

Terms of Service – Upgrade Genius

About our Terms of Service

Upgrade Genius is a product of Receptio by Syspay SA, a limited liability company organised under the Laws of Switzerland, having its registered office in Rue des Alpes 21, Geneva (Switzerland), Company Registration number CH-660.1.239.012-5

These Terms of Service (these “Terms”) are to be read by you together with any terms, conditions, disclaimers or policies provided on our web site. These Terms apply to your access and use of the Upgrade Genius room upgrade platform, websites, emails, text messages and platform accounts (collectively, the Upgrade Management System, or the “UMS”) owned, operated or provided by Receptio by Syspay SA (“Receptio”, “we”, “our” or “us”) and any feature, content, tools and services accessible by means of the UMS as well as the upgrade of hotel accommodations through the Service.

The UMS and these services are collectively referred to as the “Service.” These Terms do not alter in any way the terms or conditions of any other agreement you may have with Receptio (or any part thereof). If you are using the Service on behalf of an entity, you represent and warrant that you are authorised to accept these Terms on the entity’s behalf, and that the entity agrees to be responsible to Receptio if you violate these Terms.

Your use of the Service is conditioned upon the version of these Terms in force at the time of your use. We reserve the right to change these Terms at any time and you waive any right you may have to receive specific notice of such changes or modifications. All changes to these Terms are effective immediately when we post them and apply to use of the UMS and Services thereafter. If you continue to access or use the Service following our posting of any changes to these Terms, we will consider that you have accepted the changes. Therefore, you must regularly review these Terms to ensure you understand the terms and conditions that apply to your access and use of the Service. If you do not agree to the changed Terms, you must stop accessing or using the Service.

1. Grant and Restrictions

Subject to the terms, conditions and limitations set forth in these Terms, Receptio grants you a non-exclusive, non-transferable and revocable right to use the UMS and this Service. The terms of the license will also govern any upgrades provided by Receptio that replace and/or supplement the original UMS, unless the upgrade is accompanied by separate Terms of Service, in which case the terms of that service will govern.

You will not do, and will not authorize or permit any third party to do, any of the following: (i) rent, lease, lend, sell, redistribute or sublicense the UMS; (ii) copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify or create derivative works of the UMS, any updates or any part thereof (except as and only to the extent any of the foregoing restrictions are prohibited by applicable law) or (iii) remove, alter or obscure any copyright, trademark or other proprietary rights notice on or in the UMS. If you violate any of the foregoing restrictions, your right to use of the UMS will immediately cease, and you will have infringed the copyright and other rights of Receptio, which may subject you to prosecution and damages. Receptio reserves all rights not expressly granted to you in these Terms.

2. Definitions

In these Terms of Service, the following words have the meaning set out beside them:

- “Account” means your online stored value account, which holds information about you and/ or the business you represent;
- “Confidential Information” means all business or technical information of the Discloser, whether it is received, accessed or viewed by the Recipient in writing, visually, electronically or orally. Confidential Information includes the terms in these Terms of Service. The recipient of these Terms of Service (“Recipient”) hereby agrees to take all reasonable measures to maintain the confidentiality and secrecy of the Confidential Information of Receptio (the “Discloser”) and to avoid its disclosure. Recipient agrees to limit access to the Confidential Information to authorised employees and outside advisors, such as accountants and lawyers, who have a substantial need to know the Confidential Information. Confidential Information will not include any information to the extent that it: (a) is or becomes publicly available through no act or omission on the part of the Recipient; (b) is disclosed to Recipient by a third party having no obligation of confidentiality with respect thereto; (c) is released from confidential treatment by written consent of Discloser; or (d) is required to be disclosed by applicable law or regulation; provided however, if Recipient is required to disclose the Confidential Information or any part thereof to a tribunal or governmental or regulatory agency, then unless Recipient is restricted by law or order, it will notify Discloser prior to such disclosure to allow it to obtain protective orders maintaining the confidentiality of such information;
- “Guest” means any individual representing themselves and/ or a business, who are using the Upgrade Genius Service in order to bid for and win an upgrade to their existing booking of accommodation with a Supplier;
- “Member/You/Customer/Client” means any person who meets all eligibility requirements set out in these Terms of Service;
- “Receptio” and “We”, “Our”, “Us” means Receptio By Syspay SA, a limited liability company incorporated under the Laws of Switzerland, having its registered office address at Rue des Alpes 21, Geneva (Switzerland), bearing Company Registration number CH-660.1.239.012-5;

- “Service Fee” means a Schedule of Fees mentioned on the Upgrade Genius Solution Service Agreement and any fees which may be published on our website from time to time;
- “Supplier” means any business registered with Upgrade Genius and making use of the facilities provided by Upgrade Genius to offer their guests a possibility to bid for a room upgrade to an already existing future dated reservation, at a favourable price;
- “Upgrade Genius” means a product developed and operated by Receptio by SysPay SA, which allows hotel guests to bid for an accommodation upgrade by naming their own price and bidding against other guests who booked a room at the same dates. Upgrade Genius is a tool offered to hoteliers and provides a user interface, allowing selection of winning bids and automatic billing of the upgrade charges. These Terms of Service shall apply to all Members;
- “Upgrade Genius Service” or “The Service” or “Upgrade Management System” mean the room upgrade platform, websites, emails, text messages, user accounts and upgrade management platform (collectively, the Upgrade Management System, or the “UMS”) owned, operated or provided by Receptio by Syspay SA (“Receptio”, “we”, “our” or “us”) and any feature, content, tools and services accessible by means of the UMS as well as the upgrade of hotel accommodations through the Service;
- “Upgrade Genius Website” means the <https://upgradegenius.com/> website, or such other website through which Receptio may offer the Upgrade Genius Service from time to time;

3. Agreement between Receptio and the Supplier

In order to use the Receptio Service you must be an individual, business or organisation (through its duly authorised agent) that can enter into a legally binding contract under applicable law of Switzerland. You may not use the Service and may not accept the Terms of Service if You are under the age of 18 or are not authorised to enter into such a contract. If contrary to these requirements You continue to create an account or use the Service, these Terms of Service will still apply. The Upgrade Genius website, Upgrade Management System and the Upgrade Genius Service, are operated by Receptio By Syspay SA, a limited liability company organised under the Laws of Switzerland, having its registered office in Rue des Alpes 21, Geneva (Switzerland), which offers hospitality dedicated technologies

These Terms of Service constitute a legal agreement (“Agreement”) between the sole proprietor or business entity or business organisation listed as the “Supplier” throughout these Terms and (sometimes referred to as “you,” “your”, “user”) and Receptio by Syspay SA (referred to as “we,” “our” or “us”). We are entitled to amend these Terms of Service at any time; therefore, You are required to review the Terms and Conditions prior to making use of the Service. Your use of the Service will automatically signify your intention to be bound by the amended Terms of Service. We will notify You of Our acceptance of Your registration by sending a digital version of a customised Upgrade Genius Solution Service Agreement copy to the email You have provided during registration.

4.The Upgrade Genius Service

The Upgrade Genius Service is a revenue generating tool, offered to hospitality Suppliers. The Upgrade Genius Service allows hoteliers to sell their cheapest rooms at excess while offering accommodation upgrades to guests with upcoming bookings. Once a Guest confirms their booking, Upgrade Genius sends an offer to the Guest to bid for a room. Guests may offer any bid amount they see proper. Only one upgrade per bid is permitted. Prior to the Guest's arrival, the Supplier must select the winning bid(s) posted by the Guest(s) through the Upgrade Genius platform. Upgrade winners are charged the amount they have agreed to pay for the upgrade. A charge is then automatically posted to their payment card for the total of their stay. Guests are notified over email about the results of the upgrade bids. Winners whose cards are charged with the upgrade amount receive also a payment ticket, detailing the affected charge.

In the common interest of both Parties and to keep Upgrade Genius attractive for Guests, Receptio and the Supplier commit to abide by the following principles:

- "Good Deal Guarantee": Supplier commits to provide any Guest with an overall upgrade package with a market value that exceeds at least 50% of the Guest's bid ;
- "Satisfied or refund Guarantee": Supplier commits to immediately refund the Guest's bid if he finds the upgrade inappropriate.

5.Your Upgrade Genius Account

In order to use the Upgrade Genius Service you must register an account with Upgrade Genius. You must be 18 years or older to use the Service and you must be authorised by the business you represent to open an account with Upgrade Genius and maintain/ operate that account and the data provided in it. By opening an Account you represent and warrant to us that your opening of an Account does not violate any laws or regulations applicable to you. You shall indemnify us against any losses we incur in connection with your breach of this section. You warrant that all information you provide during the signup process or at any time thereafter is accurate and truthful for all intents and purposes. You warrant that should changes in your registration details occur, you will immediately inform Receptio and will provide upon request supporting documentation to verify these changes. In addition to these Terms of Service, you shall be bound by the Upgrade Genius Solution Service Agreement and you shall pay fees as agreed within the Agreement accordingly.

6.Redemption of Funds

You have the right to receive redemption of funds (settlements) from your Upgrade Genius Account, depending on your Account, however, you will be required to confirm your identity beforehand. Settlements consist of all accepted and successfully paid bids for upgrade of accommodation.

Winning bids will only be settled 7 days after the checkout date of the Guest and provided that the Guest did not request a reversal or chargeback of the paid amount or did not request a reimbursement of their bid due to booking cancellation, unsatisfactory room conditions or else any other reasons which may apply. Settlement fees apply to every settlement and are in accordance with the Schedule of Fees you have agreed to.

You may not assign or transfer your Upgrade Genius Account to a third party or otherwise grant any third party a legal or equitable interest over it. Receptio reserves the right to suspend any transaction on Your Upgrade Genius Account where this is necessary, in Receptio's sole and absolute discretion, in order to comply with any applicable laws and regulations and any conditions to which our financial partners licence(s) is/are subject.

7.Maintenance of the Upgrade Genius Account

You must ensure that the information recorded on your Upgrade Genius Account is always accurate and up to date and we shall not be liable for any loss arising out of your failure to do so. We may ask you at any time to confirm the accuracy of your information or to provide documents or other evidence. We may contact you by e-mail or in various other ways with information or notices regarding your Upgrade Genius Account. It is your responsibility to regularly check the proper functioning of your e-mail account or other methods of communication that you have registered with your Account and to retrieve and read messages relating to your Account promptly. We shall not be liable for any loss arising out of your failure to do so. You should report any irregularities or clarify any questions you have as soon as possible by contacting Us. You are responsible for keeping Your Identification details and any payment details confidential. We shall not be liable in any manner whatsoever, for any unauthorised use of the Your identification details, payment details or of the You account by any third parties, unless such unauthorised use has occurred due to gross negligence on our part.

8.Complaints and communications

Contact Receptio First. If a dispute arises between you and Receptio in relation to the Upgrade Genius Service, our goal is to learn about and address your concerns and, if we are unable to do so to your satisfaction, to provide you with a neutral and cost effective means of resolving the dispute quickly. Disputes between you and Receptio regarding this Service may be reported to Us at any time. ECC-Net, Consumer Complaints. If you have a complaint to make about us, you may choose to escalate it by contacting one of the following: European Consumer Centre (ECC-Net).

You may obtain further information regarding the ECC-Net and how to contact them at (http://ec.europa.eu/consumers/redress_cons/)

9. Governing Law and Jurisdiction

These Terms of Service shall be governed by and interpreted in accordance with the Laws of Switzerland and the Parties hereby submit to the exclusive jurisdiction of the Courts competent according to the Supplier's head office location (Geneva). No Waiver. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. Indemnification/re-imbusement. You agree to defend, reimburse or compensate us (known in legal terms to "indemnify") and hold Receptio, our other companies in our corporate group, the people who work for us or who are authorised to act on our behalf, harmless from any claim or demand (including legal fees) made or incurred by any third party due to or arising out of your or your employees' or agents' breach of these Terms, breach of any law and/or use of the Services.

10. Fees

The Supplier agrees and undertakes to pay the fees and commissions set forth in the Schedule of Fees of the Upgrade Genius Solution Service Agreement. Transaction related fees can be viewed at any time in the Schedule of Fees section on your Merchant Agreement. You should print or download and keep a copy of the Fee section together with a copy of these Terms of Service. Fees are subject to change in accordance with our fee schedule. Under certain circumstances we may charge additional fees. Your transactions may be subject to currency conversions. In addition, we may apply a foreign exchange fee, which is expressed as a percentage applicable in addition to the transaction fee. Our Fees are either expressed as a percentage of the transaction or as a fixed amount in EUR. Where fixed fee amounts are displayed in a currency other than EUR, this is for information purposes only. If fees are deducted from a balance or a transaction denominated in a different currency, the EUR fee amount will be converted into an equivalent fee in that other currency based on the conversion rate applicable at the time and then deducted. Winning Bid Transaction fees payable by you will be deducted from the total amount of the winning bids. Chargebacks, chargeback or refund fees will be applied to the total amount of the accepted winning bids. We will issue monthly invoices detailing all the fees applicable for the period. The amount due will be either directly debited from your SEPA Bank account, as per existing SEPA Direct Debit Agreement, or paid off from your existing accepted winning bids. You agree to repay any negative balance, debt or additional charges not covered by the amount of your accepted winning bids via SEPA Direct Debit or Bank Credit instructed to Receptio by Syspay SA. Failure to do so is a breach of these Terms of Service.

Repayment of the negative balance is due immediately without notice, however, we reserve the right at any time to send you reminders that you need to upload funds or to take other debt collection measures including but not limited to mandating a debt collection agency or solicitors or to pursue the claim in court. We reserve the right to charge you expenses we have reasonably incurred in connection with any debt collection or enforcement efforts.

11.Security

In accordance with applicable data protection laws, Receptio maintains appropriate administrative, technical, organisational and physical procedures to protect all personal information regarding you and your customers that is stored in our servers from unauthorised or unlawful processing and accidental loss, destruction or damage. You understand and acknowledge that you shall use appropriate technical and organisational security measures against unauthorised or unlawful transmission, storage and/ or processing of card account data and/ or personal data as may be applicable and against accidental loss or destruction of, or damage to, such card account and/ or personal data.

12.Breach of these Terms

If you breach these Terms, Receptio reserves the right to suspend and/or terminate the use of the Upgrade Genius Service. By way of example and not of limitation, if we conclude that you have repeatedly infringed the intellectual property rights (for example, copyrights, trademarks, patents, rights in confidential information) of Receptio or its Partners, or that you are inducing, permitting, or knowingly assisting others to do so, we have the right to immediately terminate your use of the Service.

13.Term

The Agreement is effective upon the date you agree to it (by electronically indicating acceptance) and continues until terminated by you or by Receptio.

14.Termination

You may terminate these Terms by contacting Receptio. Receptio may terminate these Terms and the use of the Service effective immediately if (i) we determine in our sole discretion that you are ineligible for the Service because of the risk associated with your use of the Service, including without limitation significant data compromise or fraud risk, or for any other reason; (ii) you do not comply with any of the provisions of these Terms, or (iii) upon request of a Card Network or a card issuer, or (iv) where We are required to do so by law (for example, where the provision of the Service to You is, or becomes, unlawful). Receptio may also terminate these Terms by providing you with sixty (60) calendar days notice unless the provision of notice is legally prohibited or would compromise reasonable security measures and payment of any unrestricted funds held in custody, where (v) We are no longer providing the Service to users in the country in which You are resident or from which You use the Service; or (vi) the provision of the Service to You by Us is no longer commercially viable. Redemption of funds: Redemption of all stored funds on termination shall be made in accordance with section 5, entitled "Redemption of Funds". Redemption will be made to the bank account details as indicated by You.

We may keep any existing funds for up to 180 days after the Account closure as a collateral for future obligations arising from customer complaints, chargebacks, refunds or any penalties, which may be imposed to Receptio in relation to your activity.

15. Limitation of Liability

By accepting these Terms of Service, you agree that Receptio is not responsible for the accuracy, validity or otherwise content of the information accessible via the Upgrade Genius Service. In no event shall Receptio be liable for any lost profits, loss of data, loss of revenue, loss of savings or any other pure economic loss or for any indirect, punitive, incidental, special, consequential or exemplary loss or damages arising out of, in connection with or relating to these Terms or the Service, including without limitation the use of, inability to use, or unavailability of the Service. Under no circumstances will Receptio be responsible for any damage, loss or injury resulting from hacking, tampering or other unauthorised access or use of the Service or the information contained therein. Receptio assumes no liability or responsibility for any (a) personal injury or property damage, of any nature whatsoever, resulting from your access to or use of the Service; (b) any unauthorised access to or use of servers used in connection with the Service and/or any and all personal and/ or account data stored therein; (c) any interruption or cessation of transmission to or from the Service; (d) any software bugs, viruses, Trojan horses, or other harmful code that may be transmitted to or through the Service; (e) any errors, inaccuracies or omissions in any content or information, for any loss or damage incurred as a result of the use of any content or information, in each case posted, emailed, stored, transmitted, or otherwise made available through the Service; and/or (f) user content or the defamatory, offensive, or illegal conduct of any third party. This limitation of liability section applies regardless of the legal theory on which the claim is based, including without limitation contract, tort (including negligence), strict liability, or any other basis. The limitations apply even if Receptio has been advised of the possibility of such damage. The provisions of these Terms apply to the fullest extent permitted by law in the applicable jurisdiction.

16. Indemnities

You shall indemnify, defend, protect and hold Receptio and its respective representatives harmless from and against any losses arising from:

- Provision of the Services contemplated under these Terms in manner, which infringes or violates the intellectual property rights or other rights of any third party;
- Any acts or omissions of their employees, directors, officers or agents in respect of any claim whether or not such act or omission constitutes a breach of these Terms;
- The provision of the Services or any failures whatsoever in respect thereto, whether leading to a failure of Receptio in the provision of the Receptio Services or otherwise;
- Any failure to comply with any of their obligations under these Terms, or the failure of any warranty or representation made true and correct;
- Any negligence, misrepresentation or willful misconduct on the part of You or any of your employees or agents;

- Loss or theft of any cardholder data by or from Receptio You shall indemnify and keep indemnified Receptio and shall hold Receptio harmless, from and against all losses incurred or suffered by Receptio arising as a result or otherwise in connection with the provision of the Upgrade Genius Services to You.

This indemnity shall survive indefinitely even subsequent to the termination of these Terms by either party and for any reason.

17. Representation and Warranties

You represent and warrant to us that: If you are a natural person, you are at least eighteen (18) years of age;

- You are eligible to use the Service and have the right, power, and ability to enter into and perform under these Terms;
- You will resolve any consumer dispute or complaint directly with the card holder;
- You and all actions initiated by you will comply with all laws, rules and regulations applicable to your business;
- You will not use the Service, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Service.

You represent and warrant to Receptio as of the date hereof and throughout the Term that:

- If You are a company, it is a company validly incorporated and existing under the laws of the country of incorporation;
- You have all the requisite powers to execute and deliver these Terms and to perform its obligations;
- You shall possess and continue to possess all and any authorisations, licenses, approvals, registrations and consents from all relevant authorities, governmental bodies, or other regulatory bodies as are necessary or desirable to enable You to fully and effectively discharge Your obligations under these Terms and remain in full force in all respects;
- You shall perform your obligations under these Terms exercising all reasonable skill and care expected and that You shall act in good faith in the performance of the Services;
- You have at all times operated in compliance with all applicable Requirements of the Law;
- You are fully compliant with the Card Schemes/Association rules, as amended from time to time; You will not do or omit any act or thing which would place or would likely place Receptio in breach of the Association rules or any Requirements of the Law;
- You shall immediately notify Receptio if You become aware of any suspected or confirmed loss or theft of any cardholder data from either You or Receptio.

18.No Warranties

The Service and all accompanying documentation are provided on an “as is” and “as available” basis, without any warranties or conditions, either express, implied, or statutory, including without limitation any implied warranties of satisfactory quality, fitness for a particular purpose, and non-infringement. No advice or information, whether oral or written, obtained by you from or through the Service or from Receptio will create any warranty. You specifically acknowledge that Receptio has no control over the products or Services that are accessed by the use of this Service and Receptio cannot warrant that the information we provide or that is provided through the Service is accurate, reliable or correct; that the Service will meet your requirements; that the Service will be available at any particular time or location, that the Service will function in an uninterrupted manner or be secure; that any defects or errors will be corrected; or that the Service is free of viruses or other harmful components. Any subject matter downloaded or otherwise obtained through the use of the Service is downloaded at your own risk and you will be solely responsible for any damage to your property or loss of data that results from such download. Receptio does not warrant, endorse, guarantee, or assume responsibility for any product or Service advertised or offered by a third party through the Service or any hyperlinked website or Service, or featured in any banner or other advertising

19.Privacy and data

The processing of your data is governed by our Privacy Policy which also can be found on our website. By accepting these Terms of Service, you also agree to the terms of our Privacy Policy. You should print and keep a copy of the Privacy Policy together with these Terms of Service. Receptio collects, stores and processes your data in accordance with the Federal Act of 19 June 1992 on Data Protection (FADP) in Switzerland, We store no data outside the European Economic Area (EEA), however, in order to provide you with certain cross border services we may have to share your data with entities outside the EEA. By making payments to or by accepting payments from persons or entities outside the EEA, you consent to our sharing of your data with entities outside the EEA as far as this is reasonably necessary for the proper execution of payments or provision of our services. If you detect any error in the data we hold on you, you should correct the data in your Account profile or, where this is not possible, by contacting Us. As a default, you will receive e-mail newsletters that will inform you about new product features, events, promotions, special deals etc. By accepting these Terms of Service, you agree to receive such e-mail newsletters on a regular basis. If you do not wish to receive any newsletters from us, you can opt out at any time by contacting Us. Any e-mail newsletter you receive will also give you the option to unsubscribe from any future newsletter. After termination of your Upgrade Genius Account for any reason, we will continue to hold your personal Account data for a period of five (5) years or such other period as prescribed by applicable law.