



All business is personal.

RUBY RECEPTIONISTS, INC.

Terms of Use

Last Updated March 1, 2020

These terms of use (“Terms”) are a binding contract between you and Ruby Receptionists, Inc. (“**Ruby**”, “**we**” or “**us**”). These Terms, together with our Privacy Notice, govern your use of www.ruby.com, www.ruby.com, pearl.ruby.com, my.ruby.com, or signup.ruby.com, our customer portal or dashboard (the “**Portal**”), and other websites we own or operate (collectively, the “**Site**”), your communications with Ruby by phone or chat, your use of our mobile application (the “**App**”), or use the services available through the Site, the App, or by phone or online chat (collectively, with the Site and the App, the “**Services**”). Any terms we use in these Terms of Use without defining them have the definitions given to them in the Privacy Notice. Please note that additional, separate terms may apply to our services and programs.

THIS AGREEMENT INCLUDES A CLASS ACTION WAIVER AND AN ARBITRATION PROVISION THAT GOVERNS ANY DISPUTES BETWEEN YOU AND RUBY.

Acceptance.

To use the Services you must agree to be unconditionally bound by these Terms. If you are accessing the Services on behalf of a company or other legal entity (“**Entity**”), you represent and agree that you are authorized to act on behalf of the Entity and to bind such Entity to these Terms. You can accept the Terms by clicking to accept or agree to the Terms where this option is made available to you over the phone or chat or in any agreement, electronic form, or the user interface for any Service we offer, or by actually using the Site or any Service. You must be of legal age and capacity to form a binding contract in order to accept the Terms. These Terms will remain in effect while you use our Services. If you do not agree with any of these Terms, do not access or otherwise use any Service. You acknowledge that Ruby may make changes to the Services at any time. If you have any questions, comments, or concerns regarding these Terms or the Services, please contact us at marketing@ruby.com.

Consent to Do Business Online.

By accessing our Site, registering with Ruby, or typing your name into any of our electronic forms and indicating your acceptance or submission of information by clicking a box, you consent to (a) Ruby communicating with you electronically; (b) receiving all applications, notices, disclosures and authorizations (collectively, “**Records**”) from us electronically; and (c) entering into agreements and transactions using electronic Records and signatures. Please note that federal law treats electronic signatures as having the same legal force and effect as if they were signed on paper by hand, and online contracts have the same legal force as signing an equivalent paper contract in ink. We will use electronic documents for all communications, agreements, disclosures, authorizations and other documents necessary to provide you with the Site. You must have a

computer or other web-enabled device, connection to the internet, an active email account, and the ability to receive and read PDF files (such as Adobe® Acrobat® Reader) to conduct business with us electronically. You agree to be responsible for keeping your own Records. You may print or download Records from the Site and keep them for your own reference. If you require assistance with your Records or if you wish to receive records in paper format or to withdraw your consent to receiving electronic records from us, please contact us at marketing@ruby.com. Agreements and transactions executed prior to this request will remain valid and enforceable.

Subscriptions.

To use a Service, you must register as a customer (a “**Ruby Customer**”) to gain access to our Portal and purchase a subscription for that Service. You are responsible for maintaining the confidentiality of any login and password issued by Ruby to you to use the Services, and you are responsible for all activities that occur using your access credentials. You agree not to do anything else that might jeopardize the security of your account.

Your subscription continues until terminated or cancelled in accordance with these Terms. Our fees are calculated on a monthly basis, and we charge two types of fees. First, we charge a fixed fee based on the package of Services you purchase, and such fixed fee is due in advance, on or before the first day of each monthly billing period. Second, we charge a variable overage fee if your usage exceeds the base usage units included with your subscription, and such variable overage fee is due in arrears on or around the first business day following each monthly billing period. You are responsible for paying these fees as well as any and all applicable sales and use taxes for the purchase of your subscription based on the address that you provide when you register as a subscriber. All our fees are quoted in United States dollars.

Your initial billing period may be less than a full month, in which case, your fees for that initial billing period will be prorated accordingly.

If you are a Ruby Customer, you may contact us to upgrade or downgrade your subscription by contacting Ruby at staff@ruby.com or 866-611-7829. Your upgrade or downgrade is effective immediately and applies to the entire monthly billing period during which you contacted us.

In addition, you may contact us to cancel your subscription by contacting Ruby at marketing@ruby.com or 866-611-7829. If you contact us to cancel during a free trial or an introductory period during which we give you a money back guarantee, your cancellation is effective immediately. Otherwise, your cancellation is effective at the end of the then-current monthly billing period.

We may terminate your subscription immediately upon giving notice to you if: (i) we suspect that a request from you or your callers or your website visitors constitutes or otherwise relates to fraudulent or otherwise illegal activity or to a sexual or otherwise potentially illicit encounter, (ii) you or your callers or your website visitors are abusive, disrespectful, or otherwise inappropriate to our personnel, or (iii) you breach any of these Terms. In addition, we may terminate your subscription for any other reason or for no reason by giving you 30 days’ notice.

We reserve the right to change our subscription plans or adjust pricing for our Services or any components thereof in any manner and at any time. We will give you at least 30 days' notice prior to any price change or change to your subscription plan.

Your subscription may start with a free trial or an introductory period during which we give you a money back guarantee. We will not give you a free trial or a money back guarantee if you previously received a free trial or a money back guarantee refund for the same Service. If granted to you, the free trial period or the money back guarantee introductory period, as applicable, lasts for the time period specified during your sign-up for the Services. Please note that we will charge you for your subscription at the end of the free trial period, unless you cancel your subscription prior to the end of the free trial period. Please also note that any money back guarantee is subject to conditions, restrictions and limitations that are communicated to you when you sign up for the Services.

You must maintain a valid payment method on file with us. You agree that we may charge your credit or debit card, or withdraw amounts from your designated account at your depository institution, or charge any other payment method that you have on file with the fees due hereunder, any sales and use taxes and any late fees or interest (as described below). Except for downgrades and cancellations by you in the manner permitted herein, payments are nonrefundable, and there are no refunds or credits for partially used periods.

If you do not pay on time or if we cannot charge the payment method you have on file for any reason, we reserve the right to either suspend or terminate your access to the Services. In addition, if any payment is not received within 30 days after the due date, then we may charge a late fee of \$10 and we may assess interest at the rate of 1.5% of the outstanding balance per month (18% per year), or the maximum rate permitted by law, whichever is lower, from 30 days after the due date until the date paid. If your unpaid fees are referred to an attorney or collections agency, you shall pay all reasonable attorney's fees or collections agency fees.

Receptionist Minutes.

We measure usage of our virtual receptionist service using the concept of receptionist minutes. Receptionist minutes are billed in 30-second increments and calls are rounded up to the nearest 30-second mark. As an example, if a call is ten seconds long, it will be billed as 30 seconds (or half of a receptionist minute).

For inbound calls, receptionist minutes are calculated starting from the time the receptionist receives the call and ending when a receptionist transfers the call through to someone, or to voicemail, or otherwise disconnects because the call is over. We include hold time, and exclude talk time once a call is transferred to you or your voicemail box.

For outbound calls, receptionist minutes are calculated by counting the time our outbound call specialist is on the call, as well as the time they spend sending a follow-up email to notify you of the outcome of the call.

Chat Interactions.

A chat is an online interaction that starts when a website visitor engages a chat specialist, and ends when (a) the chat specialist determines the chat is not company-related, (b) the visitor closes the chat window, or (c) the chat specialist closes the chat window.

We measure usage of our chat services using the concept of engaged chats. All chats considered engaged chats are billed to our customers, including but not limited to those tagged as Leads, Actionable Support, Non-Actionable Support, and Recruitment. Chats that are not engaged are defined as those that are initiated by a bot, contain nonsensical verbiage, or are ended by the website visitor after the initial hello.

Service Access.

Ruby will use commercially reasonable efforts to maintain availability of the Services during your subscribed-to Service times, excluding scheduled maintenance time, outages, emergency maintenance, unavailability caused by any software, hardware, Ruby Customer, or any service not provided by Ruby, or any cause beyond Ruby's reasonable control. The Service will be deemed available so long as Callers are able to reach us or Ruby Customers are able to log into the Portal or the App. Ruby is not liable for any delays, interruptions, or other transmission errors related to your device, service, or wireless service provider.

Telephone Numbers.

When you sign up as a Ruby Customer, at your option, we will host your established telephone number or assign you a forwarding telephone number. We will allow you to port-away the telephone number associated with your account if you terminate your subscription provided your account is in good standing and (i) we were hosting your established telephone number or (ii) the forwarding telephone number was assigned to you more than twenty-one days prior to the port-away date. Ruby reserves the right to release or reassign any telephone numbers not ported back within three months after termination of the applicable subscription.

Mobile Application.

By downloading the App, registering or creating a user profile on the App, or submitting information via the App, you acknowledge Ruby's Privacy Notice and you consent to the collection and use of information as described therein. The App is currently made available to you as Ruby Customer as part of our Services and may be amended or withdrawn, at any time and for any reason. If you do not agree with our policies and practices, you should not download or use the App. The App functions are only accessible to you if you are a Ruby Customer.

To use the App, you must have a compatible mobile telephone or handheld device, Internet access (if required by the App), and the necessary minimum specifications ("**Software Requirements**") to use the App. The Software Requirements for Apple iOS devices and Android OS devices can be found on the relevant App Store page. The App software may be upgraded from time to time to

add support for new functions and services. The App may request certain privacy permissions from time to time including, but not limited to, access to your calendar, contact list, device camera or choosing images from your device or access to your device microphone and associated features.

You acknowledge that the terms of agreement with your respective mobile network provider will continue to apply when using the App. Data and messaging charges may apply to your use of the App or any text messaging or photo sharing features you use via the App. You accept responsibility for any such charges that arise. If you are not the bill payer for the mobile telephone or handheld device being used to access the App, you will be assumed to have received permission from the bill payer for using the App.

The App may be configured to allow you to make calls using your voice connection from your mobile service provider. Please note that this may result in additional voice minute usage fees from your mobile service provider.

Communications.

We may use your contact information to communicate with you about your use of our Site or Services. For example, we may send you service announcements or administrative communications by email, phone, mail or other means. You understand that you receive these communications as part of your use of the Site, and you will not be able to opt out from receiving these service announcements and administrative messages.

Texting Consent. By providing us with your wireless phone number, you consent to Ruby sending you informational text messages related to the products, services, or information you have requested from us. If you have activated a feature of our Services that allows us to send you text messages, per your request, we may contact you via text to test the system, for demonstration purposes, and for troubleshooting. The number of texts that we send to you will be based on your particular circumstances and requests. At your request or with your permission, we will also correspond with you via text in other circumstances. For example, we may contact you at the telephone number that you provide when you give us your permission as part of completing a form on our website, or downloading information from our website. If you contact us for these or other purposes through text, we may respond to your inquiry by reply text.

You can unsubscribe from text messages by replying STOP or UNSUBSCRIBE to any of these text messages. Messaging and data charges may apply to any text message you receive or send. Please contact your wireless carrier if you have questions about messaging or data charges.

Marketing Communications. We may send you marketing communications by email, mail or other means in compliance with applicable law. As part of our policy to provide you total privacy, we provide you the option of opting out from receiving marketing communications from Ruby.

Proprietary Rights.

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By using the Site and its features, you represent and warrant that (a) any information you submit to us is truthful and accurate; (b) you will maintain the accuracy of that information; and (c) your use of our Site and its features does not violate any applicable law, rule or regulation. Any information that you provide to us will also be subject to our Privacy Notice.

Ruby may grant third parties the right to “link” to the Site if the third party makes its request in writing. All third parties that have been granted rights to “link” to the Site must use the URL linking mechanism supplied by Ruby. Any alteration, change, modification, adjustment or revision to a “link” must be approved by Ruby in writing prior to implementation.

Site Security.

You are strictly prohibited from violating or trying to violate the security features of the Site, such as by:

- Accessing data not intended for you or logging onto a server or an account which you are not authorized to access
- Attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures unless we expressly authorize that you do so in writing
- Attempting to interfere with service to any user, host or network, such as by means of submitting a virus to the Site, overloading, “flooding,” “spamming,” “mail bombing” or “crashing.”
- Sending unsolicited email, including promotions and/or advertising of products or services forging any TCP/IP packet header or any part of the header information in any email or newsgroup posting.

You hereby agree not to use any device, software or routine to interfere or try to interfere with the proper working of this Site or any activity being conducted on this Site. You further agree not to use or try to use any engine, software, tool, agent or other device or mechanism (including browsers, spiders, robots, avatars or intelligent agents) to navigate or search the Site other than the search engine and search agents that we make available on this Site and other than the generally available third-party web browsers.

If you violate our system or network security, you may face civil or criminal liability. We will investigate occurrences that may involve such violations. We may involve or cooperate with law enforcement authorities in prosecuting users who are involved in such violations.

Restrictions to Your Use of the Site.

Accessing the Site does not authorize you to use any Contents in any manner other than specifically authorized by these Terms. You may not use our Contents for any purpose not expressly stated in these Terms of Use, including in any way that might confuse or that disparages us. The permissions described herein will terminate automatically if you breach any of these Terms of Use. Any other use of the Contents on this Site including reproduction for purposes other than as noted above, without the prior written permission of Ruby, is strictly prohibited.

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Site visitors may have the opportunity to publish, transmit, submit or otherwise post comments, photos, or other materials on the Site (“**User Generated Material**”) that may be accessible and viewable by the public or other Site visitors. With respect to any User Generated Material posted by you, you represent that (i) you created and own the rights to the content, or you have the

owner's express permission to post such content; and (ii) the content does not infringe any other person's or entity's rights (including, without limitation, copyrights, trademarks, rights of publicity or privacy rights) or violate any applicable laws, rules or regulations, these Terms, or any of our other posted policies. Additionally, User Generated Material must not:

- Contain any material that is false, defamatory, libelous, obscene, harassing, threatening, discriminatory, bigoted, hateful, violent, vulgar, profane, pornographic or otherwise offensive, inappropriate, damaging, unlawful, disruptive or harmful;
- Violate Ruby's or any other person's or entity's legal rights, contain any material that could give rise to civil or criminal liability under applicable laws or regulations, or otherwise promote, advocate or assist any illegal activity or unlawful act;
- Create or threaten harm to any person or loss or damage to property;
- Include others' Personal Information or any other information that may be used to track, contact, or impersonate that individual;
- Infringe any patent, trademark, trade secret, copyright, or other intellectual property or other proprietary rights of Ruby or any other person, or violate the terms of any contract in respect of such intellectual property or proprietary rights;
- Seek to harm or exploit children by exposing them to inappropriate content, asking for Personal Information or otherwise;
- Misrepresent your identity or affiliation with any person or organization;
- Seek to collect others' email addresses, usernames, or passwords by any means;
- Seek to transmit chain letters, bulk or junk email, or to interfere with, disrupt or create an undue burden on Ruby or the networks or services connected to the Site, or to install or attempt to install or promote spyware, malware or other computer code on our computers or equipment or the computers or equipment of third parties;
- Relate to commercial activities such as contests, sweepstakes, or other sales promotions, barter, advertising or offers of sale or purchase of goods and services; or
- Be otherwise objectionable as determined by Ruby at our sole discretion.

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Limitation of Liability.

RUBY SHALL NOT BE LIABLE TO YOU FOR ANY DAMAGES RESULTING FROM YOUR USE OF THE SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL RUBY BE LIABLE TO YOU FOR ANY INDIRECT,

EXTRAORDINARY, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE, HOWEVER ARISING, EVEN IF RUBY KNOWS THERE IS A POSSIBILITY OF SUCH DAMAGE. NOTWITHSTANDING ANYTHING TO THE CONTRARY, RUBY SHALL NOT BE LIABLE TO YOU FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY YOU TO RUBY FOR SERVICES DURING THE THREE MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT RUBY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Indemnification.

YOU AGREE TO INDEMNIFY AND HOLD US, OUR SUBSIDIARIES AND OUR AFFILIATES, AND THEIR RESPECTIVE MEMBERS, DIRECTORS, OFFICERS, AGENTS, PARTNERS AND EMPLOYEES, HARMLESS FROM ANY LOSS, LIABILITY, COST, EXPENSE, CLAIM, DAMAGES, OR DEMAND, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, DUE OR RELATING TO OR ARISING OUT OF (I) YOUR USE OF OUR SITE IN VIOLATION OF OUR TERMS, (II) YOUR BREACH OF OUR TERMS, OR (III) ANY BREACH OF YOUR REPRESENTATIONS AND WARRANTIES SET FORTH IN OUR TERMS.

Class Action Waiver.

YOU HEREBY WAIVE ANY RIGHT TO COMMENCE OR PARTICIPATE IN ANY CLASS ACTION LAWSUIT AGAINST RUBY RELATED TO ANY CLAIM, DISPUTE OR CONTROVERSY, AND, WHERE APPLICABLE, YOU HEREBY AGREE TO OPT OUT OF ANY CLASS PROCEEDING AGAINST RUBY OTHERWISE COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THESE TERMS.

Dispute Resolution, Binding Arbitration.

Any controversy or claim between you and Ruby arising out of or relating to: (a) these Terms, or the breach thereof, or (b) your access to or use of the Services, or (c) any alleged violation of any federal or state or local law, statute or ordinance (each such controversy or claim, a "Claim"), shall be resolved exclusively by a binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, with the arbitration to be held in Multnomah County, State of Oregon, USA. You hereby consent to the exclusive jurisdiction of the state and federal courts located in Multnomah County, Oregon, USA to enforce these Terms. However, judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

Claims shall be heard by a single arbitrator. Arbitrations shall be held in Multnomah County, Oregon but the parties may choose for themselves whether to appear in person, by phone, or through the submission of documents. The arbitration shall be governed by the Federal Arbitration Act and by the internal laws of the State of Oregon, without regard to conflicts of laws principles. The prevailing party shall be entitled to an award of reasonable attorneys' fees.

In arbitration, the parties give up their right to have their Claim decided by a judge or jury, and their Claim is instead decided by an arbitrator. Discovery rights and appellate rights in arbitration are more limited than in court. The arbitrator shall issue a reasoned award in writing, including all findings of fact and law upon which the award was made.

YOU AND RUBY AGREE THAT EACH MAY BRING OR PARTICIPATE IN CLAIMS AGAINST THE OTHER ONLY IN THEIR RESPECTIVE INDIVIDUAL CAPACITIES, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, CONSOLIDATED OR REPRESENTATIVE PROCEEDING. UNLESS BOTH YOU AND RUBY AGREE OTHERWISE IN WRITING, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS OR PARTIES WHO MAY BE SIMILARLY SITUATED, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. IF A CLAIM IMPLICATES THIS SECTION, AND IF THIS SECTION IS FOUND TO BE INVALID, UNENFORCEABLE OR ILLEGAL BY A COURT OF COMPETENT JURISDICTION, THEN SUCH CLAIM MUST BE ADJUDICATED BY A COURT AND NOT BY AN ARBITRATOR.

NOTWITHSTANDING THE FOREGOING, IF ANY CLAIM IS NOT SUBJECT TO ARBITRATION, YOU AGREE TO SUBMIT AND CONSENT TO THE PERSONAL AND EXCLUSIVE JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE STATE AND FEDERAL COURTS LOCATED WITHIN MULTNOMAH COUNTY, OREGON, WHICH IS THE PLACE OF PERFORMANCE OF THESE TERMS.

General.

Ruby prefers to advise you if Ruby feels you are not complying with these Terms and to recommend any necessary corrective action. However, certain violations of these Terms, as determined by Ruby, may result in immediate termination of your access to the Service without prior notice to you. We may send you information relating to your account in electronic form, for example via emails to your email address provided during registration, and you agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. Services are intended for customers in North America. The Federal Arbitration Act, Oregon state law, and applicable U.S. federal law, without regard to the choice or conflicts of law provisions, will govern these Terms. Foreign laws do not apply. The United Nations on Contracts for the International Sale of Goods and any laws based on the Uniform Computer Information Transactions Act (UCITA) shall not apply to these Terms. If any of these Terms is found to be inconsistent with applicable law, then such term shall be interpreted to reflect the intentions of the parties, and no other terms will be modified. Ruby's failure to enforce any of these Terms is not a waiver of such term. These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be freely assigned by Ruby without restriction. If any provision of these Terms is held invalid or unenforceable for any reason, the remainder of the provision shall be amended to achieve as closely as possible the economic effect of the original term and all other provisions shall continue in full force and effect. These Terms are the entire agreement between

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