



All business is personal.

RUBY RECEPTIONISTS, INC.

Terms of Use

Last Updated October 7, 2020

These terms of use (“**Terms**”) are a binding contract between you and Ruby Receptionists, Inc., our subsidiaries Pure Chat, Inc., and our other affiliates and subsidiaries (collectively, “**Ruby**,” “**us**,” “**we**,” or “**our**”). These Terms, together with our [Privacy Notice](#), govern your use of (i) our Receptionist or Chat Services (ii) www.ruby.com and other websites we own or operate (altogether, the “**Site**”), (iii) live chat, visitor tracking, mobile applications, customer portals and dashboards and other software we offer (collectively, the “**Software**”), as well as (iv) our digital properties, applications, social network and other channels hosted on third party websites or platforms (together, with the Site and Software, 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, including but not limited to our [Data Processing Agreement](#), each of which will be considered to form part of these Terms. These Terms shall substitute for and replace all prior Terms of Use or Terms and Conditions that may have governed your use of Ruby’s Services.

THESE TERMS INCLUDE A CLASS ACTION WAIVER AND AN ARBITRATION PROVISION THAT GOVERNS ANY DISPUTES BETWEEN YOU AND RUBY.

ACCEPTANCE

By visiting the Site or using our other Services, you agree to be unconditionally bound by these Terms. If you are using or accessing the Services on behalf of a company or other entity (“**Entity**”), you represent, agree, and warrant that you are authorized to act on behalf of the Entity and to bind such Entity to these Terms. You 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 visiting the Site or using another Service. **ACCEPTANCE OF THESE TERMS IS REQUIRED FOR USE OF RUBY’S SERVICES AND ANY USE OF RUBY’S SERVICES SHALL CONSTITUTE ACCEPTANCE OF THESE TERMS.** 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 the Site or use our other Services. You acknowledge and agree that we may make changes to the Services or these Terms at any time and that you will be bound by such changes if you continue to use our Services. If you have any questions about these Terms or the Services, please contact us at privacy@ruby.com.

SUBSCRIPTIONS

This section governing subscriptions applies only to those users that sign up for a paid subscription plan or another paid Service, a free trial of a paid Service, [Experience Ruby](#), or a promotional offering (in each case as a “**Customer**”). To become a Customer, you must first register with us, create an account, and select an available Service. Depending on the Services you select, you will gain access to our customer portal or dashboard, Software or other platforms we provide as part of our Services. 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. Some Services may not be available to all Customers. We will explain which Services are available to you during the sign-up process.

If you sign up as a Customer, you agree to pay us the applicable fees and taxes described below and to use the Services only as permitted by these Terms of Use. We reserve the right to change our subscription plans and other Services offered to Customers 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.

Receptionist and Chat Service Fees. We charge Customers two types of fees for Receptionist Services by phone and/or Chat Services by chat interaction, which are calculated on a monthly basis. 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.

Receptionist Minutes. We measure Customer usage of our Receptionist Services using the concept of Receptionist Minutes. We bill Receptionist Minutes 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.

Engaged Chats. We measure Customer usage of our Chat Services using the concept of engaged chats. An engaged chat is an online interaction with one of Ruby's Chat Specialists that starts when a Customer's website visitor engages a Chat Specialist and ends when (i) the Chat Specialist determines the chat is not company-related, (ii) the visitor closes the chat window, or (iii) the Chat Specialist closes the chat window. 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.

Software Service Fees. Some of our Software is provided to Customers for free while other Software is provided in exchange for a monthly fee payable by the Customer in advance by automatic credit against the credit card provided to us. Such monthly fee is determined by the level and type of Software Services subscribed to. If you are a Software Services Customer and you request to upgrade or downgrade your Software Services subscription level and we agree to the change, the following month's fee will be amended to reflect the agreed upon change.

Free Trial or Money Back Guarantee. A Customer's subscription may start with a free trial or an introductory period during which we give you a money back guarantee. We will not give a Customer a free trial or a money back guarantee if the Customer 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 when you signed up as a Customer. Please note that we will convert your Customer account from a free trial account to a subscription account 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 as a Customer to receive the Services.

Billing and Payment. By signing up as a Customer, you acknowledge and agree to the billing and payment provisions described herein. You are responsible for paying the fees associated with the Services you have selected as described above, 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 Customer. 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. All fees are quoted in United States dollars.

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). You represent and warrant that the payment information you provide to us is correct and accurate and you are using a form of payment that you are legally authorized to use for this purpose. You agree that you are solely liable for any payment or credit card fraud, abuse or unauthorized use by you or others. 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.

You may contact us to upgrade, downgrade or cancel the Services you have selected 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. 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.

Duration and Termination. As a Customer, the duration of your contract with Ruby is 30 days. Ruby may in its sole discretion change the contract's terms or cancel the contract by giving 30 days' notice in writing or as otherwise provided in these Terms. You may cancel the contract with 30 days' notice by contacting Ruby at staff@ruby.com or 866-611-7829. If your contract with Ruby is not changed or canceled as provided herein, it will renew automatically each 30 days. You acknowledge that Ruby's obligations to you under the contract begin anew with each renewal, and that Ruby owes you no obligations beyond each successive 30-day contract period.

We may terminate your contract immediately upon giving notice to you if: (i) we suspect that a request from you or your client, customer or caller interacting with us by telephone, text, live chat, or other Software features (in each case, a "Caller") constitutes or otherwise relates to fraudulent or otherwise illegal activity or to a sexual or otherwise potentially illicit encounter, (ii) you or your

Callers 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. If you cancel your subscription or otherwise terminate your agreement with Ruby, we will retain any fees you paid to us under these Terms unless otherwise set forth in our Refund Policy or herein. If we terminate your subscription and determine you are owed a refund for paid but unused fees, we will refund a prorated amount based on your subscription fee at the time of termination and the number of days remaining in the billing cycle by issuing a credit to your credit card.

Service Access. Ruby will use commercially reasonable efforts to maintain availability of the Services during your subscribed-to Service times. You agree and understand that there will be times when the Services will not be available, such as scheduled maintenance times; outages; emergency maintenance; unavailability caused by software, hardware, other Customers or Callers; and causes beyond our reasonable control. Ruby will make commercially reasonable efforts to notify you of planned downtime and unavailability of the Services. Ruby is not liable for any delays, interruptions, or other transmission errors resulting from any lack of Service, whether or not the cause is mentioned in this paragraph, or any lack of Service caused by your device or your internet or wireless service provider.

Telephone Numbers. When you sign up as a 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 our mobile application, registering or creating a user profile on the mobile application, or submitting information via the mobile application, you acknowledge Ruby's Privacy Notice and you consent to the collection and use of information as described therein. The mobile application is only available to Customers as part of our Services. We reserve the right to amend or withdraw the mobile application at any time and for any reason. If you do not agree with our policies and practices, you should not download or use the mobile application.

To use the mobile application, 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 mobile application. The Software Requirements for Apple iOS devices and Android OS devices can be found on the relevant App Store page. The mobile application software may be upgraded from time to time to add support for new functions and services. The mobile application 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 mobile application. Data and messaging charges may apply to your use of the mobile application or any text messaging or photo sharing features you use via the mobile application. 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 mobile application, you will be assumed to have received permission from the bill payer for using the mobile application.

The mobile application 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

Ruby may use your contact information to communicate with you about your use of our Services. For example, we may send you service announcements or administrative communications by email, phone, text, mail or other means. You understand that you receive these communications as part of your use of the Services, 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 activate a feature of our Software that allows us to send you text messages, per your request, we may contact you via text to test the system, for demonstration purposes, or to troubleshoot. The number of texts that we send to you will be based on your 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.

PRIVACY NOTICE

You acknowledge that you have read and understand our [Privacy Notice](#). You may review our Privacy Notice at any time by visiting our Site and clicking on the Privacy Notice link on each Site.

PROPRIETARY RIGHTS

Unless otherwise expressly indicated, the information contained on this Site and in our other Services, including but not limited to all images, illustrations, designs, photographs, video clips, text, graphics, icons, designs, software code, written information and screens appearing in the Services, and other materials, as well as names, logos, taglines, trade dress, and other trademarks, on the Site or in our other Services, are copyrights, trademarks, trade dress or other intellectual property (collectively, the “**Contents**”) owned, controlled, or licensed by Ruby or its affiliates, or are the property of their respective owners. The Contents are protected by U.S. and foreign copyright, trademark, trade dress, or other proprietary right laws and international conventions. No license to or regarding any of the Contents is granted in connection with your use of the Services. Only a duly authorized officer of Ruby may grant permission or a license to use any of our Contents; any attempted grant or similar promise by anyone other than a duly authorized officer of Ruby is invalid.

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display, download, or print the Contents for the purpose of using the Services as an internal or personal business resource.

Trademarks. The following is a non-exhaustive list of Ruby's registered and/or common law trademarks and service marks: RUBY (word mark); Ruby Logo (in various stylizations); Ruby Service Pyramid; Incent, Inspire, and Empower; Ruby Spelling Alphabet; Ruby Receptionist Graphic; Pure Chat; PureChat.com; PureChat; Artibot.ai Logo; and all logos, trademarks, service marks, product names and trade names associated with Ruby, Pure Chat, or Artibot.ai. Ruby's trademarks, including names, logos, taglines, trade dress, and other trademarks, may not be copied, imitated, or used, whether in whole, partial or modified form, without the prior written permission of Ruby. You may not use any meta tags or any other hidden text utilizing a Ruby name, trademark, or product name without Ruby's prior written permission. Third party trademarks and service marks used in our Services are the property of their respective owners, and we use them with their consent. Ruby and the other licensors of the marks in our Services reserve all rights with respect to all Contents and all intellectual property.

Feedback. You may from time-to-time provide us materials, communications, suggestions, comments, improvements, ideas or other feedback related to the Site or our Services ("**Feedback**"). You hereby additionally grant to us all rights, titles and interests in and to any Feedback. In the event this grant is not sufficient for us to fully realize and use the Feedback, you grant us a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use and incorporate into the Site or our Services any of the Feedback. By providing Feedback, you are representing that the Feedback is not subject to any intellectual property claim by a third party or any license terms which would require products or services derived from that Feedback to be licensed to or from, or shared with, any third party.

ACCEPTABLE USE

As a user of the Site or as a Customer subscribing our Services, you have a revocable, non-transferable, non-exclusive license to access the Site, and, if you are a Customer, use the Software. You agree not to rent, retransmit, disclose, publish, sell, assign, lease, sublicense, market or transfer the Services or any portion thereof (including the Content) or use it in any manner not expressly authorized by these Terms. You further agree not to copy, reverse engineer, translate, port, modify or make derivative works of any portion of the Services. Tampering with the Services, conducting fraudulent activities on the Services and all other illegal activities are prohibited and may subject a user to legal action and/or termination of your access to the Site and/or our other Services.

By using the Services and their features, you represent and warrant that (i) any information you submit to us is truthful and accurate; (ii) you will maintain the accuracy of that information; (iii) you will not do anything that might jeopardize the security of your account; and (iv) you will notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. Any information that you provide to us will also be subject to our Privacy Notice.

Upon termination of these Terms: (a) the rights and licenses granted to you herein shall terminate as to the terminated rights, (b) you shall cease all use of the Services that have been terminated, and (c) Ruby may at its own discretion remove and/or purge data, account information, and any other information obtained by us in connection with providing you the Services. Ruby reserves the right to disable any username, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms.

Restrictions to Your Use of the Services. Using the Services 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, 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.

Any other use of the Contents in the Services including reproduction for purposes other than as noted above, without the prior written permission of Ruby, is strictly prohibited. Without limiting the foregoing, you are strictly prohibited from using the Services: (i) in a manner that violates any applicable law, rule or regulation, including without limitation the U.S. CAN-SPAM Act, the Canadian Anti-Spam Legislation, the U.S. Telephone Consumer Protection Act, or the Children's Online Privacy Protection Act, each as amended from time to time; (ii) to promote any goods or services or send communications that are illegal in the place offered to consumers; (iii) to advertise or promote adult services, illegal gambling, counterfeit or pirated goods or services, or violate any securities or commodities regulations (such as to support a "pump and dump" scheme); (iv) to defraud, deceive or mislead anyone; (v) to communicate or transmit content that is defamatory, dishonest, obscene, sexually explicit, pornographic, vulgar or offensive; (vi) to promote or engage in discrimination, racism, harassment or hate speech against any individual or group; or (viii) to threaten or promote violence.

User Generated Material. Site visitors and users of our other Services may have the opportunity to publish, transmit, submit or otherwise post comments, Feedback, photos, or other materials via the Services ("**User Generated Material**") that may be accessible and viewable by the public or others. 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.

User Generated Material must not (a) misrepresent your identity or affiliation with any person or organization; (b) seek to collect others' Personal Information by any means; (c) seek to transmit chain letters, or bulk or junk email; (d) relate to contests, sweepstakes, or other sales promotions; (e) include information that may be used to track, contact, or impersonate another individual; (f) infringe any intellectual property or other proprietary rights of Ruby or any other person; (g) seek to harm or exploit children; (h) contain any material that is false, defamatory, libelous, obscene, harassing, discriminatory, profane, or otherwise offensive, damaging, unlawful, or harmful; (i) 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; or (j) be otherwise objectionable as determined by Ruby at our sole discretion.

You are solely responsible for your User Generated Material and the consequences of posting it online. You assume all risks associated with dealing with other users with whom you come in contact through the Services, and, to the extent that the law permits, you release us from any claims or liability related to any User Generated Material posted via the Services and from any claims related to the conduct of any other users. We reserve the right, but have no obligation to, monitor, review, screen, post, remove, reject, modify or store User Generated Material at any time and for any reason without notice. We may refuse, alter, or remove User Generated Material without notice for any reason at our sole discretion. We do not endorse any User Generated Material, and the User Generated Material posted does not reflect our opinions, views or advice. We take no responsibility and assume no liability for any User Generated Material that you or a

third party posts or sends on or through the Services, nor do we assume any liability for any action or inaction regarding transmissions, communications or content provided by any user or third party.

In consideration for your use of the User Generated Material features, you grant to Ruby an irrevocable, worldwide, royalty-free, fully-paid, sub-licensable, perpetual license to use, reproduce, make derivative works from, distribute, publish, display, or perform such User Generated Material in whole or in part, by any and all means and media, in connection with advertising, marketing and promoting Ruby, its products and Services. You acknowledge that Ruby may modify the User Generated Material for any purpose. However, Ruby has no obligation to use any User Generated Material, and Ruby's use of any User Generated Material does not create or imply any endorsement of or affiliation with you.

SITE SECURITY

You are strictly prohibited from violating or trying to violate Ruby's security features, 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 the Services or any activity being conducted on via the Services. 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 or other Services other than the search engine and search agents that we make available via the Services 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.

LINKS TO OTHER WEBSITES

Links to websites from the Services are provided solely for your convenience. Ruby is not responsible for the content of any other websites, nor do we make any representations about the content or accuracy of material on any other websites. Inclusion of any linked website on our Site does not imply Ruby's approval or endorsement of the website. Please be aware that when you click on links that take you to external websites, you do so at your own risk and you will be subject to their privacy policies and practices and not ours. Any concerns regarding any such website, service or resource, or any hyperlink thereto, should be directed to the website's owner or operator.

CONSENT TO DO BUSINESS ONLINE

By accessing our Site, signing up for Services or creating an account with us, 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 (i) Ruby communicating with you electronically; (ii) receiving all applications, notices, disclosures and authorizations (collectively, “Records”) from us electronically; and (iii) 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, notices, agreements, disclosures, authorizations and other documents necessary to provide you with the Services. 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. You must have a computer or other web-enabled device, an internet connection, an active email account, and the ability to receive and read PDF files to conduct business with us electronically. You agree to be responsible for keeping your own Records. 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 privacy@ruby.com. Agreements and transactions executed prior to this request will remain valid and enforceable.

DISCLAIMER OF WARRANTIES

YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. RUBY MAKES NO EXPRESS, IMPLIED OR STATUTORY REPRESENTATIONS, WARRANTIES, OR GUARANTEES IN CONNECTION WITH THE SERVICES OR RELATING TO THE AVAILABILITY, QUALITY, RELIABILITY, SUITABILITY, TIMELINESS, TRUTH, ACCURACY OR COMPLETENESS OF THE SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED TO YOU ON AN “AS IS,” “AS AVAILABLE” AND “WHERE-IS” BASIS WITH NO WARRANTY OF IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON- INFRINGEMENT OF THIRD-PARTY RIGHTS. Ruby Does Not Warrant That the Services Will Meet all of Your Requirements or That its Operations Will Be Uninterrupted or Error Free, or That any Defect Within the Services Will Be Corrected. No Oral or Written Information, Representation or Advice Given by Ruby Shall Create a Warranty Without a Writing Signed by Ruby Reflecting the Creation of Such Warranty.

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 HEREIN, RUBY SHALL NOT BE LIABLE TO YOU FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE AGGREGATE OF THE FEES PAID BY YOU TO RUBY FOR SERVICES DURING THE THREE MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY OR, IF NO FEES WERE PAID DURING SUCH THREE MONTH PERIOD, ONE HUNDRED US DOLLARS (\$100), 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 SERVICES 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: (i) these Terms, or the breach thereof, or (ii) your access to or use of the Services, or (iii) 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. 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 and the agreements incorporated by reference herein are the entire agreement between you and Ruby and supersede all prior or contemporaneous negotiations, discussions or agreements between you and Ruby about the Services. The proprietary rights, disclaimer of warranties, representations made by you, limitations of liability and general provisions shall survive any termination of these Terms.

TERMINATION

Except for your contract with Ruby as a Customer, both you and Ruby may terminate the contract formed by these Terms of Use at any time with notice to the other. On termination, you lose the right to access or use the Services. The terms and conditions set forth under the following section headings shall survive termination: Acceptable Use; Disclaimer of Warranties; Limitations on Liability; Class Action Waiver; Dispute Resolution, Binding Arbitration; and General. For the avoidance of doubt, this section does not apply to any contract between Ruby and a Customer, which may only be terminated as provided under the section heading Subscriptions.

TERMS OF USE REVISIONS

Ruby reserves the right to revise these Terms of Use by updating the Terms of Use posted to its website without prior notice. Your continued use of our Services following the posting of changes constitutes your acceptance of such changes. You are advised to periodically visit this page to determine the then current Terms of Use. You further agree that in the event any portion of these Terms of Use are found to be unenforceable, the remainder of these Terms of Use shall remain in full force and effect and the otherwise unenforceable portion shall be amended so as to be enforceable to the greatest extent permitted by law.

CONTACT RUBY

If you have any questions about these Terms, please contact us at privacy@ruby.com or 866-611-7829.