbps transfer

**Carriage Service Provider** are those who use a telecommunications network unit to supply carriage services to the public.

**Carrier** means the holder of a carrier licence in accordance with the Telecommunications Act 1997.

**CA** means Customer Authorisation, means a written or electronic authorisation which is executed by or on behalf of a Customer.

**Charges** the charges for the Service.

**Confidential Information** all confidential information about the Service, us, our related entities, the MIBROADBAND (engin™) Network, or you, which is or has been disclosed under or in connection with this Agreement or learnt in the performance of this Agreement, other than any of that information which:

- Was publicly known at the time it was disclosed (except if that happened because of a breach of this Agreement); or
- You or we came to know about (other than because of a breach of this Agreement)

**Connected** to the engin Network and activated for the Service.

**Connection date/Service Commencement Date** day of activation of engin service.

**Consequential Loss includes:**

- indirect loss and special damages;
- loss of revenue;
- loss of profits;
- loss of business;
- loss of anticipated savings;
- loss of goodwill;
- loss of data;
- claims of third parties; and
- loss or costs associated with any of the above

**Content Provider** any party (including a third party) who supplies Content.

**Credit Approval** means the applicant has met the required credit criteria set by engin including but not subject to external enquiries using credit reporting agencies permissible by the Privacy Act 1988.

**Customer** a person who: is connected with engin.

**Customer Service** means engin customer service line 1300 305 000.

**Cyclical Billing** engin has designated bill run dates. Customers will be allocated the invoice issue date closest to their connection date.

**Description of Service Features and Charges** Section 1 of this Agreement, which describes the Service, its features Charges.

**Dictionary** Section 3 of this Agreement, which sets out the words that, have special meaning in this Agreement

**Disconnected** disconnected from the engin Network.

**Downloads** To *download* is to receive data from a remote or central system, such as a webserver, FTP server, mail server, or other similar systems.

**DSL** (Digital Subscriber Line) is a technology that allows for the transmission of digital data over the wiring of a local telephone network.

**engin™** means us, we, our, MIBROADBAND PTY LTD (ABN 70 080 250 371).

**engin DSL Service** means the DSL service provided to you by engin.

**Ethernet** The most widely installed LAN technology. These type networks can be wired or wireless. The most common of these networks is a system called 10Base-T. Computers that are connected to a network (other than the Internet) would usually have an Ethernet Port - this port looks like a PSTN port but is slightly longer in size.

**Firewall** A firewall can be a hardware device, a program or a set of programs, that protects the resources behind it from being accessed by users who are not given rights. An organisation with a LAN connected to the Internet would place a firewall at the gateway to the Internet to prevent unwanted users from gaining access to the private information saved on the LAN.

**Firmware** Software that has been written onto read-only memory (ROM). Can be a combination of Software and Hardware ROMs for example that have data or programs recorded on them are firmware.

**Gateway** A node (processing location) on a network that serves as an entrance to another network.

**IAD – integrated access device** see also DTA

**Invoice issue date** The same date each month that you will receive a bill from us.

**Insolvent** if you are a natural person; you are declared bankrupt; if you are a company – a receiver, liquidator, provisional liquidator or administrator is appointed to you, you enter into an arrangement with your creditors or a class of your creditors, you become unable to pay your debts when they are due, or you are wound up. Interest a rate of interest equal to 2% plus the interest rate described as the 30 day. Bank Bill Swap Reference Rate: Average Bid quoted in the Australian Financial Review on the due date for payment of the overdue payment or if no such rate is quoted, the rate quoted on the day before the due date.

**Internet Service Provider** means supplier of your Internet broadband.

**IP** Internet Protocol. Is the method that defines how data is sent and received from one computer to another, on a network (including the Internet). Every computer on a network has at least one IP address which uniquely identifies a computer from all others. When data is sent or received, the message gets divided into packets. Each packet can travel by different routes but still arrive at the required destination. IP alone can not guarantee delivery of packets, nor that they will arrive in the correct order they were sent - this is where TCP (Transmission Control Protocol) comes into play.

**IP Address** Every computer or device on the Internet has what is known as an IP address, which uniquely defines that device and enables devices to find each other on the Internet.

**ISP Internet Service Provider** -A company, which provides other companies or individuals with access to, or presence on, the Internet (Broadband).

**Kilobyte (kB)** In the decimal system, kilo stands for one thousand (1,000). Since a Kilobyte is a measurement of data, the binary system is used; a kilobyte is the same as  $2^{10}$  bytes or 1,024 bytes. The decimal system value is very close to the binary system value so the decimal value of 1,000 bytes can be used as approximate.

**LAN (Local Access Network)** A local-area network is a computer network covering a small geographic area, like a home, office, or group of buildings e.g. a school. Characteristics of LANs include higher data-transfer rates, smaller geographic range, and lack of a need for leased telecommunication lines.

**Mac address** Pre-defined 48-bit, unique address specific to every computer in the world - burnt onto the hardware. This address is not the same as an IP address. A correspondence table (known as an ARP cache) is made up of IP addresses and their respective MAC addresses - stored onto a router.

**Material** data in any form, which you send over the MIBROADBAND (engin™) network, includes any Content that you receive and subsequently forward to any other person.

**MIBROADBAND means us and we means MIBROADBAND PTY LTD (ABN 70 080 250 371)**

**Modem** Modulator-Demodulator - A device or program that enables a computer to transmit data over analogue telephone lines. Computer information is stored digitally, whereas information transmitted over telephone lines is transmitted in the form of analogue waves. A modem converts between these two forms.

**MYOB Customers** are considered to be those persons to whom a promotional offer for engin services has been made to them directly by MYOB.(Mind Your Own Business)

**Nominated email address** an email address provided to engin by the customer, (but not supplied by engin) for the purpose of primary contact by engin.

**Non-Customers** those persons who have purchased an engin product/hardware but did not connect to the engin Network or have since disconnected from the Network.

**PABX** Private Automatic Branch exchange -A telephone exchange operated within an organisation, used for switching calls between internal lines and between internal and PSTN lines.

**PC** Personal Computer.

**Ports** Refers to a connection point for a cable or the identity of services offered on a server or machine. A port is virtual interfaces through which a system can interact with the world outside itself. In the physical world, a hardware port is an interface that allows you to plug in devices like the keyboard, mouse, monitor, network cable etc. Of a similar fashion, when you make a connection to a system, your connection will 'arrive' at the other remote system seeking the service you are connecting to. The local system can also connect to services running in itself. If your local computer is running a web server, then connections can 'loop back' to the local machine, the local host. The virtual port is where the service you are connecting to resides. An example is when you are browsing the Internet looking for a webpage; the most common port on a remote machine that you will connect to is port 80.

**Post Paid Application Form** the application form for the Service.

**Pricing Plan** applicable to you, being the Pricing Plan which you selected at the point of sale or activation or the Pricing Plan which you subsequently changed to with our approval as set out in Section 2 of this Agreement

**PSTN** Public Switched Telephone Network -The collection of interconnected systems operated by the various telephone companies and administrations (telcos and PTTs) around the world. Also known as the Plain Old Telephone System (POTS).

**QoS** Quality of Service – performance properties of the network service.

**Relocation Order** means an order created to initiate the relocation of an existing customer to a new residential address.

**Reversal** means the reinstatement of a customer’s service with the Losing Carrier/CSP.

**Router** A device that determines the next network point to which a data packet should be forwarded enroute toward its destination. The router is connected to at least two networks and determines which way to send each data packet based on its current understanding of the state of the networks it is connected to. They allow the user to share an Internet connection with other computers on the same network and includes an in-built firewall for security. These can be added into a cabled network, using CAT5 cables, or it can be a Wireless network, utilising radio frequencies.

**Service Delivery Address** The address of the location where you are physically using your engin service.

**Service Fee** the fixed monthly usage charge for the service.

**Service Provider** MIBROADBAND PTY LTD (ABN 70 080 250 371).

**Service Qualification** means the determination of whether a communications wire is compatible with the deployment rules for a given deployment class.

**Service Start Date** the date engin receives a Completion Advice Report

**Shaping** – see Throttling.

**Special Services** the features of the Service described in Part 3 of the Description of Services and Charges.

**Static IP Address** When someone manually configures a computer to use the same IP address each time it powers up, this is known as a Static IP address. Even static IP addresses do change as a result of network administration.

**Terms and Conditions** terms and conditions, which apply to the Service, set out in Section 4.

**Throttling** is a process by which the DSL connection speeds are reduced to a determined level – 64/64 kbps, as soon as your ‘data allowance’ limit has been passed.

**UDP** stands for “user data gram protocol”. It’s an Internet standard network layer, transport layer and session layer protocol, which provide simple but unreliable data gram services.

**ULL** Unconditioned Local Loop is the copper line between an exchange and a customer premises.

**Uploads** To give/send a file from your own computer and put this file on a server or any other computer on the network (or Internet). When you send an attached file with an e-mail note,

this is just an attachment, not a download or an upload. to *upload*, is to send data from a local system to a remote system, FTP server, or website.

**Usage** means the measurement of time or data generated by your Internet Access.

## Section 4 – Terms & Conditions

This part of this Agreement sets out the general terms and conditions, which apply in respect of the Service.

### 1. The Service

You agree to acquire from engin the Service on these Terms and Conditions and the terms and conditions contained in the relevant Service Description. engin agrees to provide the Services to you subject to these Terms and Conditions and the relevant Service Description provided that you meet the requirements of engin. To the extent of any inconsistency, these Terms and Conditions shall prevail over the relevant Service Description. You must ensure that third parties whether or not authorised to use the Service adhere to these Terms and Conditions.

**IMPORTANT:** This agreement must be read in conjunction with the engin VoIP SFOA, as the VoIP service is by design included with Naked DSL service. If you elect to bundle the DSL service with PSTN you must further read the PSTN SFOA available [here](#).

engin may not be able to exercise control and thus will not make any warranty regarding:

- your right or ability to use access or transmit any content using the engin DSL Service
- the accuracy and completeness of content accessed or transmitted
- the consequences of you accessing or transmitting any content using the engin DSL Service

You must be the legal lessee of the line you are connecting to the DSL service (or in the case of a rental property have permission from the property owner) and must be over 18 years of age to connect to the Service.

You agree that engin may modify or replace one or all of the features of the Service or provide additional features to those set out in the Service Description. You will have been deemed to have commenced using the Service from the Service Start Date.

#### 1.1 Service Description

The engin DSL Internet Service is a consumer grade residential Broadband service that provides a high-speed continuous connection to the Internet. It is not a service designed for application to business critical objectives. Connection to the service is only available at premises that have access to the engin network first determined by a Service Qualification check and so does not include those residence with Cable Broadband access.

engin DSL will be provided in the form of Naked DSL and conventional ADSL2+ connections depending on individual customer needs and choice.

Naked DSL will be offered if the customer chooses to disconnect their existing PSTN or in the absence of an existing PSTN do not elect to acquire a PSTN and only maintain an active DSL connection.

ADSL2+ will be offered to customers who choose to maintain or acquire a PSTN connection and bundle it with a DSL Internet service.

At our discretion you will be provided with a static IP Address that your DSL modem requires to connect to the *service*. The static IP address may only be used on our network, remains our property and is not portable.

You further acknowledge that we will issue you with one static IP address per username but that we maybe required to recover a static IP address previously issued to you as they are considered to be a limited resource allocated by the Asia Pacific Network Information Centre (APNIC). engin will not accept liability toward *you* in relation to any *loss*, damage, costs or expenses suffered or incurred by *you* as a result of any such recall. The engin DSL Service includes access to customer service.

## **1.2 Service Availability**

engin can not guarantee that the Service is available throughout Australia or when a Cable Broadband network is already established. Service availability is subject to geographical, financial and technical factors.

For technical or financial reasons, engin reserves the right not to supply you with the engin DSL Service. A preliminary Service Qualification will determine whether a customer can connect to the engin DSL Service.

The engin Network is not free from faults or interruptions. The Quality of Service (QoS) and each of its features may be subject to congestions, “dropouts”, latency, jitter and/or loss of data. Coverage is dependant on the availability of a Broadband connection in any given area.

For more details refer to 4.3 Quality of Service of this agreement and engin’s coverage map available at <http://www.engin.com.au/coverage/coverage.aspx>

## **1.3 Customer Service Guarantee Waiver**

A key obligation placed on Carriage Service Providers who supply a Standard Telephone Service is the Customer Service Guarantee (CSG). The CSG is a standard intended to promote service improvement and protection against poor service and outlines minimum performance requirements for specified services (including enhanced call handling features such as Call waiting).

The CSG does not apply to the engin NDSL Service, however it does apply to Standard Telephone Services and as such affects the associated engin ADSL service (bundled telephony and broadband). As you have made an acknowledgement to waive your protection and rights under the Customer Service Guarantee in return for significant benefits being low cost call rates, a 30-day trial period and technical support on the engin PSTN Service, engin will not guarantee adherence to the minimum terms set by the CSG to resolve any issues that may arise from a fault in your PSTN connection. As such, any associated fault that may restrict DSL access will not be addressed according to the minimum terms set by the CSG.

## **1.4 Monitoring Services Installed on Telephone Line**

Where a Monitoring Service or other hard-wired telephony device is fitted on the telephone line used to deliver the engin DSL Service, you acknowledge that engin will not be held liable for faults or disruptions to the DSL Service or the Monitoring Service. Failure to install central splitter and network termination device while operating a Monitoring Service, at your own expense, may result in interruptions or interferences in the DSL Service. Onus rests on you to advise the provider of your Monitoring Service of the changes that will be made once

the engin DSL Service is provided to you. Examples of such services include ‘Panic Alarms’ or Surveillance equipment.

## **1.5 Service Provisioning**

Provisioning of the engin DSL Service will take place once the customer’s order has been approved. Provisioning will normally up to 21 business days to occur. During the provisioning process, a technician will be sent out to perform the ULL cutover at the local exchange or Main Distribution Frame (MDF) contained in a Multiple Dwelling Unit. We will endeavour to activate the engin NDSL Service within 24 hours of the ‘cutover’, however events beyond our control may cause delays in activation.

The technician may need access to your residence and if such a scenario arises (e.g. If an active telephone line has not existed at your premises prior to our order being made), you will be informed as soon as practicable. It is imperative that an English speaking adult be present if a technician needs access to the residence. The owner of the residence must approve and permit the technician accessing the residence when necessary. If the customer is not the owner of the residence, then the onus rests with the customer to seek permission from the owner of the residence.

If the customer or an English-speaking adult is not available at the premises when the cutover is to take place, the cutover will not proceed and you will be charged a Reschedule fee. Please be aware that a new date will have to be set for the cutover to take place.

You acknowledge that the owner of the residence indemnifies engin of all possible responsibility regarding installations made during the provisioning process by third parties.

The provision of the Service does not include the installation, maintenance or provision of cabling or equipment beyond the Service Delivery Point at your residence.

You acknowledge that engin may not activate the order within the timeframe specified. This will only occur for technical or operational reasons and will occur in a non – discriminatory manner.

All local wiring at your premises is your responsibility. engin will not be held liable for faults within your premises. All faults at your premises must be fixed by an accredited technician. Alternatively, you could lodge a fault resolution order with engin, and we can organise technical assistance through a third party technician. You acknowledge that all fees will be on charged to you in the event that the fault is within your premises.

### **1.5.1 Connecting as a New DSL User**

You must meet all of the minimum system requirements, have the approved and required equipment installed and be the account holder of the line used to connect the service.

We will activate the *service* by preparing the telephone circuits on your access line. You are responsible for installing the service using the installation kit provided by engin. However, you warrant that you understand that failure to correctly install DSL line splitter/filters on each telephony device, or central filtering equipment can result in the service being interrupted and interfering with the operation of telephony devices and/or monitoring services.

## 1.5.2 Connecting as a Current DSL User

If you already acquire a DSL service from a third party, we may be able to transfer you from that DSL service to the engin DSL service. If we are able to transfer you, you authorise us to act on your behalf to transfer you to the engin DSL service.

You are responsible to that third party for all charges incurred up to the date that you are transferred or contracted to and you are responsible for reviewing the terms and conditions of your agreement with that third party to determine what costs maybe incurred by you when you transfer to the engin DSL service.

We are not liable for any delay by, or any act or omission of, the third party from whom you acquire the DSL service in respect of completion of the transfer process.

We will activate the service by transferring you from the DSL service you acquire from the third party provider to the engin DSL service. During the period of transfer, there may be a brief period when you will not be able to access any DSL service. We are not liable for any delay in the transfer process or if your transfer from that DSL service is rejected

## 1.6 System Requirements

In order to operate the engin DSL Service, you will need to ascertain the compatibility of your computer with our service. The minimum requirements have been listed below.

- Windows 2000, Pentium Processor, 64MB RAM, 125MB free on HDD, Ethernet or USB Port
- Windows XP, Pentium 233 MHz Processor, 64 MB RAM, 500 MB free on HDD, Ethernet or USB Port
- MAC OS 10.0, 10.1, 10.2, 10.3, Power PC G3 Processor, 128 MB RAM, 500 MB free on HDD, Ethernet Port
- MAC OSX 10.4, Power PC G3 Processor, 256 MB RAM, 500 MB free on HDD, Ethernet Port

Please be advised that you may need additional hardware for a compatible setup.

## 1.7 Firewall and Security Devices

engin will not accept liability for any change, or consequence that may occur as a result of changes, to firewalls or other security devices, which may be required to use the engin service.

## 1.8 Hardware

engin may provide branded equipment for you to use with the service. If you elect to supply some or all of the required yourself, any equipment, including DSL modem and filters, must meet the requirements shown on *our* list of approved equipment for use with the Service. This list is published at: [www.engin.com.au](http://www.engin.com.au) and the operation of, and any repairs to, the required equipment is *your* responsibility.

engin branded equipment is provided to you assuming that the equipment will be used in good faith, and where use will not result in the infringement of the law. Ownership or title is not transferred to you unless explicitly stated and you agree to comply with our directions regarding the reasonable use of the equipment.

You agree to use the equipment provide in accordance with the manufacturer's specifications and our directions. You will not lease or mortgage or grant a charge or a lien over the branded equipment provided to you.

If you are required to return equipment provided to you by engin, regardless of it being branded or unbranded with the engin name, you acknowledge that it will be returned in proper order in the original packaging it was received, with all the necessary elements, such as cabling, enclosed. If the equipment is returned in a condition deemed unfit by engin i.e. damaged, scratched, illegally or inappropriately configured etc., you will be charged the full RRP of the hardware. You acknowledge that the equipment used to deliver the service meets with the recognised Australian Standards and is certified by ACMA.

### **1.9 Functionality**

You agree that you or any other authorised person using your engin DSL Service may not be able to receive material if:

- Your local network or associated devices have not been set up accordingly.
- Physical connections, including cabling and wiring to your residence have been appropriately provisioned.
- Your broadband connection has been disabled, disconnected or disrupted due to non-payment or any other provision listed under this Agreement.
- Furthermore you may not be able to access or transmit any content accurately or on time and you accept that engin will not be held liable for the consequences of you using the Service, including without limitation the infection of your network by harmful software or viruses.

### **1.10 Technical Support**

engin will provide technical support for engin encoded hardware provided to you. If you elect to supply some or all of the required yourself, any equipment, including DSL modem and filters, must meet the requirements shown on *our* list of approved equipment for use with the Service.

engin will endeavour to provide as much technical assistance in setting up third party modem/routers and networks with the engin DSL Service, however no guarantees or assurances are made that engin technicians will be able to connect third party or 'Bring Your Own' hardware to the network.

Please note that engin will only offer full technical support for the VoIP aspect of any hardware dispatched, even if that hardware has additional functions (e.g. If the hardware is a VoIP / Wireless Router, engin will not guarantee support for the Wireless configuration of the router). You accept this as a term of the Service.

Customers that choose to use third party modem/routers or configure their networks with customised setups may not receive technical assistance.

### **1.11 Usage Information**

engin will provide customers with categorised information regarding their Data Allowance for the customer to keep track of their usage via the engin self care facility available at [www.engin.com.au](http://www.engin.com.au) .

Only downloads will be factored into the usage volume details. Data will be counted in Megabytes (MB), (1000 Megabytes = 1 Gigabyte (GB). Calls made using your engin VoIP service are not attributed toward your data consumption.

The engin DSL service is not to be licensed, assigned, leased or supplied to any other party without explicit permission being granted by engin.

### **1.12 Peak/Off Peak Data Allowance**

The engin DSL Service has designated intervals known as 'Peak' and 'Off Peak' data usage periods. 'Peak' time is when the DSL Network is at its most active and is between 08:00 am and midnight AEST/AEDT. 'Off Peak' time is when the network is less active and is between midnight and 08:00 am AEST/AEDT.

### **1.13 Throttling/Shaping**

Each engin DSL Service is allotted with a set download amount, which is dependent on the plan chosen. The engin DSL Service only factors downloads into the usage volume presented on engin self care, and as such, any shaping of the Service will be dependent on download volume.

Once a customer has reached their set download maximum, the service will be shaped to a speed of 64/64 kbps until the end of the monthly period associated with the Service.

Your engin VoIP service is prioritised on the engin DSL network and therefore should not be affected if your service is throttled.

Your access to the service will remain throttled until your next billing cycle. Should you upgrade to a higher plan, the data allowance used on the previous plan will transfer to the upgrade. In effect, your data allowance will be the difference between the data allowance of the upgraded plan and your previous plan. Alternately you may purchase extra data (Afterburners), however you will need to purchase sufficient data so as to cover the exceeded data amount together with enough data to restore the speed of your service.

engin may notify you by email to your nominated email address when your data usage has:

- exceeded 80% of your peak and off-peak data allowance, and/or
- exceeded 100% of your peak and off-peak data allowance and your access to the service has become speed limited.

### **1.14 Changing Pricing Plans**

We may in our absolute discretion agree with you to change your Pricing Plan.

engin will only permit you to change your choice of Pricing Plan once a month. Your Pricing Plan will be changed as soon as practicable.

Your data allowance will be adjusted based on current usage and the new plan selected.

For Example:

If you are connected on the 4GB Broadband Plan and you have used 1GB and you wish to upgrade to the 14GB Broadband Plan mid bill cycle then your remaining allowance will be 14GB – 1Gb = 13GB.

To downgrade your monthly access fee from a higher fee, a \$40.00 charge applies. There is no charge for plan upgrades. To change Pricing Plans contact Customer Service on 1300 305 000.

The matters referred to in this paragraph may be agreed to verbally or in writing between you and engin and will be binding on you as at the date of the verbal or written agreement.

### **1.15 Forfeiture of Unused Data**

You acknowledge that you will forfeit any unused data that has been ascribed to you under the Service Agreement, at the end of your monthly billing cycle. Your Data Allowance cannot be transferred or carried over to the next billing month.

### **1.16 Appropriate Use/Acceptable Use**

All engin DSL customers must read and comply at all times with the [Acceptable Use Policy](#). This policy is designed to ensure that *your* use of the *service* does not break any laws, hinder the efficient operation of *our network*, interfere with the rights of engin Internet customers, or interfere more generally with the rights of Internet users.

### **1.17 Content Filtering**

The engin Network does not support network level content filtering and as such engin will provide you with access to local level network filtering options. *You* may minimise the risk of accessing illegal or offensive *content* as well as managing use of the Internet by using a *filtering solution*.

For more information on a filtering solution or to download (or order) a free Internet content filter visit [NetAlert](#).

### **1.18 Service Barring**

You may ask us to bar your engin DSL Service at anytime. Blocking a service from use on the engin Network will prevent you from accessing the World Wide Web as well as any Internet related applications such as email etc. Ordinarily, upon your request engin will bar your engin DSL Service. Circumstances under which we will not bar an engin DSL Service would be when doing so would adversely impact upon another person's use of the Service in good faith.

We must, upon your request, subject to Section 7 of this Agreement, unbar the Service that you requested us to block. It should be noted that barring a Service will not result in a cessation of billing.

### **1.19 Contributory Loss**

engin's liability for any loss, cost or damage suffered or incurred by you in connection with the engin DSL Service is reduced to the extent that your acts or omissions, equipment or third parties cause or contribute to that loss, cost or damage.

### **1.20 Variation to the Standard Form of Agreement**

You acknowledge that engin may vary the terms of use of the Standard Form of Agreement from time to time, to better reflect the nature of the Service provided to you. engin will supply notice of changes being made no less than twenty-one days prior to the change taking place. Changes made to the Standard Form of Agreement should have minimal impact on the customer and the original terms to which the customer agreed. Accordingly, if the variation is

detrimental, we will publish the terms of the variation in your invoice or in a major periodical, such as a daily newspaper, in your capital city.

Where a minimum term agreement applies, engin will allow you to cancel your minimum term agreement within 42 days of the date of the notice without incurring charges, other than usage and access charges to the date the agreement ends plus other outstanding charges such as installation or equipment charges.

### **1.21 Fault Reporting**

It is recommended that before you contact engin for fault rectification, you try and make sure that the fault has not been caused by equipment that is not owned by engin. engin will endeavour to repair all faults on our network, however limits its liability regarding any faults caused by facilities not part of the engin PSTN network. Should engin investigate a fault and determine that the fault is attributable to equipment, hardware or cabling that you own or are responsible for, engin will on charge any costs or fees passed to engin by third parties hired to investigate. Should engin agree to your request to rectify the fault, engin will on charge all costs for the work required to rectify the fault.

### **1.22 Interruptions**

#### **1.22.1 Necessary interruptions**

From time to time necessary interruptions to the services may occur for reasons such as maintenance and upgrades. The engin Network is dependent on underlying Optus Internet Pty Ltd Internet Network over which we have no control. Certain features of the Service may not be available during upgrades, Ports or Churns made by us or our underlying Carrier. Because the engin Network is dependent on the broadband networks of other carriers – namely Optus Internet Pty Ltd, over which we have no control, the engin Network may experience outages or faults. You acknowledge that engin will limit its liability to you regarding faults of this nature.

#### **1.22.2 Miscellaneous Interruptions**

Factors such as third party hardware and/or software together with factors related to your Broadband Internet connection may also cause interruptions to your engin DSL Service for which engin takes no responsibility.

engin will not be liable to provide the Service to you if it becomes impracticable to do so because of any cause beyond engin's reasonable control, including without limitation acts of God, civil disorder or war, national or local emergency, adverse weather conditions, industrial dispute or acts or omissions of other carriers or carriage service providers or any authority.

#### **1.22.3 External interruptions**

Because the engin Network is dependent on the broadband networks of other carriers – namely Optus Internet Pty Ltd, over which we have no control, the engin Network may experience outages or faults. You acknowledge that engin will limit its liability to the you regarding faults of this nature.

Other factors such as third party hardware and/or software together with factors related to your Broadband Internet connection may also cause interruptions to your engin Service for which engin takes no responsibility.

engin will not be liable to provide the Service to you if it becomes impracticable to do so because of any cause beyond engin's reasonable control, including without limitation force  
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majeure, civil disorder or war, national or local emergency, adverse weather conditions, industrial dispute or acts or omissions of other carriers or carriage service providers or any authority.

### **1.23 Service Relocation**

If you move and the Service is available at your new address, and you wish to continue receiving the Service and you are:

- on a month to month contract: either pay the relocation fee or accept a minimum 24 month contract at your new address and pay nothing for the relocation; OR
- if on a minimum 24 month contract: either pay the relocation fee and continue with your existing contract, or restart your contract and pay nothing for relocation.

You must provide engin with at least 30 days notice when relocating.

If you move and the Service is not available at your new address, regardless of whether you wish to continue receiving the Service, you will be required to pay back all subsidies provided to you when the Service was provisioned at your previous address, as well as the appropriate disconnection fee.

If you accepted a minimum term agreement and you move prior to the term expiring and you do not wish to continue with the Service you must provide at least 30 days notice and a cancellation fee will apply.

## **2. What you will be charged for the service**

We will charge you the Charges for your use of the services applicable to the chosen Pricing Plan selected.

### **2.1 The Charges**

The Charges include:

- Standard Installation and Termination Charges;
- A Monthly Service\* fee which we will charge you on your invoice issue date, monthly in advance;
- Charges for your use of each feature of the Service which engin will charge you monthly in arrears; and
- Miscellaneous charges (for example, connection and disconnection charges if applicable) which we will also charge you monthly in arrears whenever you incur such charges, each of which are set out in the Description of Service Features and Charges and include GST (where applicable or unless otherwise indicated) but not any other government taxes, which you may also be required to pay

### **2.2 Rounding**

The actual charges we charge you may vary on your Invoice, as each Charge is rounded up to the nearest cent before GST is included.

### **2.3 Variations to Charges and special promotions**

If we wish, we may:

- Change the Charges from time to time or decide not to make a particular Charge; and
- Run special promotions or offers from time to time in connection with the service under which particular Charges may be waived or may differ from those set out in the Description of Service Features and Charges. You may be eligible to participate in a special promotion or offer depending on its terms and conditions. engin may withdraw a promotion at any time. And unless otherwise specified or agreed to by engin, promotions may not be used in conjunction with one another. You may obtain a copy of the current Charges by visiting [www.engin.com.au](http://www.engin.com.au) or contacting Customer Service on 1300 305 000.

## **2.4 Variation to engin DSL + PSTN Bundle**

The engin PSTN Service is only available as a complementary Service to the engin DSL Service. engin will not offer the engin PSTN Service as a stand alone product, unless otherwise specified. If the engin PSTN Service is terminated and the engin DSL Service is maintained, engin reserves the right to increase your DSL access fee and alter the terms of the DSL offering accordingly.

## **3. Payment for the service**

### **3.1 Invoicing**

We will issue you with invoices via your registered e-mail address that you provided at order entry (when your account was established). You will be invoiced monthly on your invoice issue date. If you do not receive your invoice it is your responsibility to notify engin immediately.

The presentation of the invoice maybe affected by the customer's choice of equipment and software. engin will not accept any responsibility for consequential presentation, distortion or absence.

### **3.2 Invoice charge/s**

Invoices are sent via e-mail in a softcopy PDF formate from [billing@engin.com.au](mailto:billing@engin.com.au). e-bills (invoices) do not attract a charge. This address is not a monitored email address and any billing enquiries should be sent to [feedback@engin.com.au](mailto:feedback@engin.com.au)

If you request an archived or hard copy invoice you will be charged \$5.50 per invoice as set out in Section 1 of this Agreement.

### **3.3 Invoice Frequency**

An e-bill is issued once a month, on your invoice issue date

### **3.4 Payment of your invoices**

Upon connection to engin you agreed to make all payments from your nominated credit/charge card, unless otherwise agreed by us. Depending on your method of payment, you may be required to pay a surcharge (e.g. BPAY).

### **3.5 When must you pay your invoices**

You must pay each invoice in full by the due date, that is, 15 days from your invoice issue date or on the next business day.

### **3.6 If you do not pay your invoices on time**

If you do not pay your invoices on time or cancel your credit/charge card authority, you must pay us extra charges as set out in Section 1 of this Agreement.

### **3.7 Excessive Use**

Excessive use is randomly monitored by engin and your use of the Service must be used in accordance with any data allowance or capacity limits associated with your chosen plan. At our discretion and at any time we may impose an Excessive use. If engin deem your use of the Service to be excessive, we may suspend or restrict the Service until you agree to either discontinue such activity or change to a more suitable Pricing Plan.

If you unreasonably exceed such limits or excessively use the capacity or resources of our Network in a manner which may hinder or prevent us from providing services to other customers or which could impact upon the integrity of our Network or systems, *we* may limit, suspend or terminate your *service*.

At any given time a customer may view their usage by accessing their account on engin's Self Care website [www.engin.com.au](http://www.engin.com.au).

For further information please refer to our Acceptable Use policy.

### **3.8 Security Deposits**

We may require you to pay a security deposit if you intend to use some Special Services. If we choose to do so, we may apply the security deposit (or any part of it), in payment of any outstanding charges.

## **4. Our Obligations**

We have various obligations to you in relation to providing you the Service:

### **4.1 To provide the Service**

We must supply you the Service on the terms and conditions set out in this Agreement and take all reasonable steps to ensure that you can receive the Service.

#### **What we provide to you:**

- a) Subject to MIBROADBAND Pty Ltd ABN 7 080 250 371 ("engin™") acceptance of your application, engin provides you with the ability to make local, national, international calls and calls to mobile numbers from the local calling areas of Australia using the engin Service;
- b) These calls can terminate to:

- i. Australian national geographic numbers (calls dialled using an Australian area code);
  - ii. Digital mobile numbers (calls dialled with a prefix 04); and
  - iii. Most international numbers (calls dialled as 0011 + Country Code).
- c) However, engin does not guarantee that you will be able to make successful calls to every valid number listed above in point b) as engin does not own or operate every part of the network/s used to provide these services to you.

## 4.2 Credit Assessment

When assessing your application/order for engin services, engin may at its discretion undertake a Credit Assessment to determine whether to supply you with a service. If you are a new customer to engin this Credit Assessment may include but is not limited to:

- A charge of \$1.00 against the credit/charge card supplied by you in your application/order. This charge is to ensure the credit card supplied by you is valid. The charge of \$1.00 will then be refunded the following business day;
- Your employment status;
- Your residential history;
- A Credit Check with a Credit Reporting Agency
- SmartAuth: a real-time transaction screening service for Internet Payment Processors.

If you are an existing engin customer this Credit Assessment may include but is not limited to:

- Your previous payment history with engin;
- Another charge of \$1.00 against a new/replacement credit card nominated by you. This charge is to ensure the credit card supplied by you is valid. The charge of \$1.00 will then be refunded the following business day.

**Note** - For more information regarding the Provision of Credit and the Privacy Act 1998 please refer to Section 11. Personal Information of this Agreement.

Should engin decide to refuse to supply you with a service, which is entirely or partially based on information provided by a Credit Reporting agency, engin will email you within seven days to advise:

- That the application/order for engin services has been refused;
- That the decision was entirely or partially based on information about you, provided to engin by a Credit Reporting Agency;
- The name and address of the Credit Reporting Agency; and
- Your right to obtain access to your credit file from the Credit Reporting Agency.

## 4.3 Quality of Service

engin's commitment and position on QoS is as follows:

- It is technically impractical to guarantee that the Service is free of fault or error and that there always is sufficient capacity to using the Service. engin will undertake to provide the Service using the reasonable care and skill of a competent carriage service provider. The service is a residential grade service sensitive to latency, jitter or packet loss, such as

- voice (except the engin VoIP service) or real time video streaming, or require high volume continuous file transfers may be adversely affected;
- The shared nature of the network means that speeds are variable depending on the number of Customers simultaneously connected and associated line transmission rates of those customers;
  - The speed of the service relies on not all Customers using the Service or a similar service at the same time. If all Customers use the service or a similar service at the same time, the speed will be noticeably lower.
  - Despite any other provision of these Terms and Conditions or the Service Description, engin will not be liable to you, or any person claiming through you, in contract, tort or otherwise (including negligence) for any loss or damage arising from suspension of the Service or any faults arising in the Service in accordance with this clause.

#### **4.4 Service Barring**

You may ask us to bar your engin telephone number at anytime. Blocking a service number from use on the engin Network will prevent you:

- Making or receiving voice calls (IMPORTANT: includes calls to emergency "000"numbers)

Ordinarily, upon your request engin must bar your engin telephone number. Circumstances under which we will not bar an engin telephone number occurs when:

- To do so would adversely impact upon another person's use of the Service in good faith.

We must, upon your request:

- Subject to Section 7 of this Agreement, unbar an engin telephone number that you previously requested us to block.

## **5. Your Obligations**

### **5.1 Payment obligations**

You must pay us all the Charges and fees, which you incur accessing and using the Service. Together with all applicable government taxes and charges by the due date of your invoice.

You agree that all Charges incurred by you in using the engin Service are your responsibility, irrespective of whether you or another person (with or without your consent) used this Service i.e. to make calls and incur charges without your knowledge.

We have chosen to structure our charges so that all monthly Service Fees are charged in advance and any call charges are charged in arrears.

- You must provide us with your credit card details, or alternate payment details (agreed to by us at our discretion) and advise of any changes to these details, for the purposes of paying for your engin Service. We may:
  - (a) Charge all fees to your nominated payment method on a monthly basis from your Service commencement date;
  - (b) Disclose your payment details to, and obtain information from, any financial institution to verify the payment details;

- You must take steps to verify that there you have sufficient funds on your credit card / account to meet likely fees.
- You must take all steps to ensure that engin is notified of any changes to your payment details.
- If any amount owed by you remains unpaid after the due date, we may terminate this Agreement.
- Your invoice will be calculated by reference to data recorded or logged by engin. Records held and logging procedures adopted by engin will be conclusive evidence of the usage of the Service and the charges payable by you.
- In addition, engin may impose a charge on you to cover engin’s reasonable expenses and costs incurred in enforcing any failure or delay in your payment.
- You must pay any taxes (including, without limitation, any goods and services tax), duties, stamp duties, imposts, levies or government charges relating to your use of the Service.
- Despite anything in these Terms and Conditions, engin will not continue to provide you with the Service, as a result of any unpaid charges extending beyond 60 days from the date that the charges were due for payment. If any amounts are outstanding beyond 60 days from the date on which payment for those charges was due, this Agreement maybe terminated by engin immediately and you will be required to pay all outstanding charges to engin immediately.
- After debt collection activities, your account remains unpaid in part or in whole for a period of two months (60 days) from the due date, your information maybe referred to a debt collection agency or credit reference agency. engin may charge reasonable expenses in connection with recovery of late payments (including the costs of engaging a mercantile recovery agency). If engin engages a mercantile agent or institutes legal proceedings to recover any outstanding amounts due under the terms and conditions of this contract, you will, to the extent permitted by law, be liable for engin’s costs of taking that action.
- If you are declared to be experiencing financial hardship under engin’s Financial Hardship Policy and your account remains unpaid in part or in whole for a period of two months (60 days) from the due date, engin may agree to extend repayment of any outstanding fees beyond 60 days.
- If you believe there is an error with your account, please let us know immediately. If we agree that there is an error, engin will endeavour to rectify this error to reflect on your next invoice.

## 5.2 Obligations regarding use of the Service

To be an account holder, *you* must be over 18 years of age. You must take all reasonable steps to ensure that any other person who uses the Service must only use the Service in accordance with this Agreement or otherwise in a manner approved by us;

**Part 1** - You must not use the Service, attempt to use the Service or allow the Service to be used in any way that involves:

### **Breach of law**

- (a) Which results in you or engin <sup>TM</sup> breaching, or being involved in a breach of a law, order or regulation (including a

foreign law, order or regulation), a mandatory code of conduct; or a voluntary code of conduct that you have agreed to comply with;

- (b) Damage to property or people which results, or could result, in damage to property or injury to any person;
- (c) To harass, menace or stalk people;

**Protection of minors**

- (d) Which enables a minor to access material inappropriate for a minor or to establish (or try to establish) contact with a minor not otherwise known to you;

**Discrimination**

- (e) Which unlawfully incites discrimination, hate or violence towards one person or group, for example because of their race, religion, gender or nationality;

**Obscene, defamatory, offensive, abusive**

- (f) To send, display or be otherwise involved in material, which is  
Obscene or defamatory;
- (g) Which is, or which would be considered by a reasonable person to be, offensive or abusive;

**Illegal business practices and gambling**

- (h) To engage in any misleading or deceptive business or marketing practice;
- (i) that involves providing or promoting illegal pyramid selling schemes or unlawful gambling or gaming activities;

**The rights of others**

- (l) Which infringes engin™ or any other person's rights (including intellectual property rights and moral rights);
- (k) Which constitutes a misuse of engin™ or any other person's confidential information; or
- (l) Which results in a breach by you of any obligation that you owe to any person.
- (m) Resell, distribute or reproduce any part of the Service;
- (n) Use calling line identification or information derived from calling line identification except in accordance with the Privacy Act
- (o) Disclose to any person any Confidential Information, security number or password provided by us (including but not limited to your customer number, or personal identification number).

You must comply with the Acceptable Use Policy when using the service; ensure any username created by you for use with the service meets our specifications and we reserve the right to delete usernames that we consider offensive, defamatory, illegal or otherwise inappropriate without notice; and finally ensure that the software you use with the service is properly licensed.

engin is not responsible for any Internet content that may be obtained via the service. You indemnify and shall keep engin indemnified against all claims, costs, loss, expenses or injuries arising in relation to a breach of this clause.

**Part 2-**When using this Service, you will ensure that you and others comply at all times with all laws and obligations, regulations, codes or determinations or any other requirements of any government or statutory authority, including licence conditions, applicable to the Services and their use. Failure to comply with any licence, permit or authorisation relating to the connection of equipment to the Service Delivery Address or the use of the Services may result in immediate termination of the agreement;

**Part 3-** You agree to permit engin to communicate with you via *your nominated email address* and to monitor this email account regularly to review these communications. If you change your address, (residential or e-mail), you must inform us within 7 days of such change.

### **5.3 Customer Service**

If you are disconnected during a call, or experience a fault using the Service you believe to be caused by the engin network or engin hardware or software, call 1300 305 000 and inform a Customer Service Representative of your difficulties. We will attempt to resolve any problems as soon as practicable. You may connect your hardware to a *LAN* for private use. However the set-up and configuration of a *LAN* connected to the DSL modem may not be supported by Customer Service.

### **5.4 Theft of Service**

You agree to notify engin immediately, in writing or by calling the engin Customer Service line on 1300 305 000, if you become aware at any time that your Service is being stolen or fraudulently used. When you call or write, you must provide your account number and a detailed description of the circumstances of the theft or fraudulent use of the engin DSL Internet Service. Failure to do so in a timely manner may result in the termination of your Service and additional charges to you.

If you are responsible for theft of the Service, engin will take whatever course of action necessary to recover damages and lost income from you that engin is rightfully entitled to.

## **6. Term of agreement**

### **6.1 No fixed term agreement:**

- Commences when you are first connected;
- Ends when it is terminated by either us under paragraphs 7.4, 7.5 OR you under paragraph 7.6.

### **6.2 Minimum fixed term agreement:**

- Commences when you are first connected;
- Ends when it is terminated by us under paragraphs 7.4, 7.5; OR
- Ends when it is terminated by you under paragraph 7.6 on your invoice issue date and upon the expiration of the minimum term specified in your chosen pricing plan; OR
- Ends where the minimum term has expired and you have continued to use the service on a month-to-month basis and thereafter until terminated by you in accordance with paragraph 7.6.

## **7. Suspension of the Service and Termination of this Agreement**

Although engin will endeavour to give as much notice as reasonably practicable, engin may suspend the Service at any time.

**IMPORTANT:** If your service is suspended and later re-instated you may need to reboot (power up) your DSL modem.

## 7.1 Suspension for Excessive Usage/Unusual Usage

engin randomly monitors excessive usage as outlined in clause 3.7. At our discretion we may suspend the Service (or any part of the Service) until the next billing cycle begins.

- We may suspend or limit the Service if you have breached the 'Acceptable Use Policy'. Suspension for inappropriate usage is to protect the overall integrity of the network. engin will attempt to contact you prior to suspension of the service, but makes no guarantee of this.

## 7.2 Immediate suspension, limitation and termination in our absolute discretion

Although we will try to give you as much notice as is reasonably practicable, we may, if we choose (and without notice) immediately:

- Suspend or limit the Service (or any feature of it) for any period we think is reasonably necessary; or
- Terminate this Agreement, if:
  - You fail to pay us the Charges or are in breach of this Agreement for some reason other than those set out elsewhere in Section 7, and where such breach can be corrected, you fail to correct the breach within 7 days of us requesting you to do so;
  - We believe that: the use of the Service (or any feature of it) by you or any other person is or might damage, impair or interfere with the engin Network or any of our other systems or equipment;
  - We believe that you pose a credit risk to engin or any of its registered subsidiaries;
  - engin is required by law to terminate the service as an extension of a direction given by a Regulatory Authority, Government body or Emergency Services Operator.
  - The Service (or any feature of it) is being used to commit unauthorised, criminal or unlawful activities;
  - If engin becomes aware of unauthorised equipment being used on our network, we will issue you with a formal written warning to discontinue use and remove the equipment. If you do not comply with this request, engin will take steps to immediately disconnect you from the network. Please refer to clause 5.6

You will be responsible for any costs incurred in:

- Becoming bankrupt or insolvent; or if you are a partnership, the partnership ceases; or
- We believe that: the use of the Service (or any feature of it) by you or any other person is or might damage, impair interfere with or pose a risk to the engin Network or any of our other systems or equipment;
- The Service (or any feature of it) is being used to commit unauthorised, criminal or unlawful activities;
- The Service (or any feature of it) is being used by you or another person in a manner which is unusual, unreasonable, excessive or fraudulent;
- A Supplier terminates an Agreement with engin, and we are not able to provide an alternative service using an alternative supplier on terms reasonable to us;
- We may, on the request of a third party provider terminate the Service should the third party deem your usage of the Service as unacceptable or fraudulent.
- You have engaged in fraudulent activities in relation to the Service (or any feature of it); or.
- You are, or are operating as a Carriage Service Provider or Carrier.

### **7.3 Immediate suspension, limitation and termination on instruction of certain third parties or for technical problems**

Although we will try to give you as much notice as is reasonably practicable, we may, if we so choose (and without notice) immediately:

- Suspend or limit the Service (or any feature of it) for any period we think is reasonably necessary; or
- Terminate this Agreement, if:
  - We are required to do so by: a regulatory authority such as the ACMA; or the law, or a law enforcement agency;
  - We are obliged to do so on the request of a Content Provider; or
  - There are technical problems with the engin Network, which require corrective actions by us.

### **7.4 Suspension, limitation and termination with notice**

In addition to our rights above, we may, by giving you reasonable notice (in any event at least 14 days' notice):

- Suspend or limit the Service (or any feature of it) for such period as we determine is reasonably necessary; or
- Terminate this Agreement.

### **7.5 Your right to Cancel the Service**

You may terminate this Agreement at any time by contacting us on 1300 305 000 between 9am - 6pm AEST Business Days and giving us 30 days notice.

We will charge you for all Charges you incur (including the Monthly Service fee) up to the time actual termination takes place. If you have purchased hardware at a discounted rate and agreed to a minimum term contract period you may also be liable for the payment of the difference of the RRP (Recommended Retail Price) of the hardware upon termination (if within the 12 month period).

Please note that Customers are still required to give engin 30 days notice at the expiration of your minimum term agreement otherwise engin will continue to supply you with a service.

### **7.6 Termination as a Result of Porting / Churning away from engin**

You may terminate this Agreement by Porting / Churning your engin PSTN telephone number to another C/CSP at any point. Should you port you number across to another provider and you have purchased the Service at a discounted rate and agreed to a minimum contract term, you will be required to pay out the remainder of the contract, as well as the original connection fee that was subsidised.

### **7.7 Termination as a Result of Relocation**

In the event that you plan to move premises, you must advise engin 30 days prior to relocation. If there is no available access line at your new address, and you wish to continue receiving your engin DSL Service at the new premises, we may charge you a connection fee, but there will be no cancellation fee. A new minimum term will commence, should you have previously been contracted to a minimum term, or you will be charged a relocation fee. If there is an access line available at your new address and you wish to continue to receive the engin DSL Service, we will cancel the service at your former residence and you will be

required to enter into a new minimum term of equal value to the previous contracted term, or pay a relocation fee.

If you are not bound by a minimum term contract and wish to relocate, you will be charged for the connection of an access line to the residence and a relocation fee. If an access line exists, you will simply be charged a relocation fee.

If you move and the Service is not available at your new address, regardless of whether you wish to continue receiving the Service, you will be required to pay back all subsidies provided to you when the Service was provisioned at your previous address, as well as the remainder of the monthly Service Fees on the minimum term you were originally contracted to.

Should you terminate a Service that was purchased at a subsidised rate offered under a minimum term contract, you will be required to pay out the remainder of the contract, as well as the original connection fee that was subsidised.

## **8. Consequences of Suspension or Limitation**

If we suspend or limit the Service (or any feature of it), you will be barred from using the Service (or the feature of it which we suspend/limit) until we un-bar the Service (or the feature of it which we have suspended/limited). We will continue to charge you, and you must pay us, the Monthly Service Fee in respect of the period during which we have suspended or limited the Service (or any feature of it), except where we suspend or limit the Service under paragraph 7.5.

## **9. Consequences of Termination**

On termination of this Agreement:

- We will; stop providing you the Service and disconnect you; and send you a final invoice for all accrued and outstanding Charges; and
- You will no longer have the right to use the Service.

## **10. Obligations on Termination**

- If this Agreement is terminated: you must pay
  - All amounts, which you owe us under this Agreement by the due date on your final invoice.
- We must refund to you any monies we hold on your behalf after you have paid us all the amounts, which you owe us under this Agreement.
- We may, if we choose, offset against any amounts we hold on your behalf (for example, a security deposit), any amounts, which you owe us.
- You acknowledge that, we may not pay you an amount we owe you because:
  - We are unable to locate you; or
  - Your nominated payment details are no longer valid.

## **11. Assigning the Agreement to a Third Party**

engin may assign some or all of our rights under the *agreement* (where those rights are assignable) to any person and engin may perform any of its obligations under the *agreement* by arranging for them to be performed by another person, including a supplier, while remaining responsible for the performance of the obligations.

Customers may also assign their rights under the *agreement* (where those rights are assignable) so long as *you* have *our* permission to do so and the consumer to whom *you* are transferring the obligations: provides satisfactory proof of identification; meets the eligibility criteria for the *service*; has an appropriate *credit rating*, and the *service* is available at the location where they wish to acquire the *service*.

## **12. Personal Information**

### **12.1 Provision of Credit and Privacy Act 1988 (Cth)**

**Part 1** - You acknowledge that engin may give information about you to a credit-reporting agency for the following purposes:

- a) To obtain a consumer credit report about you; and/or
- b) To allow the credit-reporting agency to create or maintain a credit information file containing information about you; provided that:
- c) This information is limited to:
  - (i) Identity particulars – your name, sex, address (and the previous two addresses), date of birth, name of employer and drivers licence number;
  - (ii) your application for credit or commercial credit – the fact that you have applied for credit and the amount;
  - (iii) the fact that engin is a current credit provider to you;
  - (iv) payments which are overdue by more than 60 days and for which debt collection action has started;
  - (v) advice that your payments are no longer overdue in respect of any default that has been listed;
  - (vi) information that, in the opinion of engin, you have committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with your credit obligations); and
- (d) This information may be given before, during or after the provision of credit to you.

**Part 2** - You agree that engin may obtain information about you from:

- (a) A business which provides information about the commercial credit worthiness of persons; and/or
- (b) A credit-reporting agency, for the purpose of assessing your application for consumer credit.

**Part 3** - You agree that engin may exchange information about you with those credit providers names in your credit application or names in a consumer credit report issued by a credit reporting agency for the following purposes:

- (a) To assess an application by you for credit;
- (b) To notify other credit providers of a default by you;
- (c) To exchange information with other credit providers as to the status of this credit facility where you are in default with other credit providers; and/or
- (d) To assess your credit worthiness.

**Part 4** - You acknowledge that the information exchanged pursuant to clause 4.3 can include anything about your credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act.

**Part 5** - You acknowledge that engin has responsibilities to assist law enforcement and Government agencies. Should engin or the underlying Carrier receive valid interception warrants from appropriate agencies, we will adhere to all requests made within the law by these agencies

### **12.2 Collection**

Agents and/or our service providers may collect personal information about you for the primary purpose of providing you the Service. If you do not provide personal information to us, we will not be able to provide you the Service.

### 12.3 Use

We may use personal information about you for purposes that are related to providing you with the Service and which you would reasonably expect us to use that information for (including for invoicing purposes).

We may also undertake market and product analysis based on your use of the Service and contact you with information about new developments, products, services and special offers by post, telephone and automated means such as your registered e-mail, WAP and the World Wide Web.

Under s18 (1) of the Spam Act 2003, you agree and acknowledge that:

- We may send you commercial electronic messages or marketing material however you can, at any time, opt-out of receiving marketing material by replying to the email, e-mailing [feedback@engin.com.au](mailto:feedback@engin.com.au) or contacting Customer Service on 1300 305 000.

You also agree and acknowledge that we will still need to send you essential information about your engin account or changes to the Service via your registered e-mail address.

### 12.4 Access and Correction

If you request (in writing), we will:

- Provide you with the personal information we have about you, with the exception of sub-clause 6.1 of the National Privacy Principles; or
- Correct personal information or note that information about you is inaccurate, incomplete or out of date, in accordance with our privacy policy (which you can view at our web-site [www.engin.com.au](http://www.engin.com.au)) and the *Privacy Act*.
- Written requests should be made to:  
The Privacy Manager  
engin  
Locked Bag 1002  
FRENCHS FOREST NSW 2086
- A certified copy of photo identification including current Drivers License, proof of age card or passport must accompany the written request.
- engin will only send the requested information to the customer via registered post.

### 12.5 Disclosure

We may receive and disclose personal information or documents about you to or from:

- Credit providers or credit reporting agencies for purposes permitted under the *Privacy Act*;
- Law enforcement agencies to assist them in the prevention of criminal activity; or
- Our service and content providers, dealers and agents, or any company within the MIBROADBAND group for purposes that are related to providing you with the service and which you would reasonably expect us to use that information for. We may disclose personal information about you to other third parties if required by law or if we are permitted to make such disclosure under the *Privacy Act* or other legislation. In all other circumstances, we will not disclose personal information about you without your consent.

## **12.6 Acknowledgment**

You acknowledge and give consent that any calls you make to our Customer Service centre may be monitored and/or recorded for quality training purposes.

If you wish for your call not to be monitored and/or recorded please advise the operator upon of commencement of the call.

## **12.8 Privacy Policy**

By providing personal information to engin and obtaining the Service, you acknowledge and consent to the collection, use and disclosure of your personal information as set out in this Standard Form of Agreement by engin or third parties. Third parties will use the information provided to aid in the supply of the Service and may need to contact you directly for this reason.

## **12.9 SPAM**

With your express or inferred consent we may now and again send you commercial electronic messages. The Spam Act 2003 prohibits unsolicited commercial electronic messaging, which covers emails, instant messaging, SMS and other mobile phone messaging. The message must be commercial in nature. Commercial electronic messages must accurately identify their sender, and include a way for the recipient to unsubscribe from future such messages. The Australian Communications Authority is responsible for enforcing the provisions of the Spam Act 2003.

## **13. Liability and Indemnity**

### **13.1 Our liability to you**

You agree to use the Service (and each of its features) accepting full risk and responsibility in doing so. You agree that, subject to paragraphs 12.2 and 12.3 below, we are not liable to you for any loss or damage (including Consequential Loss) whatsoever arising (including for engin breach of this Agreement) which you suffer under or in connection with this Agreement or the supply of the Service, unless you suffer direct loss or damage because of any negligent act or negligent omission by us under or in connection with this Agreement, in which event we will be liable to you for any such direct loss or damage suffered (but, for avoidance of doubt, not any Consequential Loss suffered). For example, we are not liable to you for any loss or damage (including Consequential Loss) you suffer as a result of:

- You or any other person using the Service or any of its features for any purpose (including a purpose in breach of this Agreement);
- Any person accessing or using Material you send or doing anything on the basis of Material you send;
- Any Material you send being inaccurate, incomplete, not current or of inadequate quality, or otherwise in breach of your obligations under this Agreement regarding use of the Service;
- Us Adapting any Material to enable it to be received or sent (which under paragraph 1.5 you agree we may do as we reasonably determine);
- You not receiving any material, or a delay in you receiving any material you have requested;
- Any person to whom you send or attempt to send Material not receiving the Material, or a delay in that person receiving the Material.

### **13.2 Implied representations and warranties and our maximum liability to you**

Subject to the paragraph 12.3 below:

- To the extent legally permissible, all conditions, terms and warranties which may be implied by custom, law or legislation into this Agreement are excluded; and
- Our maximum liability to you under or in connection with this Agreement, the supply of the Service, for any negligent act or omission by us (including our employees, contractors and agents) or for any other liability which is not excluded under this Agreement, will not be more than the total Charges paid by you under this Agreement: during the 1 month period prior to your claim; or if this Agreement started less than month prior to your claim, since the start of this Agreement.

### **13.3 Liability, which we cannot exclude**

Despite any of the above, we will be liable to you under any rights, which you may have under the *Trade Practices Act* 1974 and other legislation, for which we cannot exclude our liability. Even so, where our liability in respect of such rights can be limited, it is limited as we choose, to:

- In the case of goods, the replacement of the goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or acquiring equivalent goods; or the payment of the cost of having the goods repaired; and
- In the case of services, the supply of the services again; or the payment of the cost of having the services supplied again.

### **13.4 You indemnify us**

You indemnify us (that is, we can make you pay for) any loss or damage we suffer relating to the use of the engine service by you. This indemnity does not apply to any loss or damage we suffer as a result of any wilful misconduct or reckless act or omission by us. Your obligations under this indemnity will continue despite:

- The termination of this Agreement; or
- The occurrence of any other thing, until all monies you owe us have been paid in full.

## **14. Miscellaneous Terms**

### **14.1 Assurances**

By entering into this Agreement you assure us that:

- You have provided full and accurate personal information to us in connection with this Agreement and that you will continue to ensure this information is accurate whilst there continues to be an Agreement between the parties (you and engine) in place;
- You have full power and authority to enter into this Agreement; and
- You will do all that you need to do to perform your obligations under this Agreement.

By entering this Agreement we assure you that:

- We are a carriage service provider/carrier under the Act; and
- Subject to the terms and conditions of this Agreement, we will provide the Service with all reasonable care and in a timely manner.

### **14.2 Assignment**

You may not transfer any rights and obligations under this Agreement without us first agreeing in writing.

We may, without telling you:

- a) Transfer our rights and obligations under this Agreement to anyone else;
- b) Temporarily or permanently get anyone else to perform our obligations under this Agreement on our behalf; or
- c) Require you to sign an agreement in the form of this Agreement with anyone else we nominate (or, if we cannot find you, we may sign such an agreement on your behalf which, upon entering this Agreement, you authorise us to do).

### **14.3 Enforceability**

If any term in this Agreement or a right of either of us under this Agreement is not enforceable in a certain State or Territory of Australia, that does not mean that:

- That term or right is not enforceable in any other State or Territory of Australia; or
- Any other term or right is not enforceable in that State or Territory of Australia or in any other State or Territory of Australia.

### **14.4 Waiver**

The only way in which we can be said to have given up any rights we have under this Agreement is if we agree to do so in writing. Even if we give up one of our rights under this Agreement in a particular circumstance that does not mean that we have generally given up that right. If we do not exercise a right or are slow in doing so that does not mean that we have given it up.

### **14.5 Variation**

We may vary any term of this Agreement at any time in writing. To the extent required by the Act and any other applicable laws or determinations made by the ACMA, we will notify you of any such variation up to 21 days prior to the change/variation-taking place. The agreement will be posted on the web site and supersedes all previously agreed to electronic and written terms and conditions.

### **14.6 Standard Form of Agreement**

This Agreement constitutes a Standard Form of Agreement with the meaning of the Act and is subject to the Act.

### **14.7 Inconsistency**

If there is any inconsistency between this Agreement and any brochures or other marketing or advertising material, which relate to the Service or this Agreement then this Agreement prevails to the extent of the inconsistency.

### **14.8 Commission**

You acknowledge that we may pay an agent a commission for introducing you to us and/or the Service.

## 14.9 Notices

You agree that we may give any written notice to you in connection with, or required by, this Agreement by:

- Sending the notice to the e-mail address, postal address or fax number, which you advise us of in your application or otherwise. Where engin is entitled to notify you of information relating to the SFOA and changes to it by email, you acknowledge that you have consented to engin sending such notices to your nominated email addresses;
- If the change is deemed to be detrimental engin will, prior to the change taking place, supply a notice of varying terms no less than 21 (twenty-one) days prior to the change taking place. Which complies with the Telecommunications (Standard Form of Agreement Information) Determination 2003.

The current version of the full Standard Form of Agreement is available by visiting [www.engin.com.au](http://www.engin.com.au) or contacting engin or the ACMA.

## 14.10 Complaints

engin has implemented an internal customer complaints procedure engin which is designed to resolve your complaint with minimal disconcert and expense. This complaints procedure has been written in accordance with ACIF's (Australian Communications Industry Forum) "Complaint Handling Code – C547:2004" and is available by phoning Customer Service on 1300 305 000.

You may complain verbally by calling an engin Customer Service representative on 1300 305 000, or in writing to [CustomerRelations@engin.com.au](mailto:CustomerRelations@engin.com.au)

The Telecommunications Industry Ombudsman (TIO) can also resolve disputes between telecommunication companies and their customers. The TIO is an independent body that provides a free service. The TIO describes itself as an office of last resort. It only takes up a complaint if the customer has first tried to resolve it with the relevant company. The Office of Fair Trading (or similar) in your State or Territory may also investigate consumer complaints.

## 14.11 Governing law & jurisdiction

The laws of New South Wales govern this Agreement. Each of us agrees to submit (and may not subsequently change our mind about doing so) to the exclusive jurisdiction of the courts of New South Wales.

If you do not understand this Agreement please call:

- Customer Service on 1300 305 000; or
- The National Relay Service for communications assistance or the Translating and Interpreting Service on 131 450 to ask an interpreter to contact us for help.

Please contact our Customer Service if you would like a copy of this Agreement in an alternative format, for example, large print size. You may access this Agreement at [www.engin.com.au](http://www.engin.com.au)

## 14.12 No trial period

Due to the technical complexities of supplying you with the engin DSL service, engin has elected not to provide Customers with a trial period for the products or service.

Please refer to Parts 2 and 3 of Section 1 for information relating to Order Cancellation and Service Termination.

### **14.13 Website**

#### **Acceptance**

Please note that by accessing, browsing or using our web site, you acknowledge that you have read and agreed to be bound by these terms of use and our privacy policy and statement.

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### **Prohibited Use**

You are prohibited from posting or transmitting any unlawful, threatening, obscene, libellous, defamatory or otherwise offensive material.

### **Governing Law**

The laws of New South Wales, Australia, exclusive of its conflict of law provisions, shall govern any claims relating to our web site.

### **Changes to Terms of Use**

engin may unilaterally revise these terms and conditions without notice and any such changes shall be effective upon posting. By using this web site, you agree to be bound by any such

revisions and should therefore periodically visit this page to determine the then-current Terms of Use to which you are bound.

## **15. Service Limitations/Differences**

### **15.1 000 Emergency Services**

In the case of NDSL and VoIP applications you acknowledge that dialing 000 emergency services will cease to function correctly if

In the event of an engin VoIP network outage, power failure or disruption to your engin Broadband Internet connection, you will not be able to use the engin service to dial 000 emergency services. For this reason we do not recommend you disconnect your primary landline.

IMPORTANT – if the service is suspended due to Credit Management action, call restrictions/barring will prevent access to 000 emergency services.