

# Rex Main Travel Agent Agreement Terms and Conditions

If your business markets, sells, facilitates or tickets a booking on Rex, these terms apply to you. Please take time to read through these terms.

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## 1. When Do These Terms Apply

1.1 These Terms govern the marketing, sale, booking, ticketing and facilitating of Rex Products and will apply as soon as the Agent:

- (a) markets, sells, books, tickets or facilitates a Rex Product; or
- (b) otherwise holds itself out as being able or willing to sell Rex Products; or
- (c) uses the Rex Agency Portal

1.2 The Agent's continued marketing, selling, booking, facilitating or ticketing of Rex Products or use of the Rex Agency Portal, will constitute agreement to, and acceptance of, these Terms.

1.3 Rex may amend these Terms by posting updates on the Rex Agency Portal with such changes taking effect on 30 days' notice or earlier if required by law or for operational reasons. The Agent may, within 30 days of such change to these Terms, and by giving written notice to Rex, terminate its appointment as an agent and will cease to be authorised by Rex to market, sell, book or ticket a Rex Product.

1.4 There may be additional terms and conditions that apply to the relationship between Rex and the Agent. In the event of any inconsistency between these Terms and such other terms and conditions, then the order of priority is:

- (a) any Rex Agency Portal Agreement; then
- (b) any Agency Agreement; then
- (c) these Terms.

## 2. Scope of Agency

2.1 The Agent must hold any:

- (a) applicable licences or memberships required by law; and
- (b) other industry accreditations reasonably required by Rex, such as IATA accreditation, ARC accreditation or participation in TIDS

2.2 The Agent must not, without entering into a separate agreement with Rex:

- (a) act as a Wholesaler on behalf of any company in the Rex Group;
- (b) provide Wholesale products and services on behalf of a Rex Airlines; or
- (c) issue tickets for Rex Products booked or sold by a third party

2.3 Access to the Rex Agency Portal is subject to the Rex Agency Portal Conditions which may be viewed on the Agent Portal under policies, as amended from time to time or relevant equivalent in the Agent's jurisdiction.

2.4 Rex Ticketing Authority is granted to, and may be removed from, the Agent at the sole discretion of Rex. For example, Rex may remove or suspend access to the Agent's Rex Ticketing Authority where:

- (a) the Agent's Rex Ticketing Authority has been inactive for a period greater than 6 months; or

- (b) the Agent is found to have repeatedly breached clause 4.2; or
- (c) where Rex reasonably believes that the circumstances set out in clause 13.4(d) will apply, or have the potential to apply, to the Agent.

2.5 The Agent acknowledges and agrees that Rex may conduct credit assessments on any Agent holding Rex Ticketing Authority and the Agent will comply with any requests for credit information from Rex or a third party engaged by Rex for this purpose.

### 3. Agent Responsibility to Customer

3.1 The Agent must ensure that:

- (a) all Rex Data is accurately displayed, including where information is translated to a language other than English;
- (b) it accurately displays the identity of the operating carrier of the Rex Flights (including in any online search results) and all mandatory fees and charges (including those of the Agent) on all pricing displays to Customers including any marketing materials;
- (c) if applicable, the price displayed by the Agent for all airlines complies with the 'all-inclusive pricing' regime under the Australian Consumer Law <https://www.accc.gov.au/business/pricingsurcharging/displaying-prices> [Opens external site](#); and
- (d) any unavoidable fees (including any imposed by the Agent) are included in the headline price of the airfare marketed to Customers and the Agent must ensure that any such fees charged to Customers are accurately identified and distinguished between Rex imposed fees and Agent imposed fees.

3.2 The Agent must, and must ensure that all of its Personnel selling Rex Products, comply with all applicable consumer laws, including those covering misleading and deceptive conduct, and, where applicable, sections 18, 29 and 48 of the Australian Consumer Law (as set out in Attachment A of these Terms).

3.3 The Agent must ensure that all itineraries issued by it for Customers travelling on a Rex Flight make it clear that the Conditions of Carriage apply.

3.4 If the Agent offers or sells a Special Request to the Customer that is an

Ancillary Service, the Agent must ensure that Rex is able to receive and confirm the acceptance of the Special Request. If the Agent offers or sells a Special Request to the Customer that is not an Ancillary Service, the Agent must clearly disclose to the Customer that the Special Request is not supported or managed by Rex. If the Agent charges the Customer a fee for a Special Request in addition to any fee charged by Rex, then that fee must be clearly identified to the Customer as the Agent's fee.

3.5 The Agent must ensure that it provides full and accurate results of all Rex Products disclosed in response to a search or request made by a Customer.

3.6 Rex and Rex Products must be fairly and accurately represented in the display of all systems within the control of the Agent and any comparisons shown between Rex and other airlines and their respective products and services will be on a like-for-like product basis or with differences clearly noted. This includes, but is not limited to, reservation systems, websites and online booking tools. Rex Airlines inventory will not be biased or excluded for any reason other than Customer's request or price.

3.7 The Agent must ensure that it does not inhibit a Customer's ability to book and confirm a Rex Product. If an Agent's reservation system, website, online booking tool or other booking system is experiencing technical difficulty then the Agent must take all reasonable steps to rectify the issue as soon as possible.

3.8 If Rex makes a benefit or reward available to a Customer as a result of purchasing a Rex Product the Agent must not retain, access or otherwise use that benefit or reward, or take any steps to prevent the Customer from obtaining that benefit or reward.

## **4. Sale and ticketing of Rex Products**

4.1 The Agent must ensure that:

- (a) it complies with all applicable IATA resolutions;
- (b) all information submitted to Rex is accurate;
- (c) all relevant Customer contact information (including mobile number and email) is passed on to Rex in accordance with IATA resolution 830d;
- (d) the PCC and IATA Number or TIDS Code or ARC Number of the booking

agent is recorded in the PNR; and

(e) no changes are made in the GDS to the POS ID of a PNR.

4.2 The Agent must:

(a) implement and maintain appropriate business practices and procedures to ensure it only accesses, markets, sells, tickets and or distributes fares and other Rex Products in accordance with the appropriate booking class and fare rules and Rex Special Fare conditions;

(b) take all reasonable steps to ensure the Customer is eligible to be sold the relevant fare or Rex Special Fare;

(c) ensure that any Rex Special Fares are booked and ticketed by the Agent holding the PCC to which the relevant Rex Special Fare was loaded or filed unless otherwise approved by Rex; and

(d) not engage in any practice which enables the Agent or a third party to access Rex Data or Rex Agency Portal Data through unauthorised means, including PCC Sharing.

4.3 If the Agent sells, or facilitates the sale of, a fare or a Rex Special Fare in contravention of clause 4.2, Rex will be entitled to compensation from the Agent equivalent to the amount of the difference between the ticketed airfare and the highest airfare applicable to the booking class into which the Customer was booked. Rex may issue an ADM to recover any amounts owing to Rex from the Agent.

## 5. Financial Arrangements and Payment Terms

5.1 We will specify on the Rex Agency Portal, your Agency Agreement or other commission agreement (if you have one), which flights are commissionable, the levels of Base Commission and the currency for payment.

5.2 Base Commission is only payable on the Base Fare of Rex marketed and operated flights which have been ticketed.

5.3 You will not earn Base Commission on your sale of:

a. flights which are not marketed by Rex;

b. flights which are ticketed to another carrier (for example, as part of an interline journey); or

c. items we have identified as “non-commissionable” in your Agency Agreement or otherwise in writing to you; or

d. flights booked online through a website owned, branded and under direct control of you or any brand of your organisation and available to consumers for the purchase of flights.

5.4 We reserve the right to pay different levels of Base Commission (if applicable) on different market segments, routes, fare types or agent market segments.

5.5 We may vary the Base Commission level by updating the commission table on the Agency Portal or in accordance with your Agency Agreement or other commission agreement, if you have one.

5.6 We may at our absolute discretion vary the method of accepting bookings and the terms of any credit facility offered to you.

## **6. Creation and Servicing of Bookings**

6.1 A Booking for any Rex Products must be created and ticketed within the same POS.

6.2 The Agent is responsible for the Servicing of any Bookings made by the Agent. Rex may take over the Servicing and responsibility of a Booking where the circumstances set out in clauses 13.4(b), 13.4(c) or 13.4(d) apply to the Agent.

6.3 For all Bookings created within POS Australia, POS New Zealand or POS United States of America, the Agent must conduct the Servicing of these Bookings within the POS that they were created and ticketed.

## **7. Payment for Rex Products**

7.1 When accepting and processing Card transactions with Rex as the merchant, the Agent must comply with the PCI DSS (and any new or updated version of the PCI DSS). Despite any IATA resolution, no Cards issued in the

name of the Agent or their respective Personnel may be used to effect the sale of a Rex Product to a Customer.

7.2 The Agent must use reasonable efforts to validate and verify that the cardholder submitting a Card for payment for Rex Products has the authority to use that Card. Acceptable verification methods beyond matching the cardholders name to the traveller's name include obtaining the cardholder's signature, using stronger authentication such as 3DS, and ensuring the card security code (CVV2, CVC2, CID) is obtained and used for payment authorisation.

7.3 If at any time the Card is not appropriately verified or is declined during payment authorisation, the Agent must use an alternative validated and verified Card or should seek to make payment via other means and not via Rex as the merchant.

7.4 In the event of a disputed transaction and its subsequent rejection by the card company, the Agent will be liable to Rex for any chargebacks issued with respect to such transaction. The Agent must provide reasonable assistance and evidence to Rex in order to allow Rex to defend a chargeback by the card company. ADMs will be issued to the Agent for any chargebacks not successfully defended by Rex.

7.5 If the Agent is required to re-issue or refund a Rex Ticket, such re-issue or refund of the Rex Ticket must be made through an IATA Number or ARC Number owned by the Agent. Where a Rex Ticket is reissued or refunded in contravention of this clause, Rex may issue the Agent with an ADM.

## **8. Compliance with Law, Rules, Regulations and Procedures**

8.1 The Agent must comply with all applicable laws (including laws in relation to misleading, deceptive or fraudulent conduct), policies, procedures and written directions of Rex with respect to the marketing, sale, booking, ticketing and facilitating of Rex Products (as advised in writing or those published on Rex Agency Portal) and, if applicable, the normal IATA practices and procedures in place from time to time including those related to:

- (a) the issue of Rex tickets and use of 'Rex Ticketing Authority';
- (b) the issue of Rex Electronic Miscellaneous Documents or any other equivalents;
- (c) any rules (including fare rules), directions or guidelines relating to booking practices including use of booking classes, fraudulent, duplicate, speculative or fictitious bookings;
- (d) any rules, directions or guidelines relating to Servicing of Bookings including the facilitation of any changes requested by the Customer and the timely communication to the Customer of any disruption or service change notifications; and
- (e) any other relevant Rex documentation, policies, procedures, instructions or directions, including the terms of the Rex Business Flyer Program or any other loyalty programs operated by Rex.

8.2 The Agent must keep and maintain accurate books and records of the Agent's operations and dealings, so as to record and reflect all information which is relevant for the purposes of confirming the Agent's compliance with these Terms.

8.3 Where the Agent sells to a Customer a package holiday under the EU Package Travel Directive which includes a flight operated by Rex, the Agent agrees that:

- (a) in the event that the non, incomplete or delayed performance of that flight ('a disruption') gives rise to a claim by the Customer against the Agent under the EU Package Travel Directive, Rex's liability to the Agent for such disruption will not exceed any direct liability that Rex in its capacity as carrier may have to pay as compensation to the Customer and Rex will not be liable to the Agent for any disruption caused by an act or omission of the Agent;
- (b) in the event that a disruption gives rise to a claim for compensation by the Customer against Rex under Regulation (EC) No 261/2004:
  - (i) the Agent will not pay compensation to the Customer in respect of such a claim without obtaining prior written consent from Rex; and
  - (ii) if Rex settles a claim for compensation under Regulation (EC) No. 261/2004 with the Customer, Rex will have no further liability to Agent in connection with that claim; and
- (c) the Agent will comply with any obligations under the EU Package Travel Directive to provide information to Rex in relation to concluded packages or linked travel arrangements.



## 9. Compliance Representations and Remedies

9.1 Each party represents and warrants that, in respect to the matters that are the subject of these Terms, it has not and will not offer, promise, provide or cause to be provided to another person (including a Public Official) an illegal benefit in breach or attempted breach of the:

- (a) Criminal Code 1995 (Cth);
- (b) Foreign Corrupt Practices Act 1977 (US);
- (c) Bribery Act 2010 (UK); and/or
- (d) any other applicable bribery and/or corruption laws.

9.2 If a party ('Concerned Party') reasonably believes the other party or its Personnel have engaged, or is about to engage, in conduct which may result in a breach of clause 9.1, the Concerned Party:

- (a) may request that the other party provide information and answer any reasonable questions relating to their performance of these Terms;
- (b) retains the absolute discretion to disclose any information connected with these Terms to a legal or regulatory body without any obligation to inform the other party; and
- (c) may terminate these Terms immediately and without penalty.

9.3 Each party represents and warrants to the other that in respect of these Terms:

- (a) it maintains an effective system for identifying, escalating and resolving real and potential Conflict of Interest; and
- (b) it will take reasonable measures to prevent any real and potential Conflicts of Interest that would cause that Party to be in breach of any laws or would impair that Party's (or its Personnel's) ability to meet its obligations under these Terms.

9.4 Pursuant to clause 9.3, if any Party reasonably believes that there is a real or potential Conflict of Interest that has or is likely to impact the performance of these Terms, the details of the nature and extent of the interests which actually or potentially could be in conflict should be disclosed to the other party as soon as practicable.

## 10. Rex Data Requirements

10.1 Rex may determine in its sole discretion what Rex Data is made available to the Agent.

10.2 The Agent understands and agrees that all Rex Data:

- (a) is and will be owned by Rex; and
- (b) may only be used by the Agent in connection with the marketing, sale, booking, ticketing and facilitating by it of Rex Products.

10.3 The Agent must not, without the prior written approval of Rex:

- (a) obtain Rex Data other than through Approved Channels;
- (b) access Rex Data via any method that involves screen scraping Rex.com.au or any other applicable Rex website;
- (c) use, or facilitate the use of, Rex Data to benefit a third party or act as an intermediary for distribution of Rex Data;
- (d) re-distribute, re-market, sell or display Rex Data to or via any third party, except in accordance with clause 10.4;
- (e) develop, licence or sell any software or products that are capable of accessing Rex Data; or
- (f) reverse engineer, process, combine, manipulate or otherwise use the Rex Data for any reason including predicting fare changes or developing other products.

10.4 Subject to clause 10.5, the Agent may re-market or display Rex Data to or via metasearch providers.

10.5 If the Agent is in breach of any of these Terms, including any failure to comply with the fare rules, Rex may, by giving written notice to the Agent, remove the Agent's right to re-market or display Rex Data under clause 10.4 and the Agent must immediately cease re-marketing or displaying Rex Data to or via metasearch providers

## 11. Intellectual Property Rights

11.1 Rex own various Intellectual Property Rights ('Rex IP'). Subject to clause 10.3, the Agent must not use Rex IP without the prior written approval of Rex.

11.2 The Agent must not issue any advertising or promotional material with dual airline or dual Wholesaler branding, where Rex is one of the airlines, without the prior written consent of Rex, which may be withheld at the absolute discretion of Rex.

11.3 Rex grants to the Agent limited, royalty free, non-transferable, non-exclusive permission to use certain Rex IP, specifically the trademarks and brands ordinarily associated with Rex solely for the purpose of identifying the Agent as an authorised agent to market and sell the Rex Products. The Rex IP must not be altered or changed or used in any manner. Any unauthorised use of the Rex IP will constitute an infringement of Rex's rights.

11.4 In using any Rex IP, the Agent must comply with all policies or conditions advised by Rex to the Agent from time to time.

## 12. Taxes

12.1 The Agent shall be responsible for and must pay or reimburse Rex, and defend, indemnify and hold harmless Rex from and against, all taxes (including Ticket Taxes), charges, fees and other imposts of whatever kind (including any fine or penalty imposed in connection therewith) levied, assessed, charged or collected in connection with these Terms (including payments made under these Terms), the sale of Rex Products or any services to which these Terms apply.

12.2 Any consideration provided for supplies to which these Terms apply (other than as required by this clause) ('Base Price') has been calculated exclusive of GST. If GST is imposed on a supply to which these Terms apply, the recipient of that supply must pay, in addition to the Base Price, an amount equal to the GST payable by the supplier in respect of that supply. Subject to clause 12.3, any amount payable under this clause 12.2 is payable on the day that payment of the Base Price (or part of the Base Price) for the supply, that

has given rise to the obligation to pay GST, is required or where the Base Price is non-monetary consideration, seven days after the recipient receives a tax invoice for the supply.

12.3 Where GST is imposed on a supply, the Agent must ensure that any invoice or other request or demand for payment for supplies provided by it to Rex constitutes a tax invoice that will enable Rex to claim tax credits in respect of supplies to which the invoice relates. No amount will be due and payable by Rex in respect of a supply to which these Terms apply unless Rex has received from the party making the supply an invoice which complies with this clause.

12.4 Each party will use its reasonable efforts to do everything required by the relevant GST legislation to enable or assist the other party to claim or verify any tax credit, set off, rebate or refund in respect of GST paid or payable in connection with supplies to which these Terms apply.

12.5 If the Agent is a BSP or ARC user: In order to address the payment of GST and Ticket Taxes on the sale of air travel or other travel arrangements to which these Terms apply, Rex will debit the BSP or ARC system (as applicable) for the gross ticket price, inclusive of GST and Ticket Taxes, less any commission that is owing to the Agent and that can be deducted at source. For the avoidance of doubt, ticket price (be it actual or gross) means the full ticket price without any reduction or setoff in relation to commission.

12.6 If the Agent is not a BSP or ARC user: In order to address the payment of GST and Ticket Taxes payable on air travel or other travel arrangements sold by the Agent to which these Terms apply, the Agent will either provide Rex with details of:

(a) the actual ticket price paid by the Customer (inclusive of GST and Ticket Taxes) and remit that amount to Rex, less any commission that can be deducted at source; or

(b) the gross ticket price (exclusive of GST and inclusive of Ticket Taxes) and remit that amount to Rex, less any commission that can be deducted at source, and will also remit to Rex an amount equal to the GST liability applicable to the gross ticket price.

For the avoidance of doubt, ticket price (be it actual or gross) means the full ticket price without any reduction or set-off in relation to commission.

12.7 In respect of any supply made by the Agent, as agent for Rex, the Agent will be responsible for issuing tax invoices and adjustment notes to the Customer. The Agent indemnifies Rex against any costs (including any fines or penalties), loss or expenses incurred by Rex as a result of the Agent's failure, whether unintentional or not, to issue tax invoices and adjustment notes and to calculate and remit to Rex the correct amount of GST and Ticket Taxes.

12.8 If required to do so by relevant taxation legislation or regulation to make any deduction or withholding on account of any taxes (including for non-quoting of the Agent's Australian Business Number (ABN)), Rex will deduct or withhold the relevant taxes from any consideration provided for supplies to which these Terms apply, except where the Agent can provide evidence issued by the relevant taxation authority of an exemption from, or rate variation of, such taxes (including a written statement approved by the Australian Taxation Office as to the reason for not quoting an ABN). If any taxes are deducted, Rex will have no obligation to pay an additional amount to the Agent in relation to such taxes. Rex will upon the Agent's written request provide to the Supplier evidence of the payment of such taxes.

12.9 In relation to airfares booked on a Rex Flight for Domestic Australian Travel, the Agent acknowledges that in certain circumstances the airfare will be GST-free for the purposes of Australian GST Law. The Agent must establish a procedure to ensure that the requirements for GST-free treatment are considered, and, where relevant, satisfied. The Agent must retain all evidence required to substantiate the GST-free treatment and provide such documentation to Rex on request. The Agent may only make GST-free bookings for Domestic Australian Travel where the requirements for Australian GST-free treatment are satisfied. If the requirements are not satisfied, the Agent must sell a GST-inclusive fare. The Agent must indemnify Rex for any GST liability which arises as a result of a breach of the Agent's representations and undertakings under this clause. The Agent agrees to co-operate with Rex in relation to any audit or enquiry from the Australian Taxation Office in relation to the GST treatment of any airfares booked by the Agent.

## 13. Liability and Termination

13.1 The Agent is responsible for the acts and omissions of its Personnel.

13.2 The Agent must take out and maintain valid and enforceable public liability and professional indemnity insurance policies that are adequate to cover its business operations.

13.3 If the Agent breaches these Terms, then, without limiting any other rights, Rex may, by giving written notice to the Agent, do any or all of the following:

- (a) recover any costs incurred or losses suffered by Rex as a result of the breach;
- (b) cancel any affected bookings and tickets;
- (c) remove the Agent's Rex Ticketing Authority and access to the Rex Agency Portal; or
- (d) remove the Agent's access to Rex Data including via Approved Channels.

13.4 These Terms may be terminated by either party:

- (a) at any time upon 30 days written notice to the other party;
- (b) immediately if the other party commits a breach of these Terms which is capable of remedy and fails to remedy the breach within 14 days after receiving notice requiring it to do so;
- (c) immediately if the other party commits a breach of these Terms which is not capable of remedy;
- (d) immediately if the other party:
  - (i) disposes of the whole or any part of its assets, operations or business other than in the normal course of business;
  - (ii) ceases to be able to pay its debts as they become due;
  - (iii) ceases to carry on business;
  - (iv) being a corporation, becomes the subject of insolvency proceedings, or has an administrator, a liquidator or receiver and/or manager or other like person appointed over any of its assets; or
  - (v) being a firm or partnership, becomes the subject of an event of bankruptcy or is dissolved; or
- (e) as otherwise permitted in accordance with these Terms.

13.5 After termination:

- (a) the Agent must immediately stop selling Rex Products;
- (b) accrued rights or remedies of each party are not affected; and

(c) each party's obligations relating to clauses 10 (Rex Data Requirements), 11 (Intellectual Property Rights), 12 (Taxes), 13 (Liability and Termination) and 14 (Privacy) and will continue and survive the termination.

## 14. Privacy

14.1 Each party must comply with all applicable privacy legislation, such as the Privacy Act 1988 (Cth) and the General Data Protection Regulation (Regulation (EU) 2016/679). For the avoidance of doubt, nothing in this clause 14 is intended to prevent the Agent from meeting its obligations at law.

14.2 The Agent must ensure that if the Agent or its Personnel collects Personal Information about an individual in connection with a product or service supplied by a Rex Airlines or any other Rex Group Company, the following text must appear on each e-ticket and itinerary receipt issued with respect to that product or service: "Data Protection Notice: Your personal data will be processed in accordance with the applicable carrier's privacy policy and, if your booking is made via a reservation system provider ("GDS"), with its privacy policy. These are available at <http://www.iatatravelcenter.com/privacy> or from the carrier or GDS directly. You should read this documentation, which applies to your booking and specifies, for example, how your personal data is collected, stored, used, disclosed and transferred. (applicable for interline carriage)".

14.3 If the Agent collects any Personal Information in connection with these Terms, the Agent:

- (a) must promptly notify Rex in writing about any unauthorised access or disclosure involving such Personal Information, or other breach of the Privacy Act or other applicable data protection Law in relation to such Personal Information;
- (b) must consult with and comply with all reasonable directions of Rex in relation to clause (a) above; and
- (c) must not notify any third party of any of the matters referred to in clause (a) above, without the written approval of Rex (which will not be unreasonably withheld).
- (d) must take all reasonable steps to ensure that the Personal Information is protected against misuse and loss, and from unauthorised access,

modification or disclosure;

(e) must not, directly or indirectly use the Personal Information except to the extent:

(i) necessary to exercise its rights or perform its obligations under these Terms; or

(ii) authorised by Rex or the individual about whom the Personal Information relates;

(f) must not disclose the Personal Information whether directly or indirectly to any person without the prior written consent of Rex;

(g) may disclose the Personal Information to its authorised Personnel to the extent that they have a need to know for the purpose of complying with the Agent's obligations under these Terms;

(h) must provide appropriate training on proper Personal Information handling to those authorised Personnel;

(i) must ensure that its internal operating systems only permit those authorised Personnel to access the Personal Information;

(j) must immediately notify Rex when it becomes aware that use or disclosure of the Personal Information is required or authorised by or under law; and

(k) on termination of these Terms, the Agent must promptly return to Rex or, if requested by Rex, destroy, all copies of the Personal Information, in which case any right to use, copy or disclose that Personal Information ceases.

## 15. General

15.1 *Notices*: A party notifying or giving notice under these Terms must give notice:

(a) in writing;

(b) in the case of Rex, addressed to the address below or your local Rex sales office: Rex Airlines Pty Limited, Attention Sales Department, PO Box 807, Mascot NSW 1460

(c) in the case of the Agent addressed to such address as notified in writing by the Agent to Rex from time to time including any address identified in the Agent's Rex Ticketing Authority application; and

(d) by either:

(i) leaving at or sending by prepaid post to that address; or

(ii) in the case of notices, other than those notifying of default or termination under these Terms, sending by electronic form such as email to that address.



15.2 Service of Notice: A notice given in accordance with clause 15.1 is deemed received:

- (a) if left at the recipient's address, on the date of delivery;
- (b) if sent by prepaid post, five days after the date of posting; and
- (c) if it is sent in electronic form:
  - (i) prior to 5 pm on a Working Day and without transmission error or notification that the transmission is unsuccessful, on the following Working Day after the day of sending, or
  - (ii) otherwise on the second Working Day after the day of sending, where for the purposes of this clause, a Working Day is a day on which banks are generally open for business in the location where the notice is being received, other than a Saturday, Sunday or public holiday.

15.3 Relationship of the Parties: Nothing in these Terms or any associated circumstances gives rise to any relationship of joint venture, partnership or employer and employee between Rex and the Agent or between Rex and any Personnel of the Agent.

15.4 All Things Necessary: Each party must:

- (a) use reasonable efforts to do all things necessary or desirable to give full effect to these Terms; and
- (b) refrain from doing anything that might hinder performance of these Terms.

15.5 Waiver: If a party:

- (a) has a right arising from another party's failure to comply with an obligation under these Terms; and
- (b) delays in exercising or does not exercise that right, that delay in exercising or failure to exercise is not a waiver of that right or any other right. A right may only be waived in writing, signed by the party waiving the right.

15.6 Governing Law: These Terms are governed by the laws applicable in the State of New South Wales, Australia and each party submits to the exclusive jurisdiction of the courts of that State.

## 16. Definitions and Interpretation

### 16.1 Definitions in these Terms:

**Agency Agreement** means any agency sales agreement between Rex and the Agent or the Agent's head office (in the case of an Agent that is part of a chain or selling group).

**Agency Debit Memo or ADM** means a debit memo issued by Rex to the Agent via the BSP. The Rex ADM Policy can be found on the Rex Agency Portal.

**Agent** means any person who markets, sells, books, tickets or facilitates a Rex Product.

**Ancillary Services** means any product or service that Rex markets, sells, offers or operates that is sold in addition to the ticket for travel on Rex Flights, for example, but not limited to baggage fees and seating fees and insurance.

**Approved Channels** means the mechanism by which the Agent obtains, accesses or receives Rex Data. Approved Channels are limited to the GDS, Rex Agency Portal or specific access through other third parties as may be approved by Rex in writing to the Agent.

**ARC** means the IATA Airlines Reporting Corporation.

**ARC Number** means the unique reference provided by ARC to the Agent to represent their ARC accreditation.

**Booking** means a travel reservation, containing one or more Customer PNR's and which belong to the same itinerary.

**BSP** means the IATA Billing and Settlement Plan.

**Card** means a credit card, charge card, debit card, prepaid card, purchasing card, or air industry card in any form (whether physical or non-physical or "virtual"), including those issued by or carrying the mark of American Express, Diners Club International, Mastercard, Visa or Universal Air Travel Plan.

**Conditions of Carriage** means Rex's Conditions of Carriage, which may be viewed via <https://www.rex.com.au/FlightInfo/COC.aspx>, as amended from time to time.

**Conflict of Interest** means any circumstance where any Personnel of a Party has any personal or commercial interest or affiliation outside of their role for that Party that may conflict with, or could appear to influence the negotiation or performance of, these Terms or any associated Rex Channel Agreement or Agency Agreement.

**Customer** means a person who requests information on a travel itinerary from the Agent or for whom the Agent makes a booking of a Rex Product.

**Domestic Australia Travel** means travel on flights with a 'ZL' flight number which are wholly within Australia, which do not form part of an international journey.

**EU Package Travel Directive** means Directive EU 2015/2302 which relates to package travel and linked travel arrangements.

**GDS** means a global distribution system for the travel industry, specifically those systems provided by Amadeus, Travelport, Sabre, TravelSky, Axess or Abacus or any other systems as may be advised by Rex in writing to the Agent.

**GST** means any goods and services tax, value added tax or sales tax imposed on the sale or supply of goods, services and rights including a tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the related imposition Acts of the Commonwealth.

**IATA Number** means the unique reference provided by IATA to the Agent to represent their IATA accreditation.

**Intellectual Property Rights** means all intellectual property rights in Australia and throughout the world, including:

(a) patents, copyright, rights in circuit layouts, registered designs, trade or service marks, trade, business or company names, indication of source or appellation of origin, and any right to have confidential information kept confidential;

(b) any application or right to apply for registration of, or assert or waive, any

of the rights referred to in paragraph (a); and  
(c) moral rights, trade secrets, ideas, concepts, materials, know-how and techniques.

**PCC or Pseudo City Code** means the unique identifier allocated to an agent by a GDS to enable bookings to be made, also referred to as an OID or Office ID

**PCC Sharing** means the practice where the PCC or Office ID of an Agent is shared with a third party.

**PCI DSS** means the Payment Card Industry Data Security Standard, an information security standard for organisations that handle branded credit cards from the major card schemes which is administered by the Payment Card Industry Security Standards Council.

**Personal Information** means information or an opinion about an identified individual, or an individual who is reasonably identifiable:  
(a) whether the information or opinion is true or not; and  
(b) whether the information or opinion is recorded in a material form or not.

**Personnel** means:

(a) in the case of Rex, the officers, employees, agents and contractors of the Rex Group (excluding the Agent and its Personnel); and  
(b) in the case of the Agent, includes the Agent, its related bodies corporate and its franchisees and the officers, employees, agents and contractors of each of them.

**PNR** means Passenger Name Record.

**Point of Sale or POS** means the geographical location in which an Agent books, sells or tickets a Rex Product.

**POS ID** means the country (POS) in which the PCC/Office ID of the Agent is provisioned by a GDS and where the Agent is authorised to operate.

**Public Official** means:

(a) any officer or employee of a government, government department or government agency;  
(b) any officer or employee of a government controlled enterprise;

- (c) any officer or employee of a public international organisation;
- (d) any political party, political party official or candidate for a political office;
- or
- (e) anyone acting in an official capacity on behalf of those listed above (whether paid or unpaid).

**Published Fare** means a fare which is commercially available to all agents with no restrictions.

**Rex Airlines** or **Rex** means Rex Airlines Pty Ltd.

**Rex Agency Portal** means:

- (a) the Rex Agency Portal at <https://www.rex.com.au/TravelAgent/Index.aspx>;
- or
- (b) any successor site as notified by Rex.

**Rex Agency Portal Conditions** means the terms and conditions of the relevant Rex Agency Portal.

**Rex Data** means any information or data which:

- (a) includes Rex pricing, fares (including Rex Special Fares and other fares not generally available for purchase by the general public), inventory, schedule and seat (including availability) information;
- (b) contains information about the relationship between Rex and its Customer (e.g. Rex Business Flyer membership);
- (c) contains booking and payment data for any Customer;
- (d) is information relating to Ancillary Services including pricing and availability;
- (e) is any rich content (such as photos, videos and associated descriptions) describing or showcasing Rex Products;
- (f) sets out or is contained in policies, promotions, procedures or any written directions of Rex with respect to the marketing, sale, booking, ticketing and facilitating of Rex Products; or
- (g) is any other data identified by Rex in writing as being Rex owned data.

**Rex Flight** means a flight that is operated or marketed by Rex Airlines. **Rex Group** means Rex and its related bodies corporate.

**Rex Group Company** means a company in the Rex Group.

**Rex Product** means any Rex Flight or Ancillary Services.

**Rex Special Fares** means any specific fare made available by Rex to an Agent which is not a Published Fare and has restricted distribution. Rex Special Fares may include fares that have unique pricing, purchase eligibility and/or fare rules or are available only to a niche market segment or within a specified POS (for example 'visiting family and friends', 'marine' 'student' or 'corporate fares' etc.).

**Rex Ticket** means a ticket for a Rex Product issued by an Agent.

**Rex Ticketing Authority** means the authority granted to the Agent by Rex to issue tickets on the Rex ticketing stock (899) using the Agent's unique IATA Number or ARC Number..

**Servicing** means facilitation of any changes to a Customer's PNR or Booking.

**Special Request** mean a product or service that is offered by an Agent to a Customer in addition to the Rex Flight, with or without an additional fee, including seat selection, additional baggage, Rextra legroom and SMS notifications.

**Ticket Taxes** means all taxes, fees, levies and charges that are payable by the purchaser of an airline ticket, including amounts imposed by airports and taxing authorities and airline-imposed charges such as fuel, insurance and environmental surcharges, regardless of whether a fare is payable for the ticket.

**TIDS** means the Travel Industry Designator Service programme offered by IATA for non-IATA accredited travel agents not domiciled in the USA.

**TIDS Code** means the unique reference or industry code provided by IATA to an Agent participating in TIDS which captures POS and other details of the travel agency.

**Wholesale** means packages which combine air travel with other travel arrangements (including the provision of cars, accommodation, transfers to and from airports and sightseeing).

**Wholesaler** means an entity which makes available, markets or sells Rex Products (including Wholesale products) to third party travel agents.

## 16.2 Interpretation

In these Terms, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of these Terms;
- (b) expressions not defined in clause 16.1, will have the meaning attributed to them by common usage or trade (if any) within the travel industry in Australia;
- (c) the singular include the plural and vice versa;
- (d) a reference to a clause is a reference to a clause of these Terms;
- (e) a reference to a statute, ordinance or by-law includes regulations and other instructions under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) a reference to a party includes executors, administrators, permitted assigns and successors of that party; and
- (g) 'including' means 'including without limitation'.

# Attachment A: Australian Consumer Law, Schedule 2 of the Competition and Consumer Act 2010

## 18 Misleading or deceptive conduct

- (1) A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.
- (2) Nothing in Part 3-1 (which is about unfair practices) limits by implication subsection (1).

## 29 False or misleading representations about goods or services

- (1) A person must not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services:
  - (a) make a false or misleading representation that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use; or
  - (b) make a false or misleading representation that services are of a particular standard, quality, value or grade; or
  - (c) make a false or misleading representation that goods are new; or
  - (d) make a false or misleading representation that a particular person has agreed to acquire goods or services; or
  - (e) make a false or misleading representation that purports to be a testimonial by any person relating to goods or services; or
  - (f) make a false or misleading representation concerning:
    - (i) a testimonial by any person; or
    - (ii) a representation that purports to be such a testimonial; relating to goods or services; or
  - (g) make a false or misleading representation that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits; or
  - (h) make a false or misleading representation that the person making the representation has a sponsorship, approval or affiliation; or
  - (i) make a false or misleading representation with respect to the price of



goods or services; or

(j) make a false or misleading representation concerning the availability of facilities for the repair of goods or of spare parts for goods; or

(k) make a false or misleading representation concerning the place of origin of goods; or

(l) make a false or misleading representation concerning the need for any goods or services; or

(m) make a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy (including a guarantee under Division 1 of Part 3-2); or

(n) make a false or misleading representation concerning a requirement to pay for a contractual right that:

(i) is wholly or partly equivalent to any condition, warranty, guarantee, right or remedy (including a guarantee under Division 1 of Part 3-2); and

(ii) a person has under a law of the Commonwealth, a State or a Territory (other than an unwritten law).

Note 1: A pecuniary penalty may be imposed for a contravention of this subsection

Note 2: For rules relating to representations as to the country of origin of goods, see Part 5-3.

(2) For the purposes of applying subsection (1) in relation to a proceeding concerning a representation of a kind referred to in subsection (1)(e) or (f), the representation is taken to be misleading unless evidence is adduced to the contrary.

(3) To avoid doubt, subsection (2) does not:

(a) have the effect that, merely because such evidence to the contrary is adduced, the representation is not misleading; or

(b) have the effect of placing on any person an onus of proving that the representation is not misleading.

#### **48 Single price to be specified in certain circumstances**

(1) A person must not, in trade or commerce, in connection with:

(a) the supply, or possible supply, to another person of goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption; or

(b) the promotion by any means of the supply to another person, or of the use by another person, of goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption; make a representation

with respect to an amount that, if paid, would constitute a part of the consideration for the supply of the goods or services unless the person also specifies, in a prominent way and as a single figure, the single price for the goods or services. Note: A pecuniary penalty may be imposed for a contravention of this subsection.

(2) A person is not required to include, in the single price for goods, a charge that is payable in relation to sending the goods from the supplier to the other person.

(3) However, if:

(a) the person does not include in the single price a charge that is payable in relation to sending the goods from the supplier to the other person; and  
(b) the person knows, at the time of the representation, the minimum amount of a charge in relation to sending the goods from the supplier to the other person that must be paid by the other person; the person must not make the representation referred to in subsection (1) unless the person also specifies that minimum amount. Note: A pecuniary penalty may be imposed for a contravention of this subsection.

(4) Subsection (1) does not apply if the representation is made exclusively to a body corporate.

(4A) Subsection (1) does not apply if:

(a) the representation is in a class of representations prescribed by the regulations; and  
(b) the conditions (if any) prescribed by the regulations in relation to representations in that class have been complied with. Note: If the representation is in a class prescribed for paragraph (a) of this subsection and subsection (1) is complied with in relation to the representation, there is no need to also comply with any conditions prescribed for paragraph (b) of this subsection.

(5) For the purposes of subsection (1), the person is taken not to have specified a single price for the goods or services in a prominent way unless the single price is at least as prominent as the most prominent of the parts of the consideration for the supply.

(6) Subsection (5) does not apply in relation to services to be supplied under a contract if:

(a) the contract provides for the supply of the services for the term of the contract; and  
(b) the contract provides for periodic payments for the services to be made during the term of the contract; and

(c) if the contract also provides for the supply of goods--the goods are directly related to the supply of the services.

(7) The single price is the minimum quantifiable consideration for the supply of the goods or services at the time of the representation, including each of the following amounts (if any) that is quantifiable at that time:

(a) a charge of any description payable to the person making the representation by another person unless:

(i) the charge is payable at the option of the other person; and

(ii) at or before the time of the representation, the other person has either deselected the charge or not expressly requested that the charge be applied;

(b) the amount which reflects any tax, duty, fee, levy or charge imposed on the person making the representation in relation to the supply;

(c) any amount paid or payable by the person making the representation in relation to the supply with respect to any tax, duty, fee, levy or charge if:

(i) the amount is paid or payable under an agreement or arrangement made under a law of the Commonwealth, a State or a Territory; and

(ii) the tax, duty, fee, levy or charge would have otherwise been payable by another person in relation to the supply.

Example 1: An airline advertises a flight for sale. Persons have the option of paying for a carbon offset. If the carbon offset is preselected on the airline's online booking system, the single price for the flight must include the carbon offset charge. This is because the person has not, at or before the time of the representation, deselected the charge on the online booking site. If the person deselects the optional carbon offset charge later in the online booking process, the single price does not need to include the carbon offset charge after the charge is deselected because of the exception provided by paragraphs (a)(i) and (ii).

Example 2: The GST may be an example of an amount covered by paragraph (b).

Example 3: The passenger movement charge imposed under the Passenger Movement Charge Act 1978 may be an example of an amount covered by paragraph (c). Under an arrangement under section 10 of the Passenger Movement Charge Collection Act 1978, airlines may pay an amount equal to the charge that would otherwise be payable by passengers departing Australia.