

EMERGENCY MOBILE TERMS AND CONDITIONS.

For Residential Customers.

Effective 19 June 2023

1 OUR COMMITMENT TO YOU.

- 1.1 These Emergency Mobile Terms and Conditions "**Terms**" apply where you have a landline phone service with us, and you are a vulnerable customer.
- 1.2 The purpose of this emergency mobile service is to provide you with a mobile device that you can use to call emergency services for free in the event of a power failure. Calling 111 using this emergency mobile service is free.
- 1.3 You are entitled to receive this emergency mobile service from us under the New Zealand Commerce Commission "Commission 111 Contact Code" (the "Code") as long as you have your landline with us and remain a vulnerable customer.
- 1.4 While this emergency mobile service provides you with a free way to call emergency services by dialing 111, the mobile device is also capable of sending and receiving text (SMS) and photo and video (MMS) messages.
- 1.5 While we don't anticipate that you will use these messaging services, if you do, terms and conditions and charges will apply. Any reference to charges or billing in this agreement only apply if you choose to use these messaging services. **There is no charge for calling emergency services using this emergency mobile service, and you will not get a bill from us if you do so.**
- 1.6 These Emergency Mobile Services Terms and Conditions, together with the specific pricing for text (SMS) or photo or video (MMS) messaging, our General Terms and our Privacy Policy are together our agreement with you and apply to our provision of emergency mobile services to you ("agreement"). The sections of the General Terms applicable to charges and payment only apply to the extent you use messaging services, and the termination and disconnection for non-payment sections of the General Terms do not apply to this emergency mobile service.
- 1.7 In the event of a conflict or inconsistency between the parts of the agreement, the following order of priority will apply:
 - (a) these Terms;
 - (b) the Privacy Policy;
 - (c) any additional terms;
 - (d) the General Residential Terms & Conditions.
- 1.8 This agreement commences when you are provided with your mobile device.
- 1.9 We will take reasonable care and skill to provide you with emergency mobile services in a reasonable timeframe and take all reasonable efforts to ensure our emergency mobile services do everything we say they will. However, we cannot guarantee those emergency mobile services will be interruption or fault free.
- 1.10 In particular, the emergency mobile services may be affected by factors outside of our control including, but not limited to, geographic conditions and physical obstructions, weather conditions, the number of people trying to use the network at the same time or faults in the network used by us to provide the emergency mobile services to you, as well as our emergency mobile services' reliance on systems and other services that we do not own or control.
- 1.11 The quality, speed and coverage of the emergency mobile services will vary and can be affected by external factors (such as weather), traffic congestion, the activities of our network service providers and other outages. It may also be affected by the setup of you and your intended recipient's mobile devices.

2 YOUR COMMITMENT TO US.

- 2.1 In return for us providing the emergency mobile services to you, you agree to:
- (a) only use mobile devices, SIMs (which you will need to be able to connect to the emergency mobile services and network), equipment and other accessories which are available and compatible for use with the emergency mobile services;
 - (b) not use the emergency mobile services for any activities constituting improper use; and
 - (c) authorise us or a person approved by us (such as a network service provider) to remotely access your mobile device in order to perform any tasks that are reasonably necessary to protect the integrity of the network or the emergency mobile services, in each case as determined by us or one of our network service providers, or where required to do so by law.

3 FEES, CHARGING & BILLING.

Our charges

- 3.1 **It is free to use your emergency mobile service to call emergency services by dialing 111.**
- 3.2 If you use your emergency mobile service for text (SMS) and photo and video (MMS) messages, there will be a charge. The charge for person-to-person text messages to standard New Zealand and Australian numbers are set out in the letter that we sent you with your mobile device. Charges for MMS and texts sent to premium and special numbers, including text voting, entries to competitions via text, short codes, international numbers other than Australian numbers, and satellite phones, are available on our website at mercury.co.nz/mobile.
- 3.3 Please see the General Terms for details of where the charges for text (SMS) and photo and video (MMS) can be found on our website, how they can be changed, and how you will be billed if you use those messaging services.
- 3.4 There are no fees related to using this emergency mobile service to call emergency services.

4 SERVICE AVAILABILITY.

- 4.1 From time to time we may amend our emergency mobile services. Where we do this, we will endeavour to give you at least 10 working days advance notice.
- 4.2 Notwithstanding the above, we are free to choose the manner in which and the technology by which we provide the emergency mobile services. We, and our network service providers, also reserve the right to manage traffic at peak times, to ensure all customers get the best possible experience even at busy times. Overall, this should have a positive benefit for our customers. If we make any changes to this policy which will have a material impact on you we will let you know.
- 4.3 The emergency mobile services may also be unavailable at times due to maintenance, repairs, upgrades or modifications to the network used by us to provide the emergency mobile services to you. Where it is within our control, we will try our best to give you notice and keep such unavailability to a minimum.

5 MOBILE SPECIFIC TERMS.

- 5.1 Any SIM we supply to you remains our property and must be returned to us if requested. You must keep any SIM we supply to you in a good condition. You cannot connect our SIM to another telecommunications network unless we have advised otherwise.
- 5.2 We are not responsible for any equipment that you use in connection with the emergency mobile services that has not been provided by us. Where such equipment does not work properly, you must consult with the relevant supplier or manufacturer about the problem. Please refer to your warranty or sales agreement for details regarding our responsibility to you for any equipment provided by us.

- 5.3 If your mobile device or the SIM we have supplied to you is lost, stolen or damaged you must immediately let us know. To prevent further unauthorised use of the emergency mobile services or the accrual of further charges under your account, you must suspend the SIM by calling us on 0800 10 18 10. You can also blacklist your mobile device by calling us on 0800 10 18 10 if it is lost or stolen. By blacklisting your mobile device, no person will be able to use it on any New Zealand mobile network. You can cancel the blacklisting at any time by calling us on 0800 10 18 10.
- 5.4 You will remain liable for all charges incurred in relation to the use of your mobile device or the SIM up to the time you inform us that your mobile device or SIM is lost or stolen and we activate a suspension on your SIM and block on your mobile device unless you were unable to notify us as a result of our services being unavailable (for example, because our call centre was closed) or we are satisfied that you did not authorise the charges.
- 5.5 You don't have any title, interest or intellectual property rights in the networks or any part of them. This also applies to the emergency mobile services we provide and anything we or our partners make available to you when we provide you with emergency mobile services. You have some obligations about intellectual property too – see clause 2.1(b) above.

6 TERMINATION AND SUSPENSION.

- 6.1 We may stop or suspend the emergency mobile services only if you are no longer a Mercury landline customer, or you are no longer a vulnerable customer.
- 6.2 If we terminate this agreement for one of the reasons listed above, you will still have to pay for all text (SMS) and photo and video (MMS) messaging that you have used up until the effective date of termination.
- 6.3 Termination or expiry of this agreement does not affect any accrued rights or liabilities of any party nor does it affect any provision which is expressly or by implication intended to survive termination.

7 QUESTIONS/COMPLAINTS.

- 7.1 If you have a question or a complaint about the emergency mobile services, please contact us on 0800 10 18 10. We will try to resolve the matter as soon as we can.
- 7.2 If we have not been able to resolve a complaint you may at your discretion refer the dispute to the Telecommunications Dispute Resolution ("TDR") who provides a free and independent dispute resolution service and whose contact details are set out below. Please note that before contacting the TDR, any complaints must be registered with us first.

Telecommunications Dispute Resolution Freepost 214075
PO Box 5573
Wellington 6011
Free phone: 0508 98 98 98
Email: contact@tdr.org.nz
Website: tdr.org.nz

- 7.3 If you have a complaint about our compliance with the Code, you can make a complaint to the New Zealand Commerce Commission, however the primary method for making a complaint is to contact the TDR. The Commerce Commissions details are:

New Zealand Commerce Commission
PO Box 2351
Wellington 6140
New Zealand
Free phone: 0800 943 600
Email: contact@comcom.govt.nz
Website: comcom.govt.nz

8 LOSS OR DAMAGE.

- 8.1 You are responsible for ensuring that your mobile device has appropriate protections in place to protect against unwanted or unauthorised access to your mobile device.
- 8.2 While we take reasonable security precautions, due to the nature of mobile services, we cannot guarantee the confidentiality of any calls or transmissions you make using our emergency mobile services or that the emergency mobile services will always be virus-free or secure.
- 8.3 We are not responsible for, and make no representations in respect of, any content you access or make available through your use of the emergency mobile services, or any unauthorised access to your mobile device and any loss that you suffer in connection with the same (such as corruption of information you store on your mobile device). We are not responsible for any communications or transactions between you and other parties, or for the services or information you receive from them. If you use equipment on the network that we haven't said is ok to use, we won't be responsible if it doesn't work, gets damaged or is found to be illegal. We also do not have to make it possible for you to use the emergency mobile services with equipment from other parties.

9 DEFINITIONS AND INTERPRETATION.

- 9.1 Clause and other headings must be ignored in construing this agreement and references to the plural include the singular and vice versa. In this agreement, "Mercury", "we", "our", or "us" are used when referring to Mercury NZ Ltd (or any assignee), and we say "you" or "your" when referring to you, our customer. If we use the word "includes", "including" or "for example", this applies as if the words "but without limitation" were also set out. Where the following terms are used in this agreement, they have the following meanings:

"charges" means the charges for your access to and use of the emergency mobile services provided to you by Mercury, and our network service providers, together with any third party charges paid for services and content accessed by you using the emergency mobile services (such as premium or special numbers).

"Code" means the New Zealand Commerce Commission "Commission 111 Contact Code", which is available at <https://comcom.govt.nz/regulated-industries/telecommunications/regulated-services/consumer-protections-for-copper-withdrawal/commission-111-contact-code>.

"emergency mobile services" means the mobile telecommunication services provided by us or our network service providers to you pursuant to this agreement and any other services provided to you by Mercury in connection with the mobile telecommunication services.

"fees" means any additional fees for the provision of the emergency mobile services, but excludes the charges.

"GST" means goods and services tax under the Goods and Services Tax Act 1985.

"improper use" means any use of the emergency mobile services which is, in our reasonable opinion, illegal, infringes anyone's rights (including intellectual property rights), is malicious, obscene, offensive or otherwise causes detriment to us, our customers, our network service providers and/or third parties. Specific activities that will be considered "improper use" include (without limitation): multiple simultaneous calling, re-supply, call centre usage, telemarketing, bulk messaging, application-to-person communication, continuously call forwarding, auto-dialing, machine to machine communication (including by using the SIM card in any other device), Cellular Trunking Units (CTUs), illegal downloading, including but not limited to in breach of the Copyright Act 1994; sending unsolicited electronic messages (spam) including but not limited to in breach of the Contract and Commercial Law Act 2017, offensive or objectionable messages or publications, threats, unsolicited bulk email chain letters, pyramid schemes or hoaxes; knowingly receiving, transmitting or distributing signals, spam, worms or viruses, or otherwise using emergency mobile services in a way which is intended to or may damage or compromise the security of the network or anyone else's network; or making any kind of deliberate attempt to overload the network or anyone else's network, including mail bombing, excessive pings or otherwise causing excessive internet traffic or connecting devices to or that affect our equipment that are not compliant with New Zealand standards. Improper use also means any use of the emergency mobile services which we, or our network service providers, considers is a use for which the emergency mobile services were not intended.

"MMS" means a photo or video message.

"mobile device" means a mobile phone or other telecommunications device (which incorporates a SIM) which operates on the network and is used by you to access the emergency mobile services.

"network" means the telecommunications network which we and our network service providers use to provide the emergency mobile services to you and other customers.

"network service provider" means any third party which provides equipment or services to us to allow or facilitate our supply of the emergency mobile services to you.

"person" includes a corporation.

"person to person text messages" means text messages sent by a person using their mobile phone to another person's mobile phone. This does not include text messages sent via automated, computer scripted or other electronic means using a WCDMA modem or tethered (i.e. cable connected) WCDMA handset. Entering competitions or voting for polls are also not included.

"representatives" means employees, agents, contractors, professional advisors, invitees, or other authorised persons, or persons for whom any of the foregoing is responsible including sub-agents and sub-contractors.

"SIM" means any subscriber identity module that we may have provided to you which enables you, when used with a mobile device, to access the emergency mobile services on the network.

"SMS" means a short text message service on mobile phones.

"text message" means a SMS of a maximum length of 160 characters that you have typed into your mobile device or that you have been sent. Even if your mobile device is capable of sending longer messages (e.g. 320 characters), for charging purposes, every 160 characters you send is counted as one text message. This does not include picture messages or video messages.

"vulnerable customer" has the meaning set out in the Code.

10 OUR CONTACT DETAILS.

We're here to help. If there's anything here that seems unclear, or if there's any question you want to ask us:

- You can email questions to customerservice@mercury.co.nz or call us on 0800 10 18 10.
- You can visit our website, mercury.co.nz, or contact us via web chat at ask.mercury.co.nz
- You can write to us at:
Mercury
Private Bag 12023
Tauranga Mail Centre
Tauranga 3143

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