

Please read these terms carefully before using the Macquarie Telecom Group online ordering portal ("**Online Ordering Portal**").

## 1. DEFINITIONS

In this document:

Agreement has the meaning given in clause 2;

Charges means:

- (a) the amounts you are required to pay for the Services we provide to you (including, if applicable, any delivery or installation charges);
  - (b) any amounts you are required to pay for early cancellation or termination of Services;
  - (c) any service charges we impose on credit card payments; and
  - (d) any other amounts that we are entitled to charge to you under the Agreement,
- in each case, which may be rounded up to the nearest cent and are exclusive of GST.

Existing Agreement means your existing agreement with Macquarie.

Liability, Liabilities and Liable means all claims, demands, actions, proceedings, losses, damages, (including loss and damage to property), fines, penalties, costs, expenses (including legal fees on an indemnity basis) and other liabilities, whether arising in contract, tort (including negligence), equity, under statute or on any other legal basis;

Macquarie means:

- (a) if your Online Order is ancillary or related to services provided to you by Macquarie Data Centres Pty Ltd – Macquarie Data Centres Pty Ltd;
- (b) in all other cases – Macquarie Telecom Pty Ltd.

Online Order has the meaning given in clause 2;

Online Ordering Portal Terms has the meaning given in clause 2;

Ordered Services has the meaning given in clause 3;

Provisioning Request means either a signed written order in the form prescribed by Macquarie or, an online order submitted by you via Macquarie's Service Management Tools, in each case in order to add, move or change, or cancel a Service;

Self Service Management Tools means any services, products or tools we make available that allow you to configure, control, manage, order or monitor any Services, including Cloud Services Portal, LAUNCH control panels, management tools, MacquarieView, FleetView and InView.

Services means the services and any related equipment which are specified in an Online Order, as well as any Service Management Tools that we make available to you.

Taxes means any taxes (including GST but excluding taxes on our income), duty, levy or similar charge imposed in relation to any Services or Charges, whether under Australian or foreign laws, and includes associated interest, fines or other penalties.

## 2. YOUR AGREEMENT

Any order for Services made using the Online Ordering Portal ("**Online Order**") is subject to:

- the terms and conditions contained in Existing Agreement; and
- the terms and conditions contained in this document ("**Online Ordering Portal Terms**"), together, "**the Agreement**".

To the extent of any inconsistency between your Existing Agreement and these Online Ordering Portal Terms, the Online Ordering Portal Terms will prevail.

By clicking "accept" or by using the Online Ordering Portal you:

- agree to be bound by the Agreement; and
- represent that you have authority to purchase goods and services under the relevant Agreement.

## 3. ORDERING SERVICES ONLINE

**Ordering Services.** As an existing customer of Macquarie you may use the Online Ordering Portal to create an Online Order. Not all services are available via the Online Ordering Portal and the range of Services that may be ordered and the Charges payable are set out on the relevant pages of the Online Ordering Portal.

**Take care when ordering.** Please take care when completing an Online Order. Only order the Services you require.

**Submitting an Online Order.** When you submit the Online Order you make an irrevocable offer to Macquarie to purchase the Services described in the Online Order ("**Ordered Services**") for the Charges set out in the Online Order. The Online Order is a Provisioning Request for the purposes of your Agreement and Macquarie may, in its absolute discretion, accept or reject your Online Order. If Macquarie accepts the offer set out in the Online Order, our technical and operational teams will provision the Ordered Services.

**Acceptance after Provisioning.** After the Ordered Services have been provisioned we will send an email to the address you specified in the Online Order confirming to you that provisioning is complete. At the time we send this email the Online Order becomes binding as if the Online Order was a Provisioning Request.

**Specific timeslots.** Specific timeslots can only be requested after the standard lead time for the order. We cannot guarantee the requested timeslot will be available. A Macquarie engineer will contact you if your timeslot is unavailable.

**Orders received outside of Business Hours.** Orders received outside business hours, will be actioned as though entered at 9am on the next business day.

#### **4. ADDITIONAL TERMS: COLOCATION REMOTE HANDS**

The following terms apply to an Online Order for our Colocation Remote Hands Service.

**Work performed under your instructions.** The Macquarie engineer works under your specific instructions for a Colocation Remote Hands request. You are therefore responsible for the outcome of the work undertaken. Macquarie charges a fee for the work undertaken by the MT Engineer. This fee remains payable in the event that the Macquarie engineer has completed the task to your instructions and yet it does not bring the desired outcome.

#### **5. ADDITIONAL TERMS: BACKUP RESTORE REQUEST**

The following terms apply to an Online Order for a Backup Restore Request Service.

**Restoration duration.** Forecast times are based on the start time of the restoration. The restoration duration will depend on the data volume.

#### **6. CHANGES TO THIS AGREEMENT**

We may modify these Online Ordering Portal Terms by posting an updated version on our website.

The modified terms will apply once posted, so please check our website regularly for any updates.

#### **7. YOUR OBLIGATIONS**

You are responsible for all use of the Online Ordering Portal and must ensure that only persons with authority to purchase goods and services are given access to passwords and permitted to make Online Orders.

#### **8. LIABILITY**

To the extent permitted by law, we exclude all, representations, terms, conditions, warranties or guarantees (including as to acceptable quality, fitness for purpose, satisfaction of your requirements or timeliness) that are not expressly set out in this Agreement and you agree that you have not relied on any such matters. If any such term is implied or imposed in relation to the Agreement and cannot be excluded, then to the extent permitted by law, our liability for a breach of such term is limited to one or more of the following at our option:

- in relation to 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 of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
- in relation to services, the re-supply of the services or the payment of the cost of resupplying the services.

To the extent permitted by law, we exclude all Liability to you (and anyone claiming through you) for loss of profits, opportunity, revenue, data, goodwill, business or anticipated savings, pure economic loss, loss of value of equipment (other than cost of repair) or expectation loss, or any indirect, consequential, special, punitive or exemplary loss or damage, even if it was reasonably foreseeable, arose naturally, or was contemplated by the parties in relation to the events giving rise to that Liability.

Without limiting the above, to the extent permitted by law, the total aggregate amount of our Liability arising under or in connection with this Agreement is limited to the amount of the Charges you paid to Macquarie for the Online Orders.

## **9. TAX AND GST**

The Charges for Services set out on the Online Ordering Portal are exclusive of Tax and you are liable for any applicable Taxes in accordance with your Agreement.

## **10. PRICING AND CHARGES**

All references to currency are to Australian dollars.

## **11. PRIVACY**

You consent to Macquarie sharing your details (including personally identifiable information) with our providers for the purposes of providing the Services and in accordance with the Agreement and the Macquarie Telecom Group Privacy Policy.

The Macquarie Telecom Group Privacy Policy is available on our website at <https://macquarietelecomgroup.com/privacy-policy/>.

## **12. MISCELLANEOUS**

This agreement is governed by New South Wales law, and both you and Macquarie agree to submit to the exclusive jurisdiction of the courts of New South Wales.