

# Engin SFOA: Mobile Service Description



## 1. General

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- 1.1 Standard Form of Agreement: Mobile Service Description (**SFOA: Mobile SD**) document forms part of your Agreement with Engin Pty Ltd ABN 70 080 250 371 (**Engin, we, us or our**).
- 1.2 You are not required to sign this document, you agree to the terms of the SFOA by the act of buying a Service from us.
- 1.3 Your Agreement with us for the supply of Services consists of:
  - (a) your **application**;
  - (b) **SFOA - General Terms**, which applies to all Engin Services and to all Engin customers;
  - (c) **Service Descriptions**, which sets out the terms of use for specific Services;
  - (d) your **Plan**, specific details of which are available on our website; and
  - (e) **Engin Acceptable Use Policy** which applies to some Services and aspects of some Plans.
- 1.4 If there is an inconsistency between any of the items in, the order of precedence will be your application, your Plan, the SFOA - General Terms, and relevant Service Description/s.
- 1.5 This Agreement starts when we accept your application.
- 1.6 You agree it is your responsibility to ensure that any person you allow to use the Service complies with this Agreement as if they were you.
- 1.7 Current fees and charges for your Engin Mobile Service can be found on our website.
- 1.8 Headings are for convenience only and do not affect the interpretation of this Agreement.
- 1.9 Capitalised terms not defined in this document have the meaning given to them in the **Engin Standard Form of Agreement – General Terms (SFOA – General Terms)**.

## 2. Definitions

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**3G Network** refers to the Optus 3G Network (UMTS 900/2100 MHz). Access to the Optus 3G Network is available when the end-user is in an Optus 3G coverage area with a Network compatible device and SIM card. Outside 3G coverage areas, Optus 2G Network Service may be available with a GSM 900 MHz compatible device.

**4G Network** means the Optus 4G Plus Network (LTE 700/1800/2100/2300/2600 MHz). Access to the Optus 4G Plus Network is available when the end-user is in an Optus 4G coverage area with a Network compatible device and SIM card connected to a 4G mobile plan. Outside 4G coverage areas, Optus 3G Network Service may be available with a UMTS 900/2100 MHz compatible device.

**CLI or Calling Line Identification** means the Mobile Number assigned to you to be displayed on the phone of the person you are calling (if their phone is CLI enabled).

**Early Termination Fee or ETF** is the cancellation fee set out in each Plan should you terminate your agreement with us prior to the end of the Minimum Term.

**Engin SIM Card** is our subscriber identity module (SIM) card which when inserted into Mobile Devices gives you access to the Service on our Network.

**GPRS** means general packet radio service.

**HSDPA** means high speed downlink packet access.

**IMEI Blocking** means the Service that allows us to block your Mobile Device if your Mobile Device is lost or stolen.

**Minimum Term** means the minimum term of your Agreement with us for your Engin Mobile Service as set out in the applicable application for, the terms and conditions of your Plan or as otherwise agreed with us in writing.

**Mobile Device** includes, without limitation, a mobile phone, a voice and data handset and a data only handset.

**Mobile Number** means the Service number for your Mobile Device for use with the Service.

**Monthly Repayment Option (MRO)** means a payment plan where you elect to pay an amount each month towards a Mobile Device or other equipment that we supply you.

**Network** means the Network used to supply the Service to you being the digital GSM cellular mobile Network and /or the GPRS Network, 3G Network and/or 4G Network (as the case may be).

**Plan** means a particular set of features, entitlements, term of contract, Charges and special conditions in connection with a Service.

**Port** means to transfer your Mobile Number from one carrier or carriage Service provider to another carrier or carriage Service provider in conjunction with your Service.

**Service** means the mobile service supplied to you by Engin which allows you to make calls from and receive calls to your Mobile Device, send content from and receive content to your Mobile Device and use a range of Value Added Service features.

**Value Added Services** mean the additional features you may obtain with the Service such as Voicemail, SurePage, Push-to-Talk and others as available from time to time, listed on our website.

### 3. About Engin Mobile Services

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- 3.1 An Engin mobile service allows you to:
- (a) make calls from and receive calls to your Mobile Device;
  - (b) send and receive text (SMS) and image (MMS) messages to and from your Mobile Device;
  - (c) send content from and receive content to your Mobile Device; and
  - (d) use a range of Value Added Service features.
- (the **Service**)
- 3.2 We do not activate Value Added Service features when you first connect to the Service.
- 3.3 Access to Value Added Service features may require specific equipment. You can contact us to activate or de-activate Value Added Services.

## 4. Coverage

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- 4.1 The Service is not available in all areas of Australia. You may obtain coverage maps showing where the Service is available in Australia from us or from our website.
- 4.2 In areas that the Service is available, we do not to guarantee that:
- (a) the Service is available in each place within an area where there is coverage;
  - (b) 'drop-outs' will not occur during a call; and
  - (c) there will be no congestion on the Network.
- 4.3 Certain Value Added Service features are only available in specific Network coverage areas. You can contact us to discuss the availability of Value Added Service in certain areas.
- 4.4 Roaming is the ability to use the Network of overseas mobile carriers when travelling overseas. Roaming is not available in all countries or in all areas of those countries. The countries where roaming is available may change. You can obtain information on where roaming is available from us or from our website.
- 4.5 We cannot guarantee that calls to '13' prefix numbers will be diverted to the nearest location for that '13' prefix number.

## 5. Use of the Service

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- 5.1 In addition to other obligations you have under this Service Description and the SFOA - General Terms, you must not:
- (a) make or receive calls or send or receive content on the Network other than for your own personal or business use;
  - (b) wholesale or resell any Service (including transit, refile or aggregate domestic or international traffic) on the Network;

- (c) use the Service (including any Engin SIM card) in connection with a device that switches or reroutes calls to or from the Network or the Network of any supplier; or
  - (d) use the Service in any way that breaches or may breach the Engin Acceptable Use Policy.
- 5.2 If you breach clause 5.1 above, we may, in addition to and without limiting our other rights under the Agreement, immediately suspend or cancel the Service by giving you notice.
- 5.3 If we cancel your Service in accordance with clause 5.2, we may charge you an Early Termination Fee in accordance with clause 7.
- 5.4 Change of ownership is permitted during the Minimum Term of your Agreement with us where the new applicant meets our credit assessment criteria and both you and new owner agree to the change of account holder conditions Engin notifies to you in a relevant form or otherwise.

## 6. Costs, charges and fees

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- 6.1 The cost of the Service depends on the following:
  - (a) the Plan you select;
  - (b) any changes you make to your Plan; and
  - (c) your use of the Service including, but not limited to:
    - (i) length of call;
    - (ii) time and day of call (which may or may not be the local time where the call is made);
    - (iii) destination of call and call type; and
    - (iv) use of any Value Added Service features.
- 6.2 The fees and charges in respect of your Plan are set out on our website or as otherwise notified to you by us.
- 6.3 You may change your Plan if:
  - (a) your current Plan allows you to change; and
  - (b) if you meet the eligibility criteria of the Plan to which you are wanting to change to.
- 6.4 Your Plan may specify that you are entitled to an included value. The inclusions that form part of your Plan are set out on our website or as otherwise notified to you.

## 7. Cancelling your Service and Early Termination Fees

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### Early Termination Fee

- 7.1 If you cancel during a Minimum Term we may charge an Early Termination Fee calculated as 50% of your Plan's monthly access fee multiplied by number of months remaining in the contract plus any outstanding payments for mobile hardware under your Monthly Repayment Option (if applicable).

### Cancellation of the Service by you

- 7.2 You can ask us to cancel the Service at any time by calling us and giving us 30 days notice. Your call will be taken as notice to cancel the Service.
- 7.3 You may also be able to cancel the Service by electing to have an equivalent Service to the Service supplied by another carrier or carriage Service provider (including, by churning). That carrier or carriage Service provider will inform us that you have elected to have the relevant Service supplied by them or have churned to them and we will cancel the Service once we receive notification from them.
- 7.4 If you have agreed to a Minimum Term contract and you cancel the Service or port the Service to another carrier before the Minimum Term has expired, you may be liable to pay an Early Termination Fee.
- 7.5 You may also cancel the Service if:
- (a) an event out of either our or your control prevents the supply of the Service for a period of more than 14 days;
  - (b) we breach a material term of this Agreement and we cannot remedy that breach; or
  - (c) we breach a material term of this Agreement and can remedy that breach and do not do so within 30 days of you notifying us of that breach.
- 7.6 If you cancel the Service under clause 7.5, we will not charge you an Early Termination Fee.

### Cancellation of the Service by us

- 7.7 We may cancel the Service at any time if:
- (a) we reasonably suspect fraud by you or any other person in connection with the Service;
  - (b) we reasonably consider you a credit risk because you have not paid amounts owing to us (which are not the subject of a valid dispute) in respect of any Service by its due date and you are given notice requiring payment of that amount by us and you fail to pay that amount in full within the required period any amount owing to us in respect of the Service (which is not the subject of a valid dispute) is not paid by its due date and we give you notice requiring payment of that amount and you fail to pay that amount in full within ten (10) business days after we give you that notice;
  - (c) you breach a material term of this Agreement or any other Agreement you have with us that covers your use of the Service;
  - (d) we are required to do so to comply with an order, instruction, request or notice of a regulator, an emergency Services organisation, any other competent authority or by authorisation of or under law;
  - (e) you suffer an insolvency event and we reasonably believe we are unlikely to receive payment for amounts due;

- (f) the Service is suspended for more than 14 days, unless otherwise set out in the Agreement;  
or
  - (g) an event out of either our or your control prevents the supply of the Service for a period of more than 14 days.
- 7.8 We will endeavour to give you as much notice as we reasonably can before we cancel the Service. However, in some circumstances we may cancel the Service without notice to you.
- 7.9 If we cancel the Service under clause 7.7, we will charge you an Early Termination Fee if your Service is still within the minimum Term.

## 8. Engin SIM card

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- 8.1 The Engin SIM card is our subscriber identity module (**SIM**) card which when inserted into your Mobile Device gives you access to the Service on the Network.
- 8.2 If you do not already have an Engin SIM card for use with the Service, we will give you an Engin SIM card.
- 8.3 To be able to connect to the Service, you need an Engin SIM.
- 8.4 Your Engin SIM card will be activated within 48 hours of you receiving a welcome email from Engin unless you call Engin and either request that activation:
- (a) occurs immediately; or
  - (b) be delayed for up to 14 days.
- 8.5 If after 14 days, the service is still not activated, Engin reserves the right to cancel the order and charge you the full recommended retail price for any Mobile Device or hardware that you may have received from us but not yet paid for.
- 8.6 We own the Engin SIM card and it remains our property at all times.
- 8.7 We may request that you return the Engin SIM card if we issue you with a replacement Engin SIM card or we no longer supply the Service to you.
- 8.8 You must not interfere with or impair the operation of the Engin SIM card.
- 8.9 We are not responsible for any lost or stolen Engin SIM cards.
- 8.10 You must notify us as soon as possible if the Engin SIM card we have given you is lost or stolen and we will bar outgoing calls, suspend the Service or activate Engin IMEI blocking on your Mobile Device.
- 8.11 You are responsible for all charges for calls made using the lost or stolen Engin SIM card up until the time you notify us that your Engin SIM card has been lost or stolen and we bar outgoing calls, suspend the Service or activate Engin IMEI blocking.

### SIM replacement

- 8.12 Unless you are otherwise in breach of the Agreement, we will replace the Engin SIM card (including where your Mobile Device has been lost or stolen or the Engin SIM card has been damaged), and may charge a replacement fee.
- 8.13 You may only attempt to enter the correct PIN into the Engin SIM card a maximum of 3 times. If you do not successfully enter the correct PIN within 3 attempts the Engin SIM card will prompt you to enter the SIM Personal Unblocking Code (**PUK**) as a security protection feature. The PUK can be obtained by calling us.
- 8.14 You can obtain the PUK by calling us or logging into “Engin Self Care” on our website.
- 8.15 After obtaining the PUK from ENGIN Customer Care you must enter this PUK into your mobile when prompted. If you enter an incorrect PUK 10 times in succession, the Engin SIM card is destroyed and cannot be used any more. Once the Engin SIM card is destroyed you will need to contact us and arrange a replacement. A SIM replacement fee may be payable at our discretion.

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## 9. Mobile Device Numbers

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- 9.1 If you do not already have a Service number for your Mobile Device for use with the Service (**Mobile Number**), we will issue you a Mobile Number.
- 9.2 All Mobile Numbers are selected, issued and used by us in accordance with Australian Communication and Media Authority’s Numbering Plan and Telecommunications Numbering Plan Number Declarations.
- 9.3 For an additional charge, you may be able apply for a specific Mobile Number.
- 9.4 We may be required to recover or recover and replace a Mobile Number we have issued to you in order for us to comply with the numbering regulations. We will give you as much notice as is reasonably practicable if we have to do this.
- 9.5 You may request a new Mobile Number. If we agree to issue you a new Mobile Number, you may have to pay a charge.
- 9.6 If you need a new Mobile Number because you have received calls of an unwelcome nature and you reported the matter to the relevant law enforcement agency, we will supply you with a new Mobile Number free of charge on the first two occasions. You will have to pay a charge for any further Mobile Number changes.
- 9.7 Unwelcome calls are investigated in accordance with the industry code “*Handling of Life Threatening and Unwelcome Communications C525:2010*”.
- 9.8 You do not own the Mobile Number but your right to use the Mobile Number starts when we issue the Mobile Number to you.
- 9.9 Unless you port the Mobile Number, your right to use the Mobile Number ends if you no longer obtain the Service from us.

- 9.10 If you stop obtaining the Service and do not port the Mobile Number to another service provider, we may issue the Mobile Number to another customer in accordance with the numbering regulations.
- 9.11 We are not liable to you for any expense or loss incurred by you due to:
- (a) recovery or recovery and replacement of the Mobile Number under clause 9.4 above; or
  - (b) you ceasing to have the right to use the Mobile Number under clause 9.8 above.

## 10. Mobile number portability

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- 10.1 Porting means to transfer your Mobile Number from one carrier or carriage Service provider to another carrier or carriage Service provider in conjunction with your Service.

### Porting to us from another carrier or carriage Service provider

- 10.2 You may be able to port a Mobile Number you have obtained from another carrier or carriage Service provider when you connect to the Service.
- 10.3 We will not charge you a fee for porting a Mobile Number from another carrier or carriage Service provider.
- 10.4 You must not cancel the Service you have with the other carrier or carriage Service provider before you port the Mobile Number. We will inform the carrier or carriage Service provider from which you have ported the Mobile Number that you have ported the Mobile Number and they will cancel the Service.
- 10.5 By porting your number to us you acknowledge that there may be costs and obligations to your previous carrier or carriage Service provider. You acknowledge that you are responsible for any charges that your previous carrier or carriage Service provider may charge you in relation to the porting of your Service from them.
- 10.6 You may need a new Mobile Device or you may need to have your Mobile Device unlocked if you are porting between different types of mobile Networks.
- 10.7 You can only port the Mobile Number, you cannot port any Value Added Services.

### Porting from us

- 10.8 You can port a Mobile Number you have obtained from us for use with the Service to another carrier or carriage Service provider.
- 10.9 You must not cancel the Service before you port the Mobile Number. The carrier or carriage Service provider to which you have ported the Mobile Number will inform us that you have ported the Mobile Number and we will cancel the Service.
- 10.10 You can only port the Mobile Number, you cannot port any Value Added Services.
- 10.11 You may only port a Mobile Number for which you are the authorised customer.

## 11. Your Mobile Device

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- 11.1 You may obtain a Mobile Device from us for use with the Service under a Monthly Repayment Option, outright purchase or you may choose to use a Mobile Device you have or have obtained from a third party.
- 11.2 Unless you obtain the Mobile Device from us for use with the Service, we make no warranty under the Agreement:
- (a) that the Mobile Device is suitable for use in connection with the Service or any Value Added Service features; or
  - (b) about the quality of the Mobile Device.
- 11.3 Unless you obtain the Mobile Device from us for use with the Service, you are responsible for making sure that all regulatory approvals for your Mobile Device have been obtained, and your Mobile Device complies with all relevant technical regulations and specifications at all times.
- 11.4 You are responsible for the maintenance of your Mobile Device.

#### Warranty

- 11.5 If you purchase a Mobile Device from us and it is faulty or dead on delivery, or if a defect becomes apparent within 14 days from the date of invoice, then Engin of Level 10, 452 Flinders Street, Melbourne Victoria 3000 will arrange to replace the Mobile Device or give you a full refund if you prefer. To make a claim under this warranty, you will need to:
- (a) contact Engin or the retailer from where you bought the Mobile Device, register your claim and provide the details of the product and proof of purchase (such as an invoice) so that an assessment of the claim can be made; and
  - (b) provide or make the product available to Engin (PO Box 631 Collins St West 8007 Victoria) or the retailer from where you bought the product.
- 11.6 If your claim is accepted, the Mobile Device will either be replaced or repaired at Engin's cost, or Engin will give you a full refund if you would prefer. You may also seek a reimbursement of any reasonable fees you have incurred in claiming the warranty (such as shipping fees). Please contact Engin directly to discuss the opportunity to receive a reimbursement.
- 11.7 The warranty under clause 11.5 will not apply in certain circumstances, including where you have misused the Mobile Device, the Mobile Device serial number has been removed or altered, or where the Mobile Device has been modified or repaired by individuals not authorised by the manufacturer, Engin or an approved maintenance centre.
- 11.8 The benefits given to you under clause 11.5 are in addition to other rights and remedies you have under a law in relation to the product to which this warranty relates. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

#### Manufacturer's warranty

11.9 If the Mobile Device becomes faulty outside the 14 day period but within the manufacturer's warranty period, you may return the Mobile Device to the manufacturer's authorised repair centre at your own cost. It is the responsibility of the manufacturer to repair or replace the Mobile Device according to the terms of its warranty. In addition to any manufacturer's warranty, you may still contact Engin if you believe there is a breach of the consumer guarantees described in clause 11.8.

#### Lost or stolen Mobile Device

11.10 If your Mobile Device is lost or stolen, you may contact us to request:

- (a) incoming and outgoing calls be temporarily barred; and/or
- (b) Engin IMEI blocking be activated (if your Mobile Device was provided by us); or
- (c) if your Service is not on a Minimum Term, that the Service be suspended.

11.11 You will continue to be charged your access fee whilst the bar is in place and/or Engin IMEI blocking is activated.

11.12 If you find your Mobile Device or it is returned to you, you will need to call us to request incoming and outgoing calls be unbarred, and/or Engin IMEI blocking be de-activated, or the Service be reactivated.

11.13 To contact emergency Services while your phone is blocked you must dial 112 (rather than 000)

11.14 Customers with hearing impairments who wish to access the TTY 106 emergency Services number from their Mobile Device should be aware that this number may not work from some blocked Mobile Devices.

11.15 If you obtain a Mobile Device that we reasonably believe is lost or stolen, we may activate Engin IMEI blocking on your Mobile Device without your consent, even if you are not aware it is stolen.

11.16 If you obtain the Service from us under false pretences, we may activate Engin IMEI blocking on your Mobile Device without your consent.

#### Phone number displays & IPND

11.17 CLI allows the Mobile Number assigned to you to be displayed on the phone of the person you are calling (if their phone is CLI enabled).

11.18 If you do not bar CLI on your Mobile Device, the Mobile Number assigned to you may be displayed on the phone of the person you are calling.

11.19 When another person calls you, the Mobile Number of that person may be displayed on your Mobile Device if that person has not barred CLI on their phone.

11.20 When you send a SMS or MMS, the Mobile Number assigned to you or your name may be displayed on the phone of the person to whom you are messaging. You cannot block the Mobile Number assigned to you or your name when you send a SMS or MMS.

11.21 Engin, like other service providers, is required by law to supply your name, address, telephone number and other customer details to the Integrated Public Number Database (IPND). Unlisted service information is marked and controlled in the IPND to prevent its disclosure to, for example,

directories or directory assistance services. The information in the IPND may only be used for approved purposes, which include assisting emergency services or law enforcement agencies.

### Premium Services

11.22 In accordance with Part 9A of the Telecommunications (Consumer Protection and Service Standards) Act 1999 and the Telecommunications Service Provider (Premium Service) Determinations (No 1 and 2), we are required to provide you with the following information.

11.23 A Premium Service is (definitions of the component words below are set out in the Telecommunications Service Provider (Premium Service) Determinations (No 1 and 2)):

- (a) a carriage Service supplied by way of a call to a number with an eligible prefix; or
- (b) a content Service supplied by way of a call to a number with an eligible prefix; or
- (c) a public mobile telecommunications Service that enables an end-use to access a proprietary network.

11.24 A Premium Service is typically a content Service that is connected with the following:

- (a) competitions; or
- (b) chat Services; or
- (c) horoscopes; or
- (d) age-restricted content and sex Services; or
- (e) news, sports and weather updates; or
- (f) music and video clips; or
- (g) voting; or
- (h) directory Services; or
- (i) gambling Services; or
- (j) financial information.

11.25 There are significant financial risks associated with Premium Services and calls to Premium Services typically attract significant call rates (for example, \$4.95 per minute). The cost of a Premium Service will typically appear on your mobile phone account and you will be liable to pay those costs. Some Premium Services may be addictive (such as age-restricted content and gambling Services) and in view of the significant call rates, calling a Premium Service may present a significant financial risk to you (including the risk of bankruptcy or insolvency or other financial hardship).

11.26 In order to minimize your financial exposure to Premium Services, you may contact us to bar calls from your Mobile Voice Service to some or all Premium Services. Alternatively or additionally, you may take steps to ensure that only persons that are authorised by you have access to your Mobile Voice Service or that the use of your Mobile Voice Service is monitored or restricted.

11.27 If you are the account holder, you will generally be liable to pay any account of ours which may bear charges in respect of, or in connection with, the Premium Services.

11.28 If you have a complaint in respect of any Premium Service, you may contact:

- (a) us, your supplier;
- (b) the Telecommunications Industry Ombudsman;
- (c) the Telephone Information Services Standards Council; and
- (d) the Australian Communications and Media Authority.

11.29 The Mobile Premium Services Code entitles you to request that some or all Premium SMS and/or Premium MMS Services are barred.

## 12. Barring of calls

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12.1 At your request we can bar certain calls made from the Mobile Device.

12.2 We cannot bar calls to emergency Service numbers 112 and 000.

12.3 Calls to 1900 numbers can only be barred if we also bar international calls.

12.4 International Roaming will automatically be barred when we provision your Service.

12.5 You can contact us to have International roaming activated.

### Other Supplier and third party Services

12.6 You acknowledge that:

- (a) the Service relies on the Services of suppliers for its operation, who are not controlled by us, and
- (b) we do not exercise any control over, authorise or make any warranty regarding:
  - (i) your right or ability to use, access or transmit any content using the Service,
  - (ii) the accuracy or completeness of any content which you may use, access or transmit using the Service,
  - (iii) the consequences of you using, accessing or transmitting any content using the Service, including without limitation any virus or other harmful software, and
  - (iv) any charges which a third party may impose on you in connection with your use of their Services accessed via the Service.

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