

RDCCO Terms and Conditions

1 DEFINITIONS & INTERPRETATION

1.1 Definitions

The following definitions apply in this agreement unless the context requires otherwise:

- (a) "Activation Date" means the date on which the Permaconn System is activated;
- (b) "Airtime Plan" means the monthly subscription for the mobile connectivity required to access the Permaconn System (including all IP, Single SIM and Dual Sim Supervisory Plans), and which are classified as:
 - (i) P Plans: Airtime Plans for use within professional monitoring businesses;
 - (ii) A Plans: Airtime Plans for use with a Permaconn pocket secure connect subscription; and
 - (iii) R Plans: Airtime Plans for use as the connectivity solution in Risco security panels;
- (c) "Alarm Receiving Centre" means the firm or corporation which monitors the Permaconn System;
- (d) "Atlas Web Platform" means the web-based platform that enables the retrieval of status information, control and management of Permaconn Units;
- (e) "Customer" means the entity who enters into these terms and conditions with RDCCO, who will either:
 - (i) market, distribute and/or install the Permaconn System; or
 - (ii) monitor the Permaconn System as the Alarm Receiving Centre, or
 - (iii) provide both services referred to in paragraphs (i) and (ii) above;
- (f) "Contract Year" means the period from the commencement of this agreement until the date that is 12 months after the Activation Date, and each subsequent 12-month period commencing on the anniversary of the Activation Date;
- (g) "CSRU" means the Central Station Receiver Unit which is installed at the Alarm Receiving Centre and receives transmissions from the Permaconn Unit;
- (h) "Data Plan" means a monthly data allowance (upload and download) for usage in connection with suitable Permaconn units that may be used as an internet access point to send and receive the Customer's own data using a mobile telecommunications network;
- (i) "End User" means the person, entity or corporation who either purchases the Permaconn Unit from the Customer or who contracts the Alarm Receiving Centre to monitor its premises utilising the Permaconn System;
- (j) "Initial Term" means 90 days calculated with effect from the Activation Date;
- (k) "Intellectual Property Rights" means all intellectual property rights of whatever nature including all rights conferred under statute, common law or equity, including all copyrights, patent rights, trade mark rights, design rights and trade secrets.
- (l) "Keyholder" means a person, agency or authority which is authorised by the End User to be contacted in the event of the alarm at the End User's premises being set off;
- (m) "Permaconn System" means the alarm monitoring system provided by RDCCO under the terms of this agreement, including the Permaconn Unit, Pocket Secure (if applicable), the Atlas Web Platform (if applicable), the Rapidlink Cloud Portal (if applicable), the Video Verification Service (if applicable), the Sim Card and the CSRU, which utilises the GPRS 3G 4G mobile telecommunication network and IP to link the End User's premises to the Alarm Receiving Centre;
- (n) "Permaconn Unit" means a device that is installed at the End User's premises, which may include an alarm communicator device or a 4G managed router sold under the Rapidlink brand;
- (o) "Pocket Secure" means the App that enables the End User to arm and disarm their alarm panel.
- (p) "PPSA" means *Personal Property Securities Act 2009* (Cth)
- (q) "Rapidlink Cloud Portal" means the web-based platform that enables the retrieval of status information, control and management of Permaconn Units sold under the Rapidlink brand;
- (r) "RDCCO" means RDCCO Pty Ltd (ABN 90 625 818 395) of Unit 3 / 9-11 South Street Rydalmere NSW 2116, telephone 1300 55 66 43
- (s) "Services" means the alarm monitoring services provided by RDCCO utilising the Permaconn System;
- (t) "SIM Card" means a detachable smart card contained in a Permaconn Unit or the CSRU; and
- (u) "Video Verification Service" means the service offered by RDCCO that captures a video clips or still images from a video camera or network video recorder when an alarm has been triggered, that can be viewed by the Alarm Receiving Centre from a URL link sent by RDCCO.

1.2 Interpretation

Unless a contrary intention clearly appears-

- (a) words importing;
 - (i) the singular include the plural and vice versa; and
 - (ii) natural persons include created entities (incorporated or unincorporated) and the government and vice versa;
- (b) any headings used herein are for convenience only and are not a part of this agreement, nor shall they in any way affect the interpretation hereof;
- (c) the word "including" or "includes" means "including but not limited to" or "including without limitation"; and
- (d) the rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply.

2 CUSTOMER ORDERS

- (a) This agreement sets out the terms on which RDCCO will provide the Permaconn System and other products or services to the Customer.
- (b) The Customer may place orders for products or services using the mechanisms that RDCCO makes available from time to time. Any order is subject to acceptance by RDCCO.
- (c) Upon acceptance by RDCCO, an order becomes a binding contract between the parties incorporating these terms and conditions. Where the Customer places multiple orders, each will form a separate contract upon acceptance by RDCCO.

3 THE PERMACONN SYSTEM

- (a) The Permaconn System is designed to reduce the risks of loss or damage to the End User's property or the property of others located on the End User's premises utilising the Permaconn System. However, RDCCO does not guarantee that the Permaconn System cannot be removed, tampered with or made to stop working by the End User or the Customer or by any unauthorised person, that particular losses or injuries will be prevented by using the Permaconn System, that the Permaconn System will work continuously and without errors, including where interruptions or errors are due to something beyond RDCCO's reasonable control or that the Permaconn System, like all mechanical and electronic devices, will not develop faults.
- (b) The Customer agrees that decisions made by the Customer or the End User on the basis of their use of the Atlas Web Platform, Rapidlink Cloud Portal, Pocket Secure and Video Verification Service as part of the Permaconn System is at

their own risk. The display of events or actions at the End User's premises on the Atlas Web Platform or the Rapidlink Cloud Portal is indicative only and RDCCO does not warrant or guarantee the actual occurrence of any events or actions displayed on the Atlas Web Platform or the Rapidlink Cloud Portal. The Video Verification Service is dependent upon a range of factors outside the control of RDCCO, including the compatibility, positioning, operability and quality of output of surveillance cameras and (where applicable) network video recorders which Permaconn is not responsible for providing, installing or maintaining, and the configuration of the Video Verification Service by the installer including the correct assignment of the surveillance camera to the relevant alarm zone, and RDCCO is not responsible for any such things. RDCCO does not monitor any video output from the Video Verification Service, and the Customer must ensure that the Video Verification Service is satisfactorily tested before first use and that any issues identified in the use of the Video Verification Service are promptly identified and resolved with the End User or (where the fault is within the control of RDCCO) RDCCO.

- (c) RDCCO does not know the value of the End User's personal safety, premises or its contents or the property of others located on the End User's premises and the Customer's liability to the End User when entering this agreement and pricing its products and services. RDCCO does not agree to act as insurer for the Customer in respect of the End User's personal safety, premises or its contents or the property of others located on the End User's premises or for any loss, claim or liability which the Customer may suffer pursuant to providing the Permaconn System to the End User.
- (d) The amount paid or payable under this agreement is based upon the services RDCCO performs and the exclusions and limitations of liability that RDCCO assumes under this agreement, and is unrelated to the value of the End User's property or the property of others located on the End User's premises or for any loss, claim or liability which the Customer may suffer pursuant to providing the Permaconn System to the End User. Subject to the provisions of this agreement and to the maximum extent allowed by law, in the event of any loss or injury to any person or property, the Customer agrees to look exclusively to its insurer to recover damages and waives all subrogation and other rights of recovery against RDCCO that any insurer or other person may have as a result of paying any such claim, loss, liability or injury.
- (e) The Permaconn System may contain software or involve the use of online systems which are owned by third parties or are open source, and licensed under separate terms. Where this is the

case, such software or online systems are only procured by RDCCO on the Customer's behalf, and the use of such software or online systems is governed by those separate terms and not the terms of this agreement. Those separate terms may be notified upon installation, use or activation of the software or online systems, or set out or referred to in any documentation provided by RDCCO. Prior to using any such software or online systems, the Customer may review the separate terms, and if they are unsatisfactory to the Customer it must not use the software or online system, and may terminate this agreement by notifying RDCCO Ptd Ltd accordingly, and upon delivering the Permaconn System to RDCCO as required by clause 9(b)(ii) will receive a refund of any amounts already paid to RDCCO. By using the relevant software or online system, the Customer will be deemed to have accepted any such separate terms.

- (f) If the Customer uses the Video Verification Service, the Customer grants RDCCO an irrevocable licence (including a right of sublicense) to use any video output captured in connection with the provision of the Video Verification Service by RDCCO (Video Output). RDCCO will retain a copy of such Video Output for at least 5 years after which time RDCCO may delete such Video Output. If the Customer or any End User requires a copy of the Video Output generated by any video camera, the Customer or the End User is responsible for implementing its own network video recorders and data storage facilities to store that Video Output. While RDCCO endeavours to ensure the retention of Video Output, it cannot guarantee the storage of all Video Output and the Video Verification Service should not be used as the sole recording of Video Output.
- (g) RDCCO may provide the name and address of the Customer and any End Users to its third party vendors of any software or online system supplied to the Customer or that End User.

4 CUSTOMER'S OBLIGATIONS

4.1 General requirements

The Customer must:

- (a) if it is an Alarm Receiving Centre:
 - (i) provide RDCCO with safe access to its premises so that RDCCO may install the CSRU and remove it after this agreement has expired or is terminated; and
 - (ii) maintain a dedicated power supply to each part of the CSRU;
- (b) provide information about the End User, the End User's premises and any other relevant information to enable RDCCO to provide the

Services. The Customer must advise RDCCO of any changes to this information;

- (c) install and operate the Permaconn System according to the relevant Australian Standards and specifications and any instructions and information which RDCCO provides or advises the Customer of from time to time;
- (d) in using the Video Verification Service, ensure that it has the right to provide all Video Output to RDCCO, and that the End User complies with all laws (including surveillance laws) relating to the use of any associated surveillance cameras;
- (e) immediately inform RDCCO:
 - (i) of any defect or fault in the Permaconn System;
 - (ii) if anyone tampers with the Permaconn System;
 - (iii) if the Permaconn System is damaged or stolen; or
 - (iv) if the Permaconn System has been subjected to any unusual operating or environmental conditions;
- (f) not move or interfere with or attempt to repair the Permaconn System or allow others to do so;
- (g) must not transfer or assign any of its rights or obligations under this agreement.

4.2 Access to the internet

Certain Permaconn Units (such as Permaconn's PM54 unit) may offer the ability for the Customer to use the Permaconn Unit as an internet access point to send and receive the Customer's own data using a mobile telecommunications network. Data Plans are available for purchase from RDCCO to use such functionality where it is available. If the Customer elects to use such functionality, the Customer must at all times comply with the terms and conditions imposed from time to time by telecommunications carriers used by Permaconn for such purposes. Details of the telecommunications carriers used by Permaconn and links to their terms are available at www.permaconn.com/. If the Customer chooses to cancel such functionality or a Data Plan within the first month of use, cancellation fees may apply to reflect the charges imposed by those telecommunications carriers.

5 PRICE AND PAYMENT

- (a) The Customer must pay, and RDCCO will invoice the Customer for, the charges as specified in any proposal or quotation, in accordance with any separate agreement in place between the Customer and RDCCO at the time, or if none of the foregoing apply then as otherwise as set out in Permaconn's trade pricing at the time the Customer places the applicable order. All such charges are exclusive of any taxes, shipping and insurance unless indicated otherwise.

- (b) Charges for Permaconn Air Time commence from the start of the next calendar month following activation of the Permaconn Unit.
- (c) Charges for Permaconn Air Time are invoiced monthly in advance.
- (d) Monthly Data Plan charges commence from the month that the Data Plan is activated. RDCCO is entitled to invoice for the first month on a pro-rata basis in proportion to the number of days active, unless the Customer elects to incur the full monthly charge and receive the full month's data allowance. Data charges incurred during the first month of activation of a Data Plan, along with Data Plan upgrades and top-ups are invoiced monthly in arrears. All other Data Plan charges will be charged monthly in advance. Any unused data cannot be rolled over into future months and refunds will not be issued for unused data allowances.
- (e) Data Plan may be upgraded at any time. Where the Customer upgrades a Data Plan within a month, the Customer will be charged for that upgrade for that month at the difference between the initial plan rate and the new plan rate.
- (f) Data Plan may be cancelled or downgraded at any time, provided that such cancellation or downgrade will only take effect at the end of the then-current month. The Customer will not be entitled to a refund or rebate in respect of Data Plan cancellations or plan downgrades for the month in which they are made. If the Customer chooses to cancel a Data Plan within the first month of use, additional cancellation fees may apply to reflect the charges imposed by the relevant telecommunications carriers.
- (g) All amounts are payable by the Customer within 30 days of the invoice date, and any amounts not paid by such date will bear interest at three percent above the cash rate target set by the Reserve Bank of Australia.
- (h) If the Customer disputes (by notice to RDCCO) an invoice, the Customer agrees it can only claim disputed amounts from invoices dated within the 12 month period prior to the date of the dispute notice.
- (i) After the Initial Term, RDCCO can increase the charges, including Permaconn Air Time and Data Plan charges, to cover any increase in the cost of providing the Services. RDCCO will advise the Customer in writing, 14 days prior to such increase being effective.
- (j) If the Customer does not agree to such increase in the charges, the Customer must within 7 days after receipt of the notice referred to in clause 5(i) terminate this agreement by giving 90 days notice in writing to RDCCO. Until the end of that 90 day notice period, the Customer will still have to pay the charges for the Services without the increase, including charges for Permaconn Air Time and Data Plans, and RDCCO will continue to provide the Services.
- (k) The Customer must also pay RDCCO extra charges at its current rates for labour and materials, where the following apply:
 - (i) faults to the Permaconn System have been caused by the Customer or any other person, thing or event which RDCCO could not reasonably be expected to prevent;
 - (ii) any replacements, repairs or modifications to the Permaconn System not covered by the warranty in clause 10(a), or that are needed as a result of a change in a relevant standards or regulations governing the Permaconn System or the Services; or
 - (iii) the Permaconn System needs inspecting, resetting, reprogramming, repairing or replacing in circumstances where:
 - (A) the Customer or any other person has failed to follow operating instructions or has interfered with the Permaconn System;
 - (B) equipment or devices which RDCCO has not supplied have caused a false alarm or a failure of the Permaconn System;
 - (C) the Customer's actions or failures, or those of any other person other than RDCCO, require RDCCO to inspect or make repairs or replace any part of the Permaconn System; or
 - (D) adverse weather conditions cause damage to or activation of the Permaconn System.

6 INTELLECTUAL PROPERTY

- (a) RDCCO or its licensors retain ownership of all Intellectual Property Rights in the Permaconn System and anything else developed or delivered by RDCCO in connection with this agreement.
- (b) Unless otherwise provided under this agreement:
 - (i) where RDCCO provides the Permaconn System, RDCCO grants the Customer a non-exclusive, non-transferable, royalty-free (except for the Fees) licence to use the Permaconn System solely in connection with the premises agreed with Permaconn for the duration agreed by RDCCO when the Customer ordered the relevant Permaconn System; and
 - (ii) where RDCCO provides products to the Customer for use or resupply independent of a Permaconn System, RDCCO grants the Customer a non-exclusive, perpetual, royalty-free (except for the charges payable by the Customer) licence to use any Intellectual Property Rights comprised or

embedded in the products, solely in connection with the use of the products and including the right to sublicense such rights to any End User of those products.

(c) The Customer must not, and must procure that the End Users do not:

- (i) create or attempt to create by reverse engineering, disassembly, decompilation or otherwise, the internal structure, source code, hardware design, organisation or any other aspect of the products or services or aid or permit others to do so;
- (ii) copy, modify or translate any product or service or develop any derivative works thereof or include any portion of any product in any other product; or
- (iii) separate a product or service into component parts for distribution or transfer to a third party.

7 INFRINGEMENT INDEMNITY

(a) Subject to paragraph (b), RDCCO indemnifies the Customer against any liability under any final judgment in proceedings brought by a third party against the Customer, determining that the Customer's use of the products or services in accordance with this Agreement constitutes an infringement of that third party's Intellectual Property Rights in Australia.

(b) RDCCO will only be liable under paragraph (a) if the Customer:

- (i) notifies RDCCO as soon as practicable of the infringement or alleged infringement;
- (ii) gives RDCCO the option to conduct the defence of the claim, including negotiations for settlement or compromise before the institution of legal proceedings;
- (iii) provides RDCCO with reasonable assistance in conducting the defence of the claim;
- (iv) permits RDCCO to modify, alter or substitute the products or services at its own expense, to render them non-infringing; and
- (v) authorises RDCCO to procure for the Customer the authority to continue the use and possession of the products or services.

(c) RDCCO will not be liable to indemnify the Customer under paragraph (a) to the extent that the infringement arises from:

- (i) any actual or attempted repairs, modifications or changes to the products or services by any person other than RDCCO; or

(ii) interaction between the products and services with any products or services of a third party not supplied by RDCCO.

(d) The Customer indemnifies RDCCO against any loss, cost, expense or demand, whether direct or indirect, arising out of the claim by a third party alleging infringement of that person's Intellectual Property Rights, if:

- (i) the claim arises from any event specified in paragraph (c);
- (ii) the ability of RDCCO to defend a claim has been prejudiced by the failure of the Customer to comply with its obligations under paragraph (b); or
- (iii) information provided to RDCCO by the Customer to enable RDCCO to develop, modify or alter the products or services infringes the Intellectual Property Rights of the third party.

8 TERMINATION OR SUSPENSION

(a) Except as otherwise provided for in this agreement, either party may terminate this agreement by giving the other party at least 90 days notice in writing at any time. Until the end of that 90 day notice period, the Customer will still have to pay all of the charges for the Services, including charges for Permaconn Air Time, and RDCCO will continue to provide the Services.

(b) Either party may terminate this agreement immediately on notice in writing to the other if RDCCO cannot arrange or keep the telecommunications facilities needed to transmit the signals between End User's premises and the Alarm Receiving Centre.

(c) If the Customer fails to make payment in accordance with clause 5, RDCCO may suspend the Services provided under this agreement, on notice in writing to the Customer until such failure is cured or RDCCO terminates this agreement in accordance with paragraph (d). RDCCO will have no responsibility to perform its obligations under this agreement during the period of suspension. If this agreement is suspended, RDCCO will inform the Customer in writing upon the lifting of such suspension.

(d) Except as otherwise provided for in this agreement, either party ("Aggrieved Party") may terminate this agreement if the other party:

- (i) commits any material breach of this agreement (including any failure by the Customer to make payment in accordance with clause 5) which is not remedied within 30 days of notice from the Aggrieved Party;
- (ii) commits an act which is or would be an act of insolvency, or if a receiver, receiver and a manager, liquidator, administrator, trustee

- or similar official is appointed over its assets or business; or
- (iii) enters into or proposes to enter into an arrangement, composition, or compromise with its creditors or any class of them, or there is declared by a competent court or authority, a moratorium on the payment of indebtedness by either party or other suspension of payment generally; or
- (iv) ceases to carry on business.
- (e) If this agreement is terminated for any reason the Customer must continue to pay to RDCCO all amounts that have been incurred, or relate to the period, prior to termination.

9 RETENTION OF OWNERSHIP

- (a) Unless otherwise agreed in writing by RDCCO, no legal or equitable title to the Permaconn System passes to the Customer, with the exception of Permaconn Units in respect of which legal title passes to the Customer on payment for the Permaconn Unit. For clarity, legal title to all SIM Cards contained in Permaconn Units is retained by RDCCO.
- (b) The parties acknowledge (other than in respect of Permaconn Units in which title has been transferred to the Customer pursuant to clause 9(a)):
 - (i) the Customer holds the Permaconn System as bailee of RDCCO returnable at the will of RDCCO and without prior demand of RDCCO;
 - (ii) without limiting clause 9(b)(i), on termination of this agreement or demand by RDCCO at any other time, the Customer must immediately deliver or procure the delivery of the Permaconn System, or any part of the Permaconn System to RDCCO;
 - (iii) the Customer authorises RDCCO to enter, and must procure that any End User authorises RDCCO to enter, the premises where the Permaconn System is stored for the purposes of taking possession of all or any part of it;
 - (iv) the Customer is liable for any loss or damage to the Permaconn System during the period from its delivery to the Customer and its return to RDCCO, fair wear and tear excepted; and
 - (v) RDCCO retains and holds all legal and equitable title and ownership in the Permaconn System.
- (c) Risk in the Permaconn System passes to the Customer on delivery, and only returns to Permaconn if and when it is returned to RDCCO as contemplated by clause 9(b).
- (d) The parties acknowledge:

- (i) without limiting clause 9(b), all goods supplied to the Customer by RDCCO under this agreement (other than Permaconn Units in which title has been transferred to the Customer pursuant to clause 9(a)) (the "Goods") shall be subject to a security interest as that term is defined in the PPSA to secure payment of all moneys owing by the Customer to RDCCO. RDCCO shall treat the security interest in the Goods as continuing and subsisting security with priority over any registered general security and any unsecured creditors;
- (ii) the security in the Goods described in clause 9(d)(i) extends to any proceeds arising from the sale of the Goods or in any accessions in the Goods or, if the Goods become an accession, the accession and the Goods, to secure the Customer's obligations to RDCCO under this agreement;
- (iii) the Customer is responsible for all costs incurred by RDCCO in registering the security interest created under this agreement under the PPSA and all costs of enforcement of that security interest;
- (iv) to the maximum extent permitted by law:
 - (A) for the purposes of sections 115(1) and 115(7) of the PPSA: (1) RDCCO need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and (2) sections 142 and 143 are excluded;
 - (B) for the purposes of section 115(7) of the PPSA, RDCCO need not comply with sections 132 and 137(3); and
 - (C) any other right in favour of the Customer that can be lawfully contracted out of under the PPSA is excluded;
- (v) the Customer agrees to immediately notify RDCCO of any change in its name, address and contact persons details required to enable RDCCO to register a financing change statement if required. In the absence of such notification, the address held in RDCCO's records is deemed to be the Customer's relevant address; and
- (vi) the Customer will not agree, encourage or allow any other person or entity to register a financing statement or security interest in respect of the Goods without the express written consent of RDCCO and shall notify RDCCO as soon as the Customer is aware of any other person taking steps to register an interest in the Goods.
- (e) All Permaconn Units provided by Permaconn are to be used solely for connecting and communicating to the Permaconn System.

Should Permaconn suspect that the Permaconn Units are being used for any alternative use, then Permaconn reserves to the right to inspect, and recover the unit.

10 WARRANTIES AND LIABILITY

- (a) Where, prior to the date that is 24 months following the Activation Date, the Customer notifies RDCCO in writing that the Permaconn System as supplied contains defects in materials or workmanship, then subject to clauses 0 and 10(c) RDCCO will, at its option and expense:

- (i) repair that Permaconn System;
- (ii) replace it with another Permaconn System; or
- (iii) refund the Customer for any amounts it has paid in respect of that Permaconn System.

The Customer must bear the expense of returning any part of the Permaconn System to RDCCO where necessary, in order for RDCCO to provide such remedies to the Customer. RDCCO's obligation under this clause 10(a) are in addition to any other rights and remedies the Customer may have under applicable law.

- (b) For clarification, this warranty does not apply to software governed by third party terms as referred to in clause 3(e).
- (c) RDCCO is not liable under the warranty in clause 10(a) if:
- (i) repairs or modifications to the Permaconn System have been made by persons other than RDCCO, unless such repairs or modifications are made with the prior written consent of RDCCO;
 - (ii) the Permaconn System has not been operated or maintained in accordance with RDCCO's instruction, or under normal use; or the Permaconn System was not properly installed;
 - (iii) the defect relates to incorrect adjustments by the Customer or others of any part of the Permaconn System;
 - (iv) the defect relates to consumable items of any kind failing (where consumable items are items with a finite life such as batteries, communication chips);
 - (v) the defect relates to work carried out by any telecommunications agency or other party; or
 - (vi) the Customer has breached or allowed the breach of the provisions of clause 4.
- (d) Under the Australian Consumer Law, RDCCO may be required to provide the following notice to the Customer. However, to the maximum extent permitted by law such notice is not intended to

give the Customer rights other than as provided for under the Australian Consumer Law:

“Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- (i) to cancel your service contract with us; and
- (ii) to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.”

- (e) Except as expressly provided in this agreement and except for any guarantee, condition, warranty or other provision the exclusion of which could be void or otherwise contravene the *Competition and Consumer Act 2010* (Cth) or any other applicable law (**Non Excludable Condition**), RDCCO makes no guarantees, warranty or representation, either express or implied, with respect to the Permaconn System or any other goods or services it supplies under this agreement. Where a Non Excludable Condition applies, and RDCCO is able to limit the Customer's remedies for breach of the Non Excludable Condition, then RDCCO's liability for breach of such Non Excludable Condition is limited to one or more of the following at the RDCCO's option:
- (i) in the case of 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
 - (ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.
- (f) Subject to clause 10(j), neither party shall be liable to the other for loss of profit, income or saving or for any indirect, consequential or special damages.
- (g) Subject to clause 10(j), RDCCO is not liable for:
- (i) losses due to the acts or omissions of any other person including the Customer, End User, telecommunications network providers, other authorities or third parties;
 - (ii) delays, interruptions or suspensions in providing the Services, which are due to any

other person (including the Customer or the telecommunication providers); or

(iii) losses resulting from:

(A) the police, fire or other authority or party, including a Keyholder failing to act in accordance with an emergency response or the alarm being set off;

(B) a signal transmitted from the Permaconn Unit to the Alarm Receiving Centre not being received by the Alarm Receiving Centre for reasons beyond its control; or

(C) a loss of power supply to any part of the Permaconn System.

(h) Subject to clause 10(j), RDCCO's aggregate liability for all causes of action arising under this agreement or any transaction contemplated by this agreement during any Contract Year will in no event exceed 50% of the total amount paid to RDCCO by the Customer under this agreement in relation to that Contract Year. The Customer hereby releases RDCCO from all obligations, liability, claims or demands in excess of the limitation.

(i) The limitations and exclusions on RDCCO's liability in this agreement apply regardless of whether the liability is based on a claim for breach of contract, tort (including without limitation negligence), misrepresentation or any other basis.

(j) Nothing in this agreement excludes, restricts or modifies any right or remedy, or any guarantee, warranty or other term or condition, implied or imposed by any legislation which cannot lawfully be excluded or limited.

11 FORCE MAJEURE

Neither party shall be in default under this agreement by reason of any failure or delay in the performance of any obligation under this agreement where such failure or delay arises out of any cause beyond the reasonable control of such party. Such causes include, without limitation, storms, floods, other acts of nature, fires, explosions, riots, war of civil disturbance, strikes or other labour unrests, embargoes and governmental actions or regulations that would prohibit either party from providing the Services or from performing any other aspects of the obligations under this agreement.

12 GST

(a) A party must pay GST on a Taxable Supply made to it under this agreement to any consideration (excluding GST) that is payable for that Taxable Supply. It must do so at the time and in the same way as it is required to pay consideration for the Taxable Supply.

(b) A party making a Taxable Supply to another party under this agreement must issue a Tax Invoice to

the other party, setting out the amount of the GST payable by that other party.

(c) For the purposes of this clause 12 "GST", "Input Tax Credit", "Taxable Supply" and "Tax Invoice" have the meanings attributed to those terms in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

13 GENERAL

(a) It is agreed and understood that the basis upon which RDCCO does business with the Customer is that, notwithstanding anything contained to the contrary in any other documentation or discussion, including any invoice, delivery note or Customer enquiry, the terms and conditions contained in this agreement, and any other formal written agreement signed between the parties, shall operate in respect of any and all business between the Customer and RDCCO. However nothing in this agreement limits or excludes any liability either party may have in connection with any representations or other communications (either oral or written) made prior to or during the term of this agreement, where such liability cannot be limited or excluded.

(b) RDCCO may amend the terms and conditions contained in this agreement at any time by notifying the Customer in writing 45 days prior to the amended terms and conditions taking effect. If the Customer does not agree to the amended terms and conditions, the Customer must within 14 days after receipt of the notice terminate this agreement by giving 90 days notice in writing to RDCCO. For the avoidance of any doubt, until the end of that 90 day notice period, the Customer will still have to pay all of the charges for the Services, including Charges for Permaconn Air Time and Data Plans, and RDCCO will continue to provide the Services, on the un-amended terms and conditions of this agreement.

(c) RDCCO is an independent contractor of the Customer and nothing in this agreement shall create, or be deemed to create, a partnership or the relationship of principal and agent or employer and employee between the parties.

(d) If a provision of this agreement is invalid or unenforceable in a jurisdiction it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability and it does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

(e) A waiver by a party of a provision or of a right under this agreement is binding on the party granting the waiver only if it is given in writing and is signed by the party or an officer of the party granting the waiver. A waiver is effective only in the specific instance and for the specific purpose for which it is given. A single or partial exercise of

a right by a party does not preclude another or further exercise or attempted exercise of that right or the exercise of another right. Failure by a party to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver

- (f) The termination of this agreement will not release either party from its obligations under clauses 3, 6, 8(e), 9, 10(d) to 10(j), 11, and 13 or any clause which by its nature must survive termination or in respect of any accrued rights.
- (g) Except as otherwise provided for under this agreement, this agreement may be amended only by a document signed by all parties.
- (h) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia (including Federal Courts sitting in that State).
- (i) This agreement is governed by the laws of New South Wales, Australia. The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods (along with, to the maximum extent permitted by law, any local implementation of that convention) to this agreement and any matters arising out of or relating to it.