

1. GENERAL

These Terms and Conditions constitutes an agreement (the “Master Service Agreement”, “Agreement”, “Terms of Use”, “Terms of Service Agreement”) between Howcouths Unit Trust trading as BVD Communications, (hereinafter called “the Company”, “we”, “our”, “us” and/or words of a correlative or similar meaning, which may include but not be limited to all of its agents, assigns, and/or representatives) a NSW, Australia, Proprietary Limited company and the end-user (hereinafter called “the Customer,” “user,” “you,” “your,” and/or words of a correlative or similar meaning, which, for the purposes of this agreement means the person(s) identified in our account records as the person responsible for payment of all charges or any other person(s) and/or assigns, which represents that person(s)) regarding the provisioning of our retail Voice over Internet Protocol (VoIP) communications services and any related equipment or services (“Service”).

BVD Communications is a provider of international telecommunications services. This document provides an in-depth description of our limits, warranties, and acceptable use. In the event of ambiguity between website information and this document, this document, “Terms and Conditions of Service” dictates. By enrolling in or using our service, you acknowledge that you have read and understand this agreement and you agree to the rates, charges and other terms and conditions in the agreement and for the service that you have chosen and that you are of legal age to enter in to such an agreement. If you are not willing to be bound by this agreement or if you are not of legal age, do not enrol in the service.

We may change the Terms and Conditions of this Agreement from time to time without advance notice. Any notice will be posted on our website at [www.BVD Communications.com.au](http://www.BVDCommunications.com.au) and/or given via e-mail to the e-mail address registered by you with BVD Communications. The Agreement currently posted on the website amends and supersedes previously agreed to electronic and/or written Terms and Conditions of Service.

2. SERVICE

We provide both domestic and international local and toll-free phone numbers for use to forward to a designated ring-to destination.

Our service is provided on a month-to-month and annual basis or a plan term that begins on the date that we activate your account (the “Activation Date”) and ends on the day before the same date in the following month or year according to the subscription type. The Activation Date will begin on the date that you sign-up for the service. The Agreement will renew automatically on a monthly or annual basis without further action by you, depending on the package you select at the time you place your order. Subsequent terms of this agreement will automatically renew on a calendar monthly/annual basis (whichever is applicable) without further action by you unless you arrange to cancel your Service by contacting us in writing at accounts@bvd.com.au . You are purchasing the Service for full monthly or annual terms (whichever applicable), which means that if you cancel your Service prior to the end of the term, you are still responsible for the full term’s charges and any unbilled charges and/or fees to the end of the then-current term, all of which becomes immediately due and payable.

We do not guarantee backup data for any voicemail message(s), fax data and/or transmission(s), voicemail greeting(s) or any other data/transmission(s) sent through our systems. It is possible to lose said data, and in such case, said data cannot be recovered; regardless of the circumstances surrounding such a loss, we shall not be held liable for any loss or harm resulting from your use of these optional services.

It is strongly recommended that you test the Services upon initial setup and periodically thereafter to ensure the Services are functioning to your satisfaction. Should you fail to properly test the Services as recommended, you do so at your own risk, and you shall be the sole party responsible for any loss or damages.

The Service(s) provided to you by us stand independent of any third-party carrier(s) and/or other service provider(s) you may be using, or will use, in conjunction with our Service. This agreement applies only to those Services that are owned and managed by us. In no way does this agreement cancel or amend any existing agreement(s) you may already have in place, or will have, with any third-party carrier and/or service provider(s). Your agreement(s) with any and all third-party carrier(s) and/or other service provider(s) are between you and the third-party carrier(s) and/or other service provider(s). Such agreement(s) are NOT applicable to the Services provided to you by BVD Communications. Further, we shall not be held liable for any action(s), or lack thereof, inadequacies and/or failures of any third-party carrier(s) and/or service provider(s) you use in conjunction with the Service. You agree that you are solely responsible for any and all fee(s) due to any and all third-party carrier(s) and/or other service provider(s) you use in conjunction with our Service.

3. SUBSCRIBER ACCESS

Upon setting up your account with us, you will be asked to create a password in order to gain access to your account information at the BVD Communications-operated website. You agree to keep all passwords and account information confidential and are solely responsible for any liability or damages resulting from your failure to maintain that security confidentiality and for all activities that occur under your username and password. You must notify us immediately if you believe that your online account with us has been compromised by unauthorised access so that we may assign you a new username and/or password. All username and password resets will be sent only via email.

4. ACCOUNT OWNERSHIP

The owner of a BVD Communications account is the person named as “Authorised contact” in our account database. No other person or entity, named or unnamed, shall maintain ownership or rights to the account nor Service(s) provided therein.

You may not transfer ownership of your BVD Communications account, nor the Services provided therein, to any party without the expressed consent of us. However, in its sole discretion, we may assign this Agreement. We will notify you if we assign this Agreement.

In the event of a dispute regarding account ownership, we shall, in our sole discretion, determine the rightful owner.

5. DIRECTORY LISTING/ PUBLICATION OF NUMBER(S)

We do not publish directories of any of the phone numbers owned and managed by us. Further, we will not assist you in publishing any of the phone number(s), provided you by us, in any directory.

It is possible for your phone number(s) to have been listed in a directory and/or on a website(s) or other publications at the request of the previous subscriber of your phone number(s); this factor is beyond our control, and we shall not be held liable for any harm or loss resulting from such. If you receive phone calls from a previous subscriber's callers, which is not uncommon, you should contact us immediately to cancel that phone number(s) and select a replacement phone number(s). Please note that you will not receive credit(s) for any such calls, so it is in your best interest to contact us immediately to cancel the phone number(s).

We will not reimburse you, in any way, for any cost(s) associated with the publication of your BVD Communications phone number(s). You are solely responsible for any costs, fees, damages and/or losses related to the publication of the phone number(s) we provide you.

6. COLLECT CALL AND OPERATOR SERVICES

Our Services do not support collect calls or operator services.

7. RESTRICTIONS ON USE

You agree to use the Service(s) provided you by BVD Communications for legal and legitimate purposes. Unlawful, improper and/or illegitimate use will be defined by us or, any official government police agency, which notifies us of your unlawful use of the Service it provides to you.

You (and your agents) must obey our terms and conditions on all services provided, including but not limited to:

- Service being abused by you will be terminated and charged as per the rates agreed upon.
- Unlimited calling plans are only meant to be used by single shift agents with no more than three (3) hours per day of talk-time, five (5) days a week.
- No predictive, broadcast, or automated diallers are allowed.
- Calls terminating to destinations outside of Australia will incur default rates and will not be included in the unlimited package.
- Inbound 800 calls from outside Australia will incur default rates and will not be included in the unlimited package.
- Forwarding to Australian numbers will incur regular termination rates.

You are liable for any and all content transmitted through the Service we provide to you. You are solely liable for the content of any and all transmissions sent through our

systems as a result of your use of the Service, regardless of whether or not such content is solicited or unsolicited.

You shall not use the Service we provide to you for transmitting obscene, fraudulent, harassing, infringing, libellous, or otherwise unethical content. Further, you shall not use the Service for distributing junk mail, chain letters, "spamming," telephonic solicitations of any kind or nature, or other such communications or content, regardless of whether or not such content is solicited or unsolicited.

We reserve the right to restrict termination to certain geographical regions and/or certain special services hotlines at our sole discretion. Additionally, we reserve the right to refuse service to certain geographical regions at our sole discretion.

We may immediately cancel your Service and repossess any and all phone number(s) associated with your account if/when your use of the Service(s) provided to you interferes in any way with our ability to provide Service(s) and products to our other customers. Your use of the Service(s) provided to you by us subjects you to any and all federal, state, and local laws within Australia and/or any and all international laws and regulations.

Should your use of the Service(s) we provide to you be deemed of a fraudulent, unethical, or otherwise prohibited nature, by us, we reserve the right to immediately close your account, terminate all Service to it, and repossess and re-assign any and all phone number(s) associated with said account, and deem forfeit any remaining balance on your BVD Communications account. We shall not be held liable for any harm or loss you experience as a result of such actions.

The Services may not be used to support a calling card platform of any kind.

Foreign carriers and/or regulatory agencies may impose, upon the end-to-end international service they provide, limitations, restrictions and/or cease entirely your ability to use the Service we provide you at any time, without prior notice. In such case, you must conform to said limitations, restrictions and/or entire cessation of service by the foreign carriers and/or regulatory agencies.

You are not authorised to charge services provided to you to the phone number(s) we assign to you and you may not request that any third-party service provider charge any such services to any number(s) we provide you. Any such activity will constitute just cause for us to immediately cancel your Service and charge your credit/debit card for said charges. We shall not be held liable for any harm, loss or damages arising from such actions.

We may temporarily suspend and/or cancel Service to your account if you change your ring-to destination to a geographical region in which we prohibit termination. In such case, your account and phone number(s) will be disabled until your account is manually reviewed by our staff and/or cancelled entirely.

You agree to comply with all applicable foreign and domestic laws and rules and regulations regarding the transmission of technical data exported or imported from Australia to your ring-to destination country. Further, you agree to hold us harmless of

any damages or liabilities, of any kind, related to your violation of Australian and/or International laws, rules and/or regulations while you are a customer of ours.

8. INSTANT ACTIVATION

If you provide a free email address at sign-up (ie, BigPond, Yahoo!, Gmail, Hotmail, Live, etc.) your account may not be activated instantly. Additionally, we may require that you submit images of the front and back of the credit/debit card you've presented and images of your official identification before your account can be approved. Please allow at least 24 business hours for processing of this information.

You may not begin using the phone number(s) you've ordered until such time as your account is approved and activated by us.

9. REGISTRATION

When signing up for our Services you agree to furnish a true and accurate representation of your identity, contact information, and billing information; and at subsequent times at our request.

We may require you to provide 100 points of ID, and that must include at least one form of primary ID. [To make up your 100 points, you can use:](#)

- One primary ID plus one or two forms of secondary ID, or
- Two primary IDs

If you provide false or misleading information, or if we have reason to believe that you have presented false or misleading information, we reserve the right to cancel your account, any Services related to your account, and refuse any and all of your current and future attempts to establish Service with us.

If you attempt to sign up for an account that is affiliated, in any way, with an account that has been closed by our Legal Department, your request for Service will be denied and you will need to seek services elsewhere.

10. RATES, FEES, TAXES, CALLING PLANS AND OTHER CHARGES

Our rates, fees, calling plans and other charges are set forth on our website and are hereby incorporated in this Agreement by reference. They are subject to change without advance Notice. Current rates will be posted on the [BVD Communications website](#).

Further, you agree to pay all applicable taxes, surcharges and other government-imposed fees for use of the Service(s) we provide to you.

If we cannot collect payment from your credit/debit card(s), on the payment due date, regardless of whether or not your Service is suspended by us, your account will be closed within seven (7) days, your phone number(s) repossessed and re-assigned, and a late fee of 1.5% will be assessed to your total outstanding balance. If your payment

method is a manual payment, you must remit payment at least four (4) days before the due date; regardless of whether or not your Service is suspended by us. If payment is not received within four (4) days of the due date, your account will be closed within seven (7) days of the 4th day before the due date, your phone number(s) repossessed and re-assigned, and a late fee of 1.5%, or the maximum late fee applicable in your jurisdiction, will be assessed to your total outstanding balance.

Reactivation Fee. BVD Communications reserves the right to charge You a \$35.00 Reactivation Fee in the event BVD Communications suspends or terminates Your Account due to non-payment.

You will be billed for all traffic volume you accumulate per the pricing schedule outlined under the "Pricing" tab on our website, regardless of whether or not such volume was accumulated as a result of solicited or unsolicited calls, calls intended for you or not. All billings for all traffic volume are billed in per-minute increments; further, we will round partial minutes up to the next full minute.

Any chargeback(s) or "inquiry" received by us, with respect to a form of payment being used on your account, is just cause for us to immediately cancel your Service(s). Further, any and all phone number(s) associated with your account will be repossessed and may be re-assigned to another customer. Additionally, a \$40 fee will be assessed to your account per each chargeback/inquiry received. We may refuse to provide Service to you indefinitely as a result of any chargeback/inquiry. Should we approve your request to re-open the account, or any other account, at a later time, you must first satisfy the following requirements:

1. Pay ALL outstanding fees and other charges associated with the account that was cancelled as a result of the chargeback(s).
2. Pay a Service Deposit of AU\$150 in addition to all outstanding fees and other charges associated with the account(s) associated with the chargeback(s) and/or inquiry(s). The Service Deposit will then be applied to the account you wish to open or re-establish.
3. Complete and return to us an Authorisation Form, including all necessary components thereof.
4. Depending on the severity of the chargeback and/or inquiry, we may decline to accept any credit/debit card payments for your account(s); in such case you must send any and all future payments via either certified money order or wire transfer (this includes payment of the outstanding fees and charges plus the restoration of service deposit).

Should you leave an outstanding balance on your account and later return to re-open the account or establish a new account, We reserve the right to charge the credit/debit card you present to recover the outstanding balance owed on your previous account. Should you leave an outstanding balance and later return to re-open the account or establish new service, and you do not use a credit/debit card to fund the account, We reserve the right to first apply any and all payment(s) to your outstanding balance until it is PAID IN FULL. Additionally, you must complete and return to us a signed Outstanding Balance Recovery Authorisation form before we can open your account.

Any and all handling fees, taxes, or any other fee(s) assessed to your account and/or listed in this TOS agreement are completely NON-REFUNDABLE.

Any fee(s) not listed in this agreement are posted on the BVD Communications operated website, under the “Pricing” tab, for your review.

BILLING INCREMENTS

If the computed charges for taxes and surcharges include a fraction of a cent, the fraction is rounded up to the nearest whole cent. We bill usage charges in full minute increments. We round partial minutes up to the next full minute unless we state otherwise in the rate schedules on our website.

CALLS TO INTERNATIONAL MOBILE TELEPHONES

Advertised rates for international calls are generally the rates charged for calls to landline telephones. Some calls to international mobile telephones are charged a different (usually higher) rate than calls to landline telephones. These rates are subject to change and are not subject to our control. We will attempt to publish the most accurate rates.

000 EMERGENCY SERVICE

We support Australian 000 emergency services calls. You are required to set a Registered Location for your 000 service calls which is provided to the Integrated Public Number Database (IPND) Manager. By default, your IPND listing is comprised of the telephone number allocated to you, and your name and address details which you provided to us on signup. You may change this address details setting from inside your BVD Communications account at any time.

11. PAYMENTS AND BILLING

Our service operates on a pre-pay basis. Payment for service shall be made by credit card **on our website**. We accept the following credit cards for payment: Visa, MasterCard and American Express. Monthly/annual fees will be paid in advance of service being rendered and you will be required to maintain a positive pre-pay balance to make calls to destinations not covered by your plan.

In addition to the prepaid amount for the service, you must pay for any minutes used over what is provided by your plan. Failure to pay for the additional minutes will result in your account being suspended. If you cancel the service before your plan term ends or if service is terminated for any reason, you will not be reimbursed for the period not used.

If your credit card information is stored at our website, monthly/annual fees may, at your option, be paid by automatic debit two (2) days before the bill cycle (“due date”) and/or when your prepaid balance falls below a customer set level, we will automatically top up your account by charging the funds needed to your stored credit card. If your payment is received over the weekend period, your payment will be applied to your account the following Monday; if your payment is received during an Australian holiday period, your payment will be applied to your account on the following business day in which we are opened. If you have not completed our email verification process, your payment will be held until such time as you complete the email verification process on our website.

If your credit card information is not stored, you may go to our website and manually top up your account. We accept no responsibility for failure of auto top up or auto debit your account balance.

YOUR ACCOUNT BALANCE MUST BE POSITIVE IN ORDER TO MAKE CALLS.

If payment is not received on or by the due date and you do not have sufficient credit allowance, we will suspend your Service until payment has been received and posted to your account.

You agree to update any change in your credit card or other billing information in a timely fashion, such that the charges will be not rejected on the credit card on file with us. You may update your billing information by logging into your account at BVD Communications.

You may obtain a monthly billing statement detailing usage for the previous month by accessing your online web account at the beginning of each billing cycle.

We reserve the right to suspend or cancel your account and repossess and re-assign any phone number(s) associated with your account, without prior notice, for non-payment or any violation of any provision of this agreement.

You agree that you are solely responsible for ensuring that you maintain an adequate BVD Communications account balance. While we may periodically send you email notifications regarding your account's status, we are not obligated to do so. Accordingly, if we attempt to notify you of your account's status and are unsuccessful, you hold us harmless of any harm or loss resulting from the suspension and/or cancellation of your account and/or repossession and re-assignment of your phone number(s) as a result of the same.

We begin billing you for call time when the called party, or a voicemail system, answering machine, facsimile machine, a key press greeting, and/or a PBX/Auto Attendant, answers the call, and ends when one of the parties disconnects the call. It is important to note; however, that some foreign carriers with whom we must interconnect with in order to terminate calls to foreign regions, designate a call as "answered" at the first ring or after a certain number of rings and will thereby charge us for a completed call. In cases such as this, we will charge you as if the call was answered by the called party.

We reserve the right to obtain payment from any and all credit/debit card(s) on file for your account with us, at any time, without further authorisation. Further, if payment is not immediately available on said card(s), we reserve the right to continue to attempt to obtain payment until such a time as payment is successful.

If, as a result of our billing system and processes, your bank or financial account becomes overdrawn, you will be the sole party responsible for said fee(s). We will not reimburse you for any such fee(s) nor shall it be liable for any harm or loss you experience as a result of such.

All monies are payable to us in Australian currency only. If you send funds in any other currency, we may either reject your payment or convert the payment into Australian

dollars using the exchange rate in effect at that time and assess a 2.5% conversion fee on your payment, which will be deducted from the payment after conversion.

You may not lower your account's Payment Settings below the minimum monthly/annual fee due for the phone number(s) you subscribe to.

We ask that you please allow at least 24 business hours, from the time we receive your electronic transfer payment(s), to have the payment(s) applied to your account. If your payment is received over the weekend period, your payment, if it is to be posted, will be applied to your account the following Monday; if your payment is received during a public holiday period, your payment will be applied to your account on the following business day in which we are opened. If you have not completed our email verification process, your payment will be held until such time as you complete the email verification process on our website.

If we find that you are unable to pay for your Service, we reserve the right to require that you fund your account within a specified number of days and that all future payment(s) be made via electronic transfer only.

The monthly/annual minimum fee(s) are due each month/year, regardless of usage. Any unused included plan minutes will expire at the end of each month/year and will NOT "rollover" for future use.

We reserve the right to dispute any chargeback initiated by you or your bank. Further, you agree that we may furnish any and all information it has on file for your account to the chargeback originating banking or financial Institution in an effort to validate our dispute of the chargeback(s).

You are solely responsible for updating your payment method whenever changes occur such as a change in your billing address, name, credit/debit card number, lost/stolen credit/debit card, and the like.

Our name should appear on your credit/debit card statement(s) as "Howcouths Unit Trust".

12. VANITY/CUSTOM PHONE NUMBERS

If you order a vanity/custom phone number(s) (eg, 800-MYCOMPANY), we ask that you please allow at least 7-9 business days for processing of your order. If the vanity phone number you have requested is available for purchase, and we secure the phone number(s) for you, we will send you an email notification to that effect.

You should not publish a vanity/custom phone number(s) you order until such time as we have given you written notice that the phone number(s) you have ordered are activated on your BVD Communications account and you have thoroughly tested the phone number(s) to ensure that the functionality of said number(s) suits your needs. If you fail to adhere to this provision, or any other provision of this agreement, you do so at your own risk.

If your Service is cancelled, for any reason, your previously assigned vanity/custom phone number may be re-assigned, immediately, to another subscriber.

13. NUMBER PORTABILITY

You agree that we maintain exclusive ownership of the Service(s) we provide to you.

You agree and understand that we are unable to influence the outcome of your request to port a number(s) into our systems. Further, we do not guarantee that your **number port request** will be a success. If your transfer is a success, generally speaking, porting into our systems, take between 4-30 business days to process – it is important to note that this time frame is largely dependent on the **category of Number Porting** which is fully explained on the BVD Communications.com.au website, and the speed with which the losing provider responds to our request to port the phone number(s) into our systems. It is not uncommon for a number port request to take longer than 4-30 business days; however. If your number port request is unsuccessful, we may notify you of the response we received from your current provider; in such case, you may have the option of resubmitting the request.

You may port a phone number(s) away from us provided your account with us is active, in good standing, all monthly and/or annual dues (including any unbilled charges and/or fees) have been PAID IN FULL, we have received a number port request from your new carrier requesting to port the phone number(s) away, and the phone number(s) you are requesting to port have each been active on your BVD Communications account for at least 90 days. If your BVD Communications account does not satisfy ALL of the aforementioned criteria, we reserve the right to reject your request to port said phone number(s) away from us and you hereby waive any right to contest the rejection. If the port is successful, we will terminate our Service for that phone number(s); if unsuccessful, for any reason, our Service to the phone number(s) you were attempting to port away from us will not terminate and you will continue to be responsible for paying us all charges and fees for the phone number(s) in question.

You may port a phone number(s) into our systems provided you are the current owner of the phone number(s) you wish to port, you have an active BVD Communications account in good standing, your request to port the phone number(s) has been accepted and approved by the current carrier of said phone number(s), and you have paid the monthly cost(s), upfront, for each of the phone number(s) you wish to port into our system(s).

A successful port request does not constitute the cancellation of your BVD Communications account. If you request to port a phone number(s) away from us and your request is approved and the phone number(s) released, you will remain responsible for any and all phone number(s) and/or Services you still have with us.

If you desire to cancel your Service and use your BVD Communications phone number with your new carrier, it is your responsibility to ensure that the number has successfully transferred or ported prior to cancelling your account with us. Cancellation of your BVD Communications account prior to confirmation from your new provider that the telephone number has successfully transferred may result in an inability for us to

transfer your number and the potential loss of your number. Failure to cancel your account with us after successfully transferring to another provider may result in continued monthly charges by us for which you will remain responsible until such time as you cancel your Service with us ENTIRELY.

14. REFUND POLICY

We will not refund any Service fees or any other amounts you prepay for Service.

If you make a payment to us, and we suspect that you are or have been associated with fraud using our Service, your payment will be deemed forfeit immediately upon receipt. Accordingly, you will not be eligible for a refund of monies paid to us. We shall not be held liable for any harm or loss resulting from such action.

No credit allowance(s)/refund(s) will be issued, whatsoever, for any of the following, including but not limited to: non-usage, interruption of service, hung call(s), misdialled call(s), or any other activity, which increases your call volume and/or account usage.

If you do not agree with a charge(s) to your account and/or credit/debit card, with respect to your account with us, you must notify us in writing both at accounts@bvd.com.au and at the address written below, within thirty (30) days of the disputed transaction, with details substantiating the request. If you fail to notify us, as outlined above, within the time frame specified above, you agree to waive any and all right(s) to contest the transaction(s) in question. In no way does a billing adjustment/refund request constitute just cause for any delay in payment of the full amount due. Should we find that the billing adjustment/refund request is warranted, we will issue a credit to your BVD Communications account within thirty (30) days of said decision.

1. By e-mail to accounts@bvd.com.au, or
2. At the following address:

BVD Communications Customer Support
120 Wills St

Bendigo Vic 3550

15. CANCELLATION POLICY

You may cancel your account with us, via our [online service cancellation form](#) at any time, provided all agreed upon monthly and/or annual or other dues and all outstanding fees have been paid in full. If you cancel your account prior to the end of the monthly or annual term (if applicable), you will still be responsible for the charges for that term and any other unbilled charges and/or fees, to the end of the term; the sum total of this amount is due immediately and will be charged to your payment method. We do not issue refunds/credits for any partial-month's service.

No refunds will be provided for any unused credit balances at the time of cancellation of your account.

We reserve the right to discontinue furnishing Services to you, cancel your account, and/or block your access to our network and online interface, without incurring liability and without prior notice, if you breach any provision of this agreement in any way or if we deem such action necessary to protect us from fraud or otherwise protect our personnel, facilities or services. Without limitation, we may take any and all of the actions listed within this agreement at our sole discretion. Further, we reserve the right to suspend or discontinue service generally, at any time, without prior notice.

If your account is cancelled, cancellation will take immediate effect. All Service(s) associated with your account will be immediately disabled and may not be available at a later date/time. Any and all phone number(s) associated with your account will be recycled back into our pool of available phone numbers for other customers to purchase. You will not be able to use any of the facilities and/or Services associated with your account after cancellation.

We do not have the ability to schedule cancellation for a future time/date.

Cancellation may be made by completing the online service cancellation form. Account Cancellation is effective immediately our team processes your request.

Your account is not considered cancelled until such time as you have been provided a Cancellation Confirmation Email. If you have not received a Cancellation Confirmation Email you should consider your account active.

You understand that following the cancellation of your service, for any reason, your previously assigned phone number(s) may be re-assigned, immediately, to another customer. Further, you agree that we shall not be liable for any damages (including but not limited to consequential or special damages) arising out of any such re-assignment and you hereby waive any claims with respect to such re-assignment, whether based on contractual, tort or other grounds, even if we have been advised of the possibility of damages.

16. OUR RIGHTS TO LIMIT OR TERMINATE SERVICE OR THIS AGREEMENT

We can, without prior notice, limit or terminate the Service(s) we provide to you for this or any other good cause, including but not limited to: (l) if you or any user of your BVD Communications account: (a) breach this agreement in any way; (b) provide false or misleading information about your identity; (c) use our service in any way that disrupts our ability to provide Services to our existing customers; (d) use our service in any way that adversely affects our relationship with our vendors and/or our ability to offer Services to our future customers; (e) provide false or misleading credit and/or financial information to us; (f) become insolvent or go bankrupt; (g) are involved, either directly or indirectly, in any official police investigation we receive notification of; (h) constantly express your dissatisfaction with our Service and hinder, in any way, our ability to remedy any issues you may have with your Service (which may include, but is not limited to: constant phone calls and/or emails to us about the issues you have reported); (i) steal from us; j) interfere with our operations and/or network quality in any way; (k) refuse to pay when billed for service; (l) refuse to furnish information requested by us or present false or misleading information which is essential for billing purposes

or for establishing your creditworthiness; (m) act in a manner that is threatening, harassing, obscene, or otherwise inappropriate and/or abusive towards our representatives; (n) use our services in a fraudulent manner with the intent to deceive; (o) have been given written notice of an outstanding balance owed to us yet your balance remains unpaid for twenty-nine (29) days; (p) were previously served with notice of your breach of this agreement, were allowed to and took corrective action, but thereafter engaged in the same breach activity or a new breach of this agreement; (q) act in a manner that hinders or frustrates any investigation by us or others having legal authority to investigate our legal obligations.

If you file for bankruptcy, our rights to limit and/or terminate your Service and/or this agreement shall be governed by bankruptcy law.

We may limit or terminate your Service as a result of any new governmental regulations and policies, whether domestic or international, which it must adhere to.

17. LOSS OF SERVICE DUE TO POWER FAILURE OR LOSS OF NETWORK CONNECTION

The Service will not function without power or a broadband connection to the Internet. Should there be an interruption in the power supply or broadband Internet service, the Service will not function until power and your broadband Internet service is restored. A power failure or disruption may require you to reset or reconfigure equipment before using the Service. As indicated above, power failures and network disruptions will also prevent dialling to obtain emergency service and emergency numbers such as 000. You are responsible for maintaining electrical power and a broadband Internet connection to support the Service.

Further, you acknowledge that we are a VoIP service and that you must have a functioning high-speed internet service broadband or DSL, required for your Service to operate. You are responsible for subscribing to and paying for your high-speed Internet access in order to use our Service. The quality and reliability of your BVD Communications service is highly dependent on the data speed, quality and reliability of your high-speed Internet connection. It is your responsibility to report and resolve any quality and connectivity issues related to your high-speed Internet connection with your Internet service provider.

18. WARRANTY DISCLAIMER

Howcotts Unit Trust will make all reasonable efforts, under the circumstances, to maintain its overall network quality. We make no warranties about the service provided hereunder, expressed or implied, including but not limited to any warranty of merchantability, completeness, quality, or fitness for a particular purpose, title or non-infringement, or any warranty arising by usage of trade, course of dealing, or course of performance. Accordingly, all services offered by us are provided on an “as is” and “as available” basis. No credit allowances are provided for interruption of service of any kind. In no event shall we be held liable to you nor any third party for any indirect, special, incidental, consequential, actual, punitive, or exemplary damages, including, without limitation to, damages for loss of revenue, loss of profits, or loss of your client(s) goodwill, arising in any manner from this agreement and or the performance or non-

performance hereunder. Neither party shall be held liable for any delay or failure in performance of any party of this agreement, other than for any delay or failure in an obligation to pay money, to the extent such delay or failure is caused by fire, flood, explosion, accident, war strike, embargo, governmental requirement, civil or military authority, act of god, inability to secure materials or labour, or any other causes beyond their reasonable control. Any such delay or failure shall suspend this agreement until the force majeure ceases and the term shall be extended by the length of the suspension. This agreement supersedes any and all present and future agreements made between you and us with respect to quality, up-time, reliability, and general performance. We do not warranty the reliability, up-time, quality, and general performance of the service it provides to you. Further, we make no warranty that the service(s) it provides to you will be uninterrupted.

19. PROPRIETARY

We maintain exclusive ownership of the service interest and title, including but not limited to all of its trademarks, copyrights and other intellectual property. Additionally, we maintain sole and exclusive ownership of the all telephone numbers managed by our systems, voicemail services offered through our services and all technologies and software we create. Any and all rights not expressly stated herein are retained by us.

We reserve the right not to disclose our carrier/supplier information to you.

20. NOTICES AND COMMUNICATIONS

Notices are given by us via email, by a general posting on the BVD Communications website and/or via telephone. We reserve the right to determine which method of communication it employs to communicate with you.

We will make all reasonable efforts to deliver email notifications to you regarding the status of your account. It is beyond our control if you do not receive the communications we attempt to deliver to your email address. We shall not be liable for any harm or loss resulting from the suspension, repossession and/or re-assignment of your assigned phone number(s) and/or cancellation of your account because you did not receive our email communications. Further, we may change or cease entirely all notifications at any time without prior notice.

While we may send you email notices from time to time regarding the billing matters of your account, we are not obligated to do so. We may change or cease entirely our notifications at any time without prior notice.

When contacting us via web chat, email, voicemail, fax and/or postal mail, we ask that you allow at least 24 business hours, from the time we receive your inquiry, to receive a response from us. Occasionally, response times may be greater, depending on the volume of communications we receive from our other customers. All communications we receive are handled in the order in which they were received. If you do not receive a response within 24 business hours, we strongly recommend that you contact us by phone (during our normal business hours) to have your concerns addressed; if you fail to make such contact, in such case, you do so at your own risk and your matter will remain in the queue until it is handled by our support staff.

When communicating with us via phone you may be asked to verify your account number, the name on file for your account, and the full billing address you provided, and your Security PIN; if you are unable to verify this very basic information our support staff will be unable to assist you. We ask that you please call back when you have this information available.

21. PRIVACY

In cooperation with any official investigation, we may disclose any and all of the information we maintain on record for your account, to any police agency, legal entity, and/or any other third party, which issues us a subpoena(s), search warrant(s), court order(s), or any other official demand(s) for information we maintain on record for your account. In the event that we receive a subpoena(s), search warrant(s), court order(s), and/or any other official demand(s) for information we maintain on record for your account, we reserve the right to immediately cancel your Service, repossess and re-assign any phone number(s) associated with your account and block your access to our website. We shall not be held liable for any harm or loss arising from such.

We may monitor your use of the Service we provide you for violations of this Agreement. We may take all necessary actions, we deem fit, if we suspect a breach of this agreement or if think it necessary to protect us from imminent harm or loss.

During the term of this Agreement, you grant us a license to use your name and logo, if applicable, in our promotional material to advertise that you are a customer of ours. We agree that we shall not share, sell, trade, barter, or offer for free the use of your name, logo, and affiliate data to any other individual, corporation, or entity that is not owned in whole or in part by us.

In an effort to protect our subscribers from credit/debit card fraud, we actively analyse all new accounts and existing accounts to identify and block individuals suspected of fraud from using our Service now and in the future. We may share this data (including, but not limited to, IP addresses, email addresses, the credit/debit card number(s) used, etc) with third-party payment processors and/or Law Enforcement agencies in an effort to reduce fraud.

22. BINDING AGREEMENT

This is a binding agreement. All parties named herein agree to be bound by the terms of this agreement for the life of this agreement.

You may not transfer your rights and/or obligations under this agreement without the expressed prior written consent of us. Any attempt to assign this Agreement by you is void.

23. HEADINGS OF NO FORCE OR EFFECT

The headings throughout this agreement are intended for reference only and have no effect or bearing on the meaning of any provision listed herein.

24. INDEMNIFICATION

You shall defend, indemnify, and hold harmless us, our officers, directors, employees, and agents from any breach of this Agreement, use of your account or in connection with the placement or transmission of any message, information, software or other content using the Services. We shall be defended by attorneys of our choice at your expense.

25. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of Australia, without giving effect to its conflict of laws principles and rules.

26. NO WAIVER OF RIGHTS

If either party fails to enforce any right or remedy under this Agreement, that does not waive the right or remedy for any other breach or failure.

27. SEVERABILITY

Should any parts of this agreement be legally declared invalid or unenforceable, all other parts of this agreement will remain valid and enforceable. In such a case, said invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this agreement.

28. LITIGATION AND ATTORNEYS FEES

In the event you fail to pay for the Services or otherwise breaches the Agreement and we take action to enforce the Agreement or recover damages or monies due as result of the breach, we are entitled to recover the costs of enforcement and/or collection and reasonable legal fees from you. You consent to the jurisdiction of the state or federal courts of Australia as the venue for any legal action and waive all defences of lack of personal jurisdiction and forum non conveniens.

29. ADDITIONAL PROVISIONS

Should a problem/issue arise with the Service you must notify us immediately so that we may remedy, to the best of our ability, the problem/issue you are having with the Service; if we are unable to remedy the problem you are having with the Service you will be offered a replacement phone number(s), at an equal or greater monthly cost. If you opt not to take the replacement phone number(s), you may continue to use the problematic Service at your own risk.

You are responsible for reviewing the Terms of Service available on our website for any amendments to this agreement and/or our rates and/or other amendments to our Service. Your continued use of the Service, after our posting of any amended version of its Terms of Service, rates, and/or modifications to its Service, constitutes your acceptance and agreement with any and all amendments made and such modifications/amendments supersede any previous agreements between you and us.

As we are an Australian-based company, we observe all Australian national public holidays. During such times, our offices will be closed; our regular business hours will resume following the holiday period. If you have an inquiry during a period in which our offices are closed, please send us an email at accounts@bvd.com.au or call us on the next business day following the holiday period.

Should you violate any term(s) of this agreement, we reserve the right to immediately cancel all Service(s) it provides to you.

You promise that you are of legal age to enter into this agreement and that you fully understand and fully agree with all of its terms and conditions.

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This constitutes the entire Terms of Service agreement between the parties named herein and this agreement may only be amended by us.