

Rexair RBO (Desktop and/or Mobile) Terms of Use

PLEASE READ THESE REXAIR RBO MOBILE TERMS OF USE (“AGREEMENT”) CAREFULLY BEFORE USING THE REXAIR RBO MOBILE APPLICATION (THE “APP”). THIS AGREEMENT IS A BINDING AGREEMENT SOLELY BETWEEN YOU (“YOU” AND “YOUR”) AND REXAIR LLC (“REXAIR” AND “WE”) THAT GOVERNS YOUR USE OF THE APP. YOUR USE OF THE APP IS CONDITIONED UPON COMPLIANCE AND ACCEPTANCE OF THIS AGREEMENT. THIS AGREEMENT SHALL SUPERSEDE ANY AGREEMENT OR TERMS OF USE FOR THE APP PREVIOUSLY ACCEPTED BY YOU. BY ACCESSING AND/OR USING THE APP, YOU AGREE TO ACCEPT AND BE FULLY BOUND BY IT AND ANY REVISIONS WHEN THEY BECOME EFFECTIVE, WHETHER OR NOT YOU HAVE ACTUALLY REVIEWED THEM. IF YOU DO NOT AGREE TO ACCEPT AND BE FULLY BOUND BY THIS AGREEMENT, YOU ARE EXPRESSLY PROHIBITED FROM ACCESSING AND/OR USING THE APP. YOUR ACCESS AND/OR USE OF THE APP IS FURTHER CONDITIONED ON YOUR ACCEPTANCE OF REXAIR’S PRIVACY POLICY, WHICH REXAIR STRONGLY ENCOURAGES YOU TO READ AND WHICH MAY BE FOUND AT [RAINBOWOFFICE.NET/LEGAL](https://rainbowoffice.net/legal).

ONLY PERSONS OVER THE AGE OF LEGAL MAJORITY WHO CAN FORM LEGALLY BINDING AGREEMENT(S) UNDER APPLICABLE LAW ARE PERMITTED TO USE THE APP.

THIS AGREEMENT INCLUDES AN AGREEMENT TO MANDATORY ARBITRATION, WHICH MEANS THAT YOU AGREE TO SUBMIT ANY DISPUTE RELATED TO THIS APP OR THIS AGREEMENT TO BINDING INDIVIDUAL ARBITRATION RATHER THAN PROCEEDING IN COURT. IF YOU WANT TO OPT-OUT OF THIS MANDATORY ARBITRATION AGREEMENT, THE DISPUTE RESOLUTION/ARBITRATION PROVISION BELOW DESCRIBES THE PROCEDURES YOU MUST FOLLOW TO DO SO. THE DISPUTE RESOLUTION/ARBITRATION PROVISION ALSO INCLUDES A CLASS ACTION WAIVER, WHICH MEANS THAT YOU AGREE TO PROCEED WITH ANY DISPUTE INDIVIDUALLY AND NOT AS PART OF A CLASS ACTION. THIS AGREEMENT ALSO INCLUDES A JURY TRIAL WAIVER.

1. App License. The App is licensed, not sold, to You for use only under this Agreement directly by Rexair. Rexair reserves all rights, title and interest not expressly granted to You.

1.1. Scope of License. This license is limited to a non-transferable, revocable license to use the object code of the App on any mobile device that You own or control that the App is authorized to operate on (as determined by Rexair) and as permitted by this Agreement in addition to any software or data downloaded as a part of using the App (the “License”). For purposes of this Agreement, any data or software downloaded as part of using the App shall be deemed part of the App and subject to all of the same terms and conditions of this Agreement. This License does not allow You to use the App on any device that You do not own or control, and You may not distribute or make the App available over a network where it could be used by multiple devices at the same time. You may not rent, lease, lend, sell, redistribute or sublicense the App. You may not copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the App, any updates, or any part thereof (except as and only to the extent that any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any free or open sourced components included with the App). Any attempt to do so is a violation of the rights of Rexair and its licensors. The restrictions applicable to the License also apply to software hosted

by Rexair to which you may have access in connection with your use of the App. If You breach this License, You may be subject to damages.

- 1.2. **Termination.** The License is effective until terminated by You, Rexair or Distributor. Your rights under the License will terminate immediately without notice from Rexair if You fail to comply with the Agreement or upon termination of this Agreement by Rexair or You. Upon termination of the License, You shall cease all use of the App, and permanently delete all copies of the App. Rexair's termination of this Agreement will not limit any of Rexair's other rights or remedies at law or in equity. The provisions of Sections (including subsections) 1.2, 2, and 4 - 10 shall survive termination or expiration of this Agreement, for any reason.
- 1.3. **Updates.** Periodically, Rexair may incorporate product updates and new releases with respect to the App. All such updates and releases shall be governed by this Agreement unless such update or new release is accompanied by a separate agreement in which case the terms of that agreement will govern. You may be required to periodically upgrade to a new version of the App or the operating system of Your mobile device. Rexair shall not be responsible for Your mobile device failing to meet the applicable hardware or software requirements of the App and You agree that You may have to procure a new mobile device in order to continue using the App. REXAIR SHALL HAVE NO OBLIGATION TO CONTINUE TO SUPPORT OR MAKE AVAILABLE PRIOR VERSIONS OF THE APP.
- 1.4. **Availability.** Rexair does not guarantee availability or operation of the App or any particular feature, functionality, or content in the App. We reserve the right to change, remove, delete, restrict or block access to, charge for, or stop providing all or any part of the App at any time without notice.
- 2. Communicating with Rexair.** On certain areas of the App, You may be given the ability to contact Rexair and/or your distributor through the App or by electronic mail. These areas are designed to give users the ability to contact Rexair with questions or concerns and provide feedback. You expressly disclaim any rights or causes of action You may have with respect to any ideas, concepts, techniques, procedures, methods, systems, designs, plans, charts or other similar materials You may submit to Rexair through the App.
- 3. Support and Subscription Services Not Included.** Rexair will not provide any maintenance or support services under this Agreement. This Agreement does not give You any rights to any updates or upgrades to the App or to any extensions or enhancements to the App developed by Rexair at any time in the future. Any updates, new releases, or other materials that Rexair elects to provide to You will be considered part of the App and are subject to the terms and conditions of this Agreement.
- 4. Confidential Information and Proprietary Rights.**
 - 4.1. **Confidential Information.** You acknowledge and agree that the App is valuable intellectual property of Rexair and is considered Rexair's confidential information ("Confidential Information"). You agree that You will not, during or after the term of this Agreement, permit the duplication, use, or disclosure of any such Confidential Information to any person, unless such duplication, use or disclosure is specifically authorized by Rexair in writing prior to any disclosure. You shall use reasonable diligence, and in no event less than that degree of care that You use in respect to Your own confidential information of like nature, to prevent the

unauthorized disclosure or reproduction of the Confidential Information.

4.2. **Proprietary Rights.** You acknowledge that You will not use the App for any other purpose than permitted under the License. You further acknowledge that Rexair and its licensors retain all ownership and intellectual property rights to the App, including any names, marks, brands, logos, designs, trade dress, slogans and other designations Rexair uses in connection with its products and services (“Rexair Trademarks”) that appear in the App. You acknowledge Rexair’s rights in the Rexair Trademarks and agree that any use of Rexair Trademarks by You shall inure to Rexair’s sole benefit. Except to the extent that the information, communications or materials are covered by the [PLATFORM PRIVACY POLICY](#), You represent, warrant and covenant that any information, communication or material You submit or transmit to the App are not confidential or proprietary, that You have sufficient rights to submit such information, communications and materials.

5. No Warranty. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE APP IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE APP AND ANY SERVICES PERFORMED OR PROVIDED BY THE APP, REXAIR OR ITS PROVIDERS (“SERVICES”) ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND REXAIR HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE APP AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. REXAIR DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE APP, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE APP WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE APP OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE APP OR SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY REXAIR OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE EXCLUSION AND LIMITATIONS OF THIS SECTION 5 SHALL ONLY APPLY TO YOU TO THE EXTENT ALLOWED BY APPLICABLE LAW.

6. Limitation of Liability.

6.1. **Limitation of Damage Types.** IN NO EVENT SHALL REXAIR BE LIABLE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, OR DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE APP, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF REXAIR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS OF THIS SUB-SECTION 6.1 SHALL ONLY APPLY TO YOU TO THE EXTENT ALLOWED BY LAW.

6.2. **Limitation of Liability Amount.** IN NO EVENT SHALL REXAIR’S TOTAL LIABILITY TO YOU FOR ALL DAMAGES EXCEED ONE HUNDRED DOLLARS (U.S. \$100.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE

LIMITATIONS OF THIS SUB-SECTION 6.2 SHALL ONLY APPLY TO YOU TO THE EXTENT ALLOWED BY LAW.

- 7. Indemnity; Release.** You agree to fully indemnify, defend and hold harmless Rexair and its affiliates, and their subsidiaries, predecessors, successors, officers, directors, employees, agents, licensors, suppliers and customers from and against any and all claims, losses, costs (including court costs), fees (including reasonable legal fees), damages and expenses that such parties may incur as a result of, due to, or arising out of a violation by You (or anyone acting under Your account or password) of this Agreement or arising out of communications, information or materials You submit through the App or to Rexair by any other means, including any claim alleging that such communications, information or materials violate a third party's intellectual property rights.
- 8. Export Restrictions.** You acknowledge that the App is subject to U.S. export restrictions, and that You are not (i) located in any country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a 'terrorist supporting country'; or (ii) listed on any U.S. Government list of prohibited or restricted persons. You agree to comply with all applicable international and national laws that apply to the App, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments.
- 9. Dispute Resolution, Arbitration.**

 - 9.1. Notification. For any problem or dispute that You may have in connection with the App, You acknowledge and agree that You will first give Rexair an opportunity to resolve Your problem or dispute by sending a written description of such problem or dispute via email to Rexair.
 - 9.2. Good Faith Negotiations. You then agree to negotiate with Rexair in good faith about Your problem or dispute. This should lead to resolution, but if for some reason Your problem or dispute is not resolved satisfactorily within sixty (60) days after Rexair's receipt of Your written description of it, You agree to the further dispute resolution provisions below.
 - 9.3. Sole and Exclusive Forum and Remedy. You agree that the sole and exclusive forum and remedy for any and all disputes and claims that cannot be resolved informally and that relate in any way to or arise out of the App or this Agreement shall be final and binding arbitration, except to the extent that You have in any manner infringed upon or violated or threatened to infringe upon or violate Rexair's or any third party patent, copyright, trademark, trade secret, privacy or publicity rights, or breached the confidentiality obligations in this Agreement, in which case You acknowledge that arbitration is not an adequate remedy at law and that injunctive or other appropriate relief may be sought by Rexair and/or the applicable third party(ies). You and Rexair acknowledge that this Agreement affects interstate commerce and that the Federal Arbitration Act and federal arbitration law apply to arbitrations under this Agreement (despite any other choice of law provision).
 - 9.4. Arbitration. Arbitration under this Agreement shall be conducted by the American Arbitration Association (the "AAA"). Any arbitration will be held in the Detroit, Michigan metropolitan area and be subject to the Governing Law provision set forth in Section 10.6 (Governing Law). For claims of less than \$75,000 USD, the AAA's Supplementary Procedures for Consumer-Related Disputes will apply; for claims over \$75,000 USD, the AAA Commercial Arbitration Rules will

apply. The AAA rules are available at www.adr.org or by calling 1-800-778-7879 (within the USA). Upon Your filing of the arbitration demand, Rexair will pay all filing, administration and arbitrator fees for claims that total less than \$75,000 USD. For claims that total more than \$75,000 USD, the payment of filing, administration and arbitrator fees will be governed by the AAA Commercial Arbitration Rules. You agree to pay Your own other fees, costs, and expenses, including those for any attorneys, experts, and witnesses. An arbitrator may award on an individual basis any relief that would be available in a court, including injunctive or declaratory relief and attorneys' fees. The language of the arbitration shall be English.

9.5. Jury Trial Waiver. YOU AND REXAIR BOTH AGREE THAT, WHETHER ANY CLAIM IS IN ARBITRATION OR IN COURT, YOU AND REXAIR BOTH WAIVE ANY RIGHT TO A JURY TRIAL INVOLVING ANY CLAIMS OR DISPUTES BETWEEN YOU AND REXAIR.

9.6. Time Limitations. In no event shall any claim, action or proceeding by You related in any way to the App or this Agreement be instituted more than one (1) year after the cause of action first arose.

10. Miscellaneous.

10.1. Complete Agreement. This Agreement constitutes the complete, final and exclusive understanding between You and Rexair relating to the subject matter hereof and governs Your use of the App, superseding all prior or contemporaneous understandings, agreements and communications with respect to such subject matter. Notwithstanding anything to the contrary in this Agreement, We reserve the right to modify this Agreement at any time without prior notice. Rexair may notify You of changes to this Agreement via: (i) a prompt from the App that will allow You to read the new or modified agreement, and require You to accept the new or modified terms prior to being able to access the App, (ii) by electronic mail, (iii) by posting a notice on Rexair's website, or (iv) by providing updates to the App containing the new or modified agreement.

10.2. Third Party Terms. You may be subject to additional terms and conditions that may apply when You obtain or use third-party content, third-party software or goods and services provided by or through third-parties. You agree that You will comply with any such applicable third party terms and conditions.

10.3. Severability. If any provision of this Agreement are held to be unlawful, void or for any reason unenforceable by any court or arbitrator of competent jurisdiction, then such provision(s) shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

10.4. Waiver. Rexair's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Rexair in writing. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

10.5. Force Majeure. The failure of Rexair to comply with this Agreement because of an act of God, war, fire, riot, terrorism, pandemic, earthquake, actions of federal, state or local governmental authorities or for any other reason beyond the reasonable control of Rexair, shall

not be deemed a breach of this Agreement. If Rexair fails to act with respect to Your breach or anyone else's breach on any occasion, Rexair is not waiving its right to act with respect to future or similar breaches.

- 10.6. Governing Law. The validity, interpretation and performance of this Agreement shall be controlled and construed under the laws of the State of Michigan but without regard to any choice of law provisions that might substitute the laws of another jurisdiction for the parties' choice of Michigan law. The parties agree that any claim or dispute one party has against the other party arising under or relating to this Agreement (including claims in contract, tort, strict liability, statutory liability, or other claims) that is not resolved under Section 9 must be resolved exclusively by the federal or state courts located in Detroit, Michigan. Each party agrees to submit to the personal jurisdiction of such courts and to accept service of process from them.
- 10.7. Assignment. Rexair may assign its rights and delegate its duties under this Agreement to any party at any time without notice to You. You may not assign or delegate Your rights or obligations without prior written consent of Rexair, which may be withheld at Rexair's sole discretion.
- 10.8. Headings and Interpretation. All headings in this Agreement are for convenience only and have no legal effect. All references to "Section" correspond to the respective section in this Agreement unless otherwise specified, and any reference to a section includes all subsections therein. The terms "herein", "hereunder", and "hereof" and similar expressions refer to this Agreement. The term "including" means including and without limitation. The term "or" is not exclusive and is deemed to have the meaning "and/or." Any references in this Agreement to "dollars" or "\$" shall be to U.S. dollars. All definitions in this Agreement apply to both their singular and plural forms, as the context may require.
- 10.9. Electronic Communications; Notices. You hereby agree to the use of electronic communications in order to enter into this Agreement, to create other records and to the electronic delivery of notices, policies and records of transactions between You and Rexair with respect to the App and this Agreement. You hereby waive any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law. In addition, Rexair may deliver notices to You by prepaid certified mail, return receipt requested at the address in Rexair's database; any notice that complies with this Section shall be deemed effectively given upon delivery. You must give notice to Rexair by prepaid certified mail, return receipt requested at the following address: 2600 W Big Beaver Rd., Suite 555, Troy, MI 48084.
- 10.10. Apple iOS. If You use the App on an Apple phone or mobile device, You and Rexair acknowledge that Apple, and Apple's subsidiaries, are third-party beneficiaries of this Agreement, and upon Your acceptance of this Agreement, Apple will have the right (and will be considered to have accepted that right) to enforce this Agreement against You as a third-party beneficiary of this Agreement. Subject to this Agreement, Rexair, not Apple, is responsible for addressing any claims You may have relating to the App or the Your possession or use of the App. In the event of any failure of the App to conform to any applicable warranty, You may notify Apple, and Apple will refund the purchase price for the App to You. To the maximum

extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App. In addition, Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App. In the event of any third party claim that the App or Your possession and use of the App infringes that third party's intellectual property rights, subject to this Agreement, Rexair, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

* * * * *