

CAFEOZ INTERNET TERMS AND CONDITIONS

1. Nature of Service

1.1 The Customer acknowledges that ADSL is not compatible with all standard telephone lines and that the suitability of the Service for the Customer will depend on various individual factors including Customer location, facilities, local telephone exchange facilities, and compatibility of Customer equipment with the Cafeoz Internet Network.

1.2 Bandwidth limits specified in the relevant Customer Access Plan refer to the amount of data received by the Customer from the Internet through the Service subject to clause 1.3 below.

1.3 Cafeoz Internet does not guarantee the availability of the Service to the Customer. Upon the commencement of this agreement, Cafeoz Internet will investigate the availability of the Service to the Customer. Any costs incurred by Cafeoz Internet in carrying out such an investigation may be charged to the Customer by Cafeoz Internet.

1.4 If Cafeoz Internet determines that the Service cannot be provided to the Customer, this Agreement will terminate and neither party shall have any liability to the other, except that Cafeoz Internet will refund any initial connection fees paid in advance by the Customer for the Service.

1.5 Charges for the Service will commence to accrue under the selected Access Plan from the date that the Service is installed by Cafeoz Internet.

2. Service Levels

2.1 The connection speeds specified in the Access Plan selected by the Customer represents the maximum possible connection speed from Cafeoz Internet to the Customer and from the Customer to Cafeoz Internet respectively. The Customer accepts that Cafeoz Internet cannot guarantee the Service will achieve these theoretical maximum speeds.

2.2 The Customer acknowledges that Cafeoz Internet cannot represent or guarantee the continued availability of the Service. The Customer acknowledges that the Service may be temporarily unavailable for use due to technical failures, network congestion, periodic maintenance, and disruption to telecommunications services and or other causes.

2.3 If, at any time, the Service becomes unavailable to the Customer, Cafeoz Internet will provide the Customer with access to its analogue modem dialup Internet service for use until the Service becomes available.

2.4 Use of that replacement service by the Customer will be included in the applicable monthly usage limit for the Service.

3. Installation

3.1 Upon determining Service availability to the Customer and payment of Customer Access Plan fees, Cafeoz Internet will provide the Customer with an approximate date for installation of the Service ("Installation Date"). Cafeoz Internet may reschedule the Installation Date at any time for any reason and will liaise with the Customer to confirm suitability of an alternate date if required.

3.2 Any maintenance or reinstallation Services provided by Cafeoz Internet to the Customer following installation, will be carried out at the expense of the Customer.

3.3 Cafeoz Internet will not be responsible for any loss or damage whatsoever arising from or in connection with configuring a Modem or installing any software on a Customer computer to enable a Customer to access the Service. The Customer acknowledges that difficulties may arise in the configuration of a modem for use with the Service that is beyond the control of Cafeoz Internet.

4. Requirements of Service

4.1 The Customer must, at its own cost and expense, arrange to have the following on the Installation Date:

- (a) Standard telephone line connected and in service;
- (b) Standard power point in proximity to the telephone line outlet;
- (c) A router or modem for use with the Service that has been approved by Cafeoz Internet as being compatible ("Customer Modem");
- (d) Computer that complies with Cafeoz Internet Service specifications for connection to the Customer Modem ("Customer Computer");
- (e) Safe and legal access to the Customer's premises for the Service installation; and
- (f) If required by Cafeoz Internet, the attendance of an Austel-registered telecommunications contractor.

4.2 Full details of current Customer Modem and Computer specifications required are available on the Cafeoz Internet website. The Customer represents and warrants to Cafeoz Internet that the Customer has read, understood and agreed to those specifications as existing at the date of this agreement.

4.3 The Customer must not connect any equipment to the Service that does not meet Cafeoz Internet specifications.

4.4 Cafeoz Internet makes no representations, warranties or assurances that the Customer Modem or Computer will be compatible with the Service.

5. Customers Acknowledgements

5.1 The Customer warrants that it is the legal lessee of the standard telephone line which is to be used to carry the Service.

5.2 The Customer acknowledges that:

(a) Some disruption to the standard telephone service carried by that line may occur during installation of the Service;

(b) Disconnection of the standard telephone line that also carries the ADSL Service may cause the Service to be terminated. (If this occurs the Customer will be liable to pay all Service reinstallation costs);

(c) Prior to entering into this agreement it has obtained all consents required for the Service installation by Cafeoz Internet, including the consent of any owner, landlord or licensor of the premises in which the Service is to be installed; and

(d) That the installation by Cafeoz Internet of any security-monitoring or other service at Customer premises may cause temporary disruption to the Service, the standard telephone service carried by the line used for carriage of the Service and/or any existing security-monitoring services.

5.3 The Customer will not use any products or services that are incompatible with the Service on or in conjunction with any line used to carry the Service.

5.4 The Customer must direct all service, support and other queries to Cafeoz Internet. Cafeoz Internet will pass on, at the expense of the Customer, any fees charged by third-party entities contacted or engaged directly by Cafeoz Internet to respond to such communication from the Customer.

6. Transfers and Cancellations

6.1 The Customer may not assign, transfer or otherwise dispose of the Service to another third party without the prior written consent of Cafeoz Internet.

6.2 The Customer may not resell the Service or otherwise use the Service in competition with Cafeoz Internet.

6.3 The Customer may cancel the Service on 7 days written notice to Cafeoz Internet. The Customer will be liable to Cafeoz Internet for any charges incurred during that notice period and for any other charges previously incurred and unpaid.

6.4 If the Customer originally connected on a \$99 connection fee and cancels the Service within the first 6 months of connection, the Customer will incur a \$77 early cancellation fee. This fee will also be incurred if the:

(a) Service was transferred to Cafeoz Internet using the ADSL Transfer Process and subsequently cancelled within the 6-month period from the date of transfer; or

(b) Customer changes either its premises or its Service telephone line within the first 6 months. In such an event, the Customer will be liable to pay Cafeoz Internet a new connection fee.

6.8 If the Customer connected using the Fast ADSL Transfer process and entered into a 12 months Cafeoz Internet Service Contract and subsequently seeks to cancel, move and/or transfer an existing Service to a new line, the following cancellation fees shall be incurred by the Customer:

(a) Cancellation within initial 6 months: \$105; and

(b) Cancellation after the first 6 months: \$50.

(c) A connection fee on the new line \$99 (if reconnecting)

6.9 Cafeoz Internet may terminate the Service on 14 days' notice to the Customer. In such an event Cafeoz Internet will refund to the Customer any fees already paid by the Customer for the provision of the Service following the end of that 14-day period.

6.10 An ADSL bridged service cannot be transferred to another ISP using the "Fast Transfer Process".

6.11 Any change to the line programming of an ADSL Bridged connection required by the Customer (including changes to IP addresses, line speed or connection type) will incur a \$99.00 fee.

7. General

7.1 Prior to entering into this agreement, the Customer represents and warrants to Cafeoz Internet that the Customer has read, understood and agrees to be bound in full by the terms of this agreement and the Cafeoz Internet General Terms and Conditions.

7.2 All notices to be delivered under this agreement must be in writing and sent by post, email, facsimile or hand delivery.

7.3 A current copy of this agreement may be obtained on the Cafeoz Internet website.

7.4 This agreement is to be governed and construed according to the laws in force in Queensland.

Current from 2006
E. & O.E.