



## Rex Group Trading Conditions for the Supply of Air Charter Services

The Trading Conditions set out herein apply to the supply of air charter Services for passengers and/or goods by one of the Rex Group entities. In the supply of the said services, Rex Group may use Aircraft from its fleet of Aircraft or may use Aircraft from its pre-qualified list of air charter suppliers.

Any and all business undertaken, including any advice information or service provided whether gratuitously or not, by Rex Group is transacted, subject to the terms set out herein and each term shall be deemed to be incorporated in and to be a term of any agreement between Rex Group and its Customer. These terms cannot be altered or varied unless by the written agreement of a duly authorised staff member of Rex Group.

### 1. Definitions

In these Trading Conditions:

**'Aircraft'** means the aircraft described in the Quotation or an equivalent aircraft provided to perform the Services;

**'Aircrew'** means flight and cabin crew normally required to operate the Aircraft;

**'Change and Cancellation Fees'** means the charges specified in Clause 12 payable by the Customer in consideration of changes to or cancellation of the Services, or a Flight (as applicable);

**'Customer'** means the "Customer" described in the Quotation and where there is more than one person constituting the Customer then those persons jointly and each of them severally.

**'Flight'** means any flight by the Aircraft as part of the Services;

**'GST'** means any goods and services tax imposed by legislation enacted by the Commonwealth Government of Australia including but not limited to a tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 (C'th) and the related imposition Acts of the Commonwealth;

**'Insurances'** means the hull, liability and other insurance held by us in respect of the Aircraft;

**'Quotation'** means the quote document signed by the Customer and constituting the Agreement between Rex Group and the Customer to operate the Services. By signing the Quotation, the Customer is also agreeing to abide by the terms of these Trading Conditions.

**'Rex Group', 'we', 'our' or 'us'** means and refer to any, some only or all of the following entities, where applicable:

- Pel-Air Aviation Pty Ltd ('Pel-Air'), ABN 47 002 858 013
- National Jet Express Pty Ltd ('NJE'), ABN 46 063 561 482
- Regional Express PTY LTD ('REX'), ABN 46 101 325 642
- Rex Airlines Pty Ltd ('RAL'), ABN 58 642 400 048

**'Services'** means the Flight and any other services for the carriage of passengers and their personal luggage, or cargo or like activities provided by us to the Customer under the Agreement;

**'Total Charter Price'** means the price set out in the Quotation;

## 2. Parties

All Quotations are supplied subject to the terms of these Trading Conditions. Whichever party accepts the Quotation, be it a broker, a Company or an individual, the party is deemed to be the Customer and is deemed to have accepted these terms for themselves and for all other Customer's passengers involved in the air charter service provided by Rex Group, and does hereby warrant its authority to give such acknowledgement on their behalf by the signature of the Quotation.

## 3. Time Frame for acceptance of Quotation

Unless otherwise specified on the Quotation, the Quotation shall, prior to its acceptance and the constitution thereby of a contract, remain open for 14 days from the date shown on the Quotation.

If the date of the first Flight listed in the Quotation is within 14 days of the Quotation, the Quotation shall remain open:

- For 3 days, where the first Flight is between 7-14 days from the date of Quotation
- For 1 day, where the first Flight is under 7 days from the date of Quotation

Notwithstanding the above, Rex Group may at its discretion choose to accept a Quotation outside the timeframes shown above, but it is under no obligation to do so.

## 4. Substitute Aircraft and Aircraft maintenance

- Rex Group shall, in the event of the Aircraft becoming unserviceable, or otherwise being unavailable, be entitled but shall not be obliged to substitute another aircraft.
- In the event Rex Group are able to provide a substitute aircraft, we will notify the Customer as soon as practicable of the description and capacity of the substitute aircraft, the Total Charter Price and any other conditions applicable to the substitute aircraft.
- The Total Charter Price for the substitute aircraft may include the cost of mobilisation and flight of the substitute aircraft and Aircrew to the port of departure from the substitute aircraft's usual base.
- The Customer must promptly accept or reject the use of the substitute aircraft by written notice. The substitute aircraft will not commence mobilisation until such confirmation of acceptance is received.

If Rex Group and the Customer are unable to agree on the substitute aircraft, or if no substitute aircraft is available, either party may terminate the Agreement. In such an event, the Customer shall be given a reimbursement of the full charter price/deposit paid and neither party shall have any more claims against the other.

Rex Group may carry out scheduled and unscheduled inspections and maintenance on the Aircraft at any time and at our expense, and in no circumstances will Rex Group be liable for any delay or loss suffered by the Customer as a consequence of the performance of such inspection or maintenance.

## 5. Total Charter Price

- Unless otherwise specified, the Total Charter Price as outlined in the Quotation is stated in Australian dollars (AUD). For the purpose of the Quotation, the exchange rate used is that of the date of this Quotation.
- Where a charter is for a date more than 30 days from the date of Quotation, Rex Group may elect to apply a Rise and Fall formula to account for future changes in the fuel price, CPI and Exchange rate (AUD-USD). Details of the Rise and Fall, where applicable, are provided in the Quotation.
- In the event of a material unforeseen cost increase to us which is outside of the control of Rex Group (acting reasonably), we shall be entitled to vary the Total Charter Price. Such cost increases may relate to, but are not limited to, insurance premiums, the introduction of National Greenhouse and Energy Reporting Act 2007 and/or Carbon Pollution Reduction Scheme, fuel prices at the port of departure and/or arrival, increase to or introduction of

any navigation or landing charges, tax, levy or governmental or airport charges at the port of departure and/or arrival, provided always that any such variation by Rex Group must be reasonably substantiated.

## 6. Items included in the Quotation

Unless expressly excluded, the following are included in the Quotation:

- (i) Aircraft costs including Aircrew;
- (ii) fuel and maintenance;
- (iii) air navigation and airport charges;
- (iv) standard ground handling charges;
- (v) Aircrew allowances, meals, accommodation and surface transportation;
- (vi) standard in-flight refreshment (tea, coffee water and small snack); and
- (vii) passenger and cargo insurances.

## 7. Items excluded in the Quotation

Unless expressly included, the following are excluded in the Quotation:

- (i) GST
- (ii) Airport passenger taxes and security charges
- (iii) Fuel and insurance surcharges, when applicable;
- (iv) de-icing of the Aircraft, if required;
- (v) Additional catering requests, including but not limited to soft drinks, alcohol and meals;
- (vi) Any additional ground handling charges, including but not limited to airside escorts, provision of visitor passes, additional staffing to accommodate special requests, overtime or out-of-hours charges due to a delay or disruption; and
- (vii) any other special requirements, such as limousine and satellite phone.

All excluded items will be recharged to the Customer at cost following the completion of the Charter and will be subject to an additional 5% administration charge.

## 8. Route Changes, Diversions or Delays

Should there be any route or en-route changes or delays as a result of:

- (i) the Customer's or the Customer's passengers' changed requirements;
- (ii) late arrival of passengers, for whatever reason;
- (iii) adverse weather conditions;
- (iv) compliance with the requirements of international law, national legislation or subordinate legislation;
- (v) un-serviceability of the Aircraft beyond the reasonable control of Rex Group;
- (vi) safety of the Aircraft or Aircrew and/or safety of the Customer or its passengers,

any additional costs arising from such changes or delays, excluding the cost of repairing the Aircraft but including the cost of arranging an alternative aircraft, will be invoiced separately at cost and shall become payable by the Customer.

Rex Group shall not be liable for any damages, including consequential damages, to the Customer or its passengers arising from any such delays or changes.

Any extended air holding (where the air holding is greater than 20% of the planned flight time) and/or diversion to an alternate airport for any reason outside the reasonable control of Rex Group, including but not limited to weather, air traffic control or safety reasons, will be subject to a charge per additional flying hour reflecting the additional fuel burn cost and other direct operational costs for the aircraft.

Additionally, all airport costs related to a diversion including but not limited to landing, passenger, security and ground handling charges, will also be invoiced at cost to the Customer.

## 9. Passenger and Cargo Entry Documents

The Customer has to ensure that all passengers and cargo comply with all documentary requirements (e.g. immigration, customs, agriculture, dangerous goods etc.) at each destination and departure. Rex Group takes absolutely no responsibility in the case of non-compliance with any documentary requirement by the authorities and the Customer undertakes to indemnify Rex Group against all losses, damages, expenses and fines whatsoever arising from any inaccuracy or omission on the part of the Customer.

## 10. Payment Terms

- (i) Upon your acceptance of the Quotation and the terms and conditions herein, an initial non-refundable deposit payment of 10% of the Total Charter Price is due and payable to reserve the Aircraft for the charter period.
- (ii) Unless otherwise agreed between the Customer and Rex Group, the balance of the Total Charter Price is due no later than ten (10) days prior to the scheduled departure date.
- (iii) For all recharges and ancillary charges invoiced following the conclusion of the charter, the payment term shall be 14 days from invoice date.

Where the Services are due to depart in less than 10 days from the date of Quotation, full payment of the Total Charter Price is required upon acceptance of the Quotation.

All payments to Rex Group in respect of charges or fees invoiced by Rex Group shall be free from any withholding, deduction, set-off or counterclaim. The Customer's obligations hereunder are independent of any other obligations or rights the Customer may have under any other contract or account with Rex Group, and the Customer may not set off any payment or obligation due to it under any such other contract or account with Rex Group against any payment due to Rex Group hereunder.

The Customer accepts to pay an administrative fee of 1% per month on the overdue charges or fees from the due date on any overdue charges or fees until full payment has been made, subject to a minimum charge of AUD100 per month.

## 11. Payment

The Customer shall make payment by bank transfer to the bank account shown on the Quotation.

## 12. Change and Cancellation Fees

Any date and time changes requested by Customer and accepted by Rex Group is subject to a fee of \$1,000+GST per change outside 48 hours of departure and \$2,500+GST within 48 hours. Rex Group may at its discretion elect to waive these charges should the requested change be minor in nature (for example, a 30 min time change) and not adversely impact crewing, Aircraft schedules, airport availability, curfew restrictions, engineering or any other factors.

Unless otherwise agreed in writing between the parties, any changes to Aircraft and/or charter flight routing by the Customer will require a new Quotation, and the existing confirmed charter will be deemed to be cancelled by the Customer. Where deemed appropriate, Rex Group reserves the right to charge cancellation fees as outlined below.

Whilst Rex Group will endeavour to accommodate any changes requested by the Customer, Rex Group cannot guarantee its ability to accommodate all changes. Where a change is unable to be accommodated and the existing confirmed charter times and/or a suitable alternative is unable to be agreed, the charter is deemed to be cancelled by the Customer and cancellation fees will apply as outlined below.

Unless otherwise agreed in writing between the parties, the following fees apply should a confirmed flight be cancelled by the Customer:

- (i) 10% Cancellation fee will apply at any time after the date of this agreement (via retention of the deposit), except where (ii), (iii) or (iv) applies;
- (ii) 25% Cancellation fee will apply if a cancellation is received within 14 days prior to the commencement of the first flight; and
- (iii) 50% Cancellation fee will apply if a cancellation is received within 72 hours prior to the commencement of the first flight.
- (iv) 90% Cancellation fee will apply if a cancellation is received within 24 hours prior to the commencement of the first flight.

Any additional third-party costs not included in the Quotation that are payable by Rex Group and which are not recoverable on account of the cancellation, will be invoiced to the Customer at cost. For clarity, these are in addition to the Cancellation Fees shown above.

### 13. Brokerage

Should Rex Group arrange a charter by order of a third party (brokerage), the broker and its customer are jointly and severally liable to Rex Group for the fulfilment of all payments. Quotations provided by Rex Group to brokers are net and do not include any commission.

### 14. Passenger Baggage

Passenger baggage weight is limited for flight safety reasons and varies between aircraft type. Specific advice will be provided at confirmation of the Quotation. Items determined by the Aircrew to be of excessive weight or size will not be permitted on the Aircraft.

### 15. Smoking

Smoking is not permitted on Rex Group flights.

### 16. Other applicable conditions for the carriage of goods on board:

- (i) **Ownership.** Customers carrying goods with Rex Group expressly warrant that they are either the owner or the authorized agents of the owners of any goods to which transaction relates and further warrant that they are authorized to accept and are accepting these terms not only for themselves but also as agents for and on behalf of all other persons who are or may thereafter become interested in the goods.
- (ii) **Packaging.** The Customer warrants that all goods have been properly and sufficiently packed and/or prepared for the Services required from Rex Group.
- (iii) **Prohibited or Dangerous Goods.** Dangerous goods must be declared as per dangerous goods regulations. Goods must be packaged and marked correctly according to the appropriate authorities. The list of dangerous goods that may be carried by passengers can be found on <https://www.rex.com.au/FlightInfo/DangerousGoods.aspx>. Prohibited goods must not be carried on board. Should the regulations not be followed, the Customer shall be liable for all loss or damages, costs and expenses whatsoever arising in connection therewith and the goods may be destroyed or otherwise dealt with at the sole discretion of Rex Group or any other person in whose custody the goods may be in at the relevant time.
- (iv) **Insurance coverage.** Subject to sub-term (v) & (vi) below, all goods accepted by Rex Group are accepted at the entire risk of the Customer and it is the Customer's responsibility to obtain sufficient and appropriate insurance coverage for all damages and loss, whether caused by Rex Group or otherwise.
  - a. Where Rex Group effects insurance coverage on instruction from the Customer, Rex Group is deemed to be acting as an agent of the Customer for the purposes of insurance and the Customer is deemed to have accepted the terms and conditions of the insurers or underwriters appointed by Rex Group.

- b. Should the insurers dispute their liability for any reason, the insured shall have recourse only against the insurers and not Rex Group and Rex Group shall not be under any responsibility or liability whatsoever in relation thereto.
- (v) **Rex Group liability.** Rex Group shall only be responsible for any loss or damage to goods or for any non-delivery or misdelivery if it is proven that the loss damage non-delivery or misdelivery occurred whilst the goods were in the actual custody of Rex Group and under its actual control and that such loss damage non-delivery or misdelivery was due to the willful neglect or default of Rex Group or its own servants. The onus of proof will be on the Customer.
- (vi) **Maximum Liability.** In any event Rex Group maximum liability for any loss or damage to goods shall be \$5,000 per charter.

## 17. Consequential Damages

In no event shall Rex Group be liable for any consequential, incidental, indirect, punitive, or special damages, including but not limited to any loss of use, lost revenues, lost profits, damage to associated equipment or facilities, costs of replacement, costs associated with downtime, and any similar damages, expenses, or losses, and regardless or however caused, whether based on contract, tort, or any other legal theory.

## 18. Force Majeure and Justifiable Delay

Neither party shall be liable for any delay in delivery or other default in performance that is due to unforeseen circumstances, or to causes beyond its reasonable control and without the fault or negligence of such party. Such causes and circumstances include, without limitation: strikes, lockouts, and other labour disputes, riots, civil unrest, war, sabotage, vandalism, terrorism, explosions, embargoes, epidemics, fire, flood, storms, and other similar and dissimilar natural causes, acts of God, unforeseen delays in transportation or in obtaining any permits or licenses, or other delays caused by unforeseen action, inaction, demand, order, restraint, restriction, requirement, prevention, frustration or hindrance by or of any applicable Government Authority, or of contractors or subcontractors, or of other third parties (other than those contractors, subcontractors, or third parties under the control of the non-performing party), and any other cause or condition beyond the parties' reasonable control.

Provided any such delay or default is neither material nor indefinite, the time for performance shall be extended for a commercially reasonable period of time and thereafter the other party shall accept performance hereunder.

The parties agree that the following incidents shall not constitute an event of Force Majeure but shall be regarded as events of justifiable delay, the consequences for which Rex Group shall not be liable, namely:

- (i) delay caused by the withdrawal of the Aircraft due to unserviceability owing to unscheduled failure of any part of the Aircraft or the Aircraft's equipment;
- (ii) delay caused by the withdrawal of the Aircraft in accordance with manufacturer's or any airworthiness authorities' recommendations, including but not limited to grounding of the fleet or requirement to implement mandatory or recommended service bulletins or airworthiness directives; or
- (iii) a cancellation of or delay to a Flight as a consequence of default or negligence by the Customer.

## 19. No assignment

The Customer may not assign any of its rights or delegate any of its duties or obligations without the prior written consent of Rex Group, such consent not to be unreasonably withheld.

## 20. No Waiver

The failure of Rex Group at any time to require the performance of any obligation of Customer shall not affect the right to require such performance at any time thereafter. The waiver of any remedy with respect to any default shall not be taken as a waiver of any remedy for any succeeding default.

## 21. No other agreement

These terms together with the applicable Quotation(s) or contract and any related documents expressly agreed to in writing by the parties contain the complete and exclusive statement of the terms and contract of the parties with respect to the subject matter thereof and supersede all prior understandings, representations, and warranties, written or oral.

## 22. Conflict of terms

In the event of any ambiguity or conflict between or among the terms in these Trading Conditions, Rex Group's Quotation(s) for the supply of air charter and any other agreement or writing signed by Rex Group, the express terms of the Quotation and/or other agreement in writing shall prevail. Where there are no such terms in any written agreement with respect to the subject matter in question, these terms shall govern and control. In no event, however, shall any additional, differing, conflicting, supplemental or other terms and conditions stated in any purchase order, acknowledgment, contract or other document issued by the Customer have any effect or bind Rex Group unless such terms are specifically accepted in writing by a member of the Rex Group Management Committee (MC).

## 23. Limitations of Liability

- (i) The following limitations shall also apply to this contract. The Customer is responsible for all passengers being made aware of the limitations:
  - a. International Flights Transportation of passengers, hand luggage, luggage and goods by Rex Group shall be governed by the Warsaw Convention of 12 October 1929, as amended by the Hague Protocol of 28 September 1955 and later amendments.
  - b. Domestic flights within Australia and flights not subject to any part of the Warsaw Convention - Transportation of passengers and luggage (including hand luggage) shall be limited as prescribed by the laws of Australia.
- (ii) In the event of conflict between the limitations of term 23(i) and the limitations set out in other parts of these terms, the limitations of term 23(i) shall prevail.

## 24. Indemnity

The Customer hereby indemnifies Rex Group from any claim or damage which Rex Group may suffer from the charter flight, other than claims or damage caused by Rex Group's own gross negligence or wilful misconduct.

## 25. Severability

Should any one or more clauses of these terms be found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining clauses shall not in any way be affected or impaired thereby.

## 26. Applicable Law

- (i) These terms are governed by and construed in accordance with the laws of the state of NSW, Commonwealth of Australia, and are subject to the jurisdiction of the Australian Courts.
- (ii) If any legislation is compulsorily applicable to any of the Services undertaken herein, these terms shall regard such Services as subject to such legislation and nothing in these terms shall be construed as a surrender by Rex Group of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these terms be repugnant to such legislation to any extent such part shall as regard such Services be void to that extent but no further.

## 27. Confidentiality

Except as expressly stated in this clause, the Customer may not disclose the Quotation, these Trading Conditions or their contents or any correspondence or other information relating to this agreement to a third party.

A Party may disclose any such information:

- (i) with the prior written consent of a duly authorised staff member of Rex Group;
- (ii) to its professional advisers (who are under a duty to keep the information confidential), insurers and insurance brokers;
- (iii) to its related bodies corporate; and
- (iv) as required by law, regulation, a court, a regulator or in administrative proceedings.

## 28. Termination

In addition to any other rights available to Rex Group under statute or at common law, in the event that the Customer:

- (i) fails to make a payment to us when due;
- (ii) is unable or are deemed to be unable to pay its debts as and when they fall due;
- (iii) have an administrator, liquidator, provisional liquidator appointed;
- (iv) make any composition or arrangements with its creditors;
- (v) being a company, pass a resolution for winding up; or
- (vi) have a receiver or manager appointed over all or any of its property;

THEN Rex Group may:

- (i) in the case of clause 28 (i), suspend the provision of the Services until the default is rectified to Rex's reasonable satisfaction; or
- (ii) terminate this agreement and any monies payable to Rex but unpaid shall forthwith become due and payable (and such termination shall be without prejudice to any other claim or accrued right we may possess),

The Customer shall be liable to pay Rex Group all costs incurred in recovering or seeking to recover overdue amounts due to the Rex Group under this agreement.

## 29. No third party rights

A person who is not a party to the contract between Rex Group and the Customer has no right to enforce or enjoy the benefit of any term of the contract or under these terms.

End