

Terms & Conditions (version 29 march 2024)

1. General

- 1.1 “RevControl” referred to in these terms & conditions is RevControl B.V. with offices at Jan Smitzlaan 9, 5611 LD Eindhoven, The Netherlands registered at the Chambre of Commerce Eindhoven under nr. 91423686. The “Customer” referred to in these terms & conditions is the company that has ordered Services from RevControl via a separate commercial agreement. RevControl and Customer are jointly referred to as the “Parties”, and each a “Party”.
- 1.2 These Terms & Conditions shall apply to all Services performed by RevControl for the Customer. These Terms & Conditions are an integral part of the Agreement between RevControl and the Customer.
- 1.3 In case of contradiction between any terms in the Commercial Agreement and these Terms & Conditions, the Commercial Agreement shall prevail.
- 1.4 No exemption, waiver or modification of the Agreement or Terms & Conditions shall be binding unless expressly agreed upon in writing and signed by a duly authorized representative of RevControl. Any terms introduced or referred to by the Customer shall only apply if approved by RevControl in writing.

2. Services

- 2.1 RevControl provides analyses on data obtained from the Customers property management system (PMS) and rate shopping data obtained via a third party API from online travel sites. Both datasets are used by RevControl's proprietary algorithm to calculate rate recommendations.
- 2.2 The frequency the data from the Customers PMS is updated is dependent on which PMS the Customer uses.
- 2.3 The frequency the rate shopping data is updated is dependent on the third party supplier used. In the unlikely event rate shopping data is not available or updated, the rate recommendations are based on RevControl's analyses of the data obtained from the Customers PMS solely.
- 2.4 RevControl shall perform its Services to the best of its abilities, and it is the intention that the Customer's room revenue will increase by the use of the Services. It is expressly noted that RevControl does not undertake any warranty that the use of the Services will lead to any revenue increase or other anticipated positive result.
- 2.5 The Customer is free to decide to accept the rate recommendations proposed by RevControl. The rate recommendations can be delivered to the pms or channel manager manually or automatically by using the AutoPublish functionality. The use of the AutoPublish functionality means the Customer gives prior acceptance of the rate recommendations.

3. Intellectual Property Rights

- 3.1 The Customer acknowledges and agrees that RevControl owns all right, title and interest in and to the Service and any documentation, training materials, designs, discoveries, feedback, inventions, know-how, techniques, fixes, patches, work-arounds, upgrades, updates, customizations, modifications, enhancements or derivative works of the Service (collectively the “Intellectual Property”). The Customer is granted no title or ownership rights in any Intellectual Property Rights in and to the Service. The Customer shall not remove, alter, or cover any copyright notices or other proprietary rights notices placed or embedded by RevControl on or in any Service.
- 3.2 The Customer shall not, and shall not authorize or assist any third party to
- reverse engineer, disassemble, or decompile the Service or otherwise derive or attempt to derive the source code for the Service, except as otherwise expressly permitted by applicable law that may not lawfully be excluded by agreement between the parties;
 - frame, mirror or make unauthorized copies of the Service; or
 - use the Service for the benefit of The Customer, or to support any third party.

4. Confidential Information

- 4.1 “Confidential Information” means all confidential information disclosed by a party (“Disclosing Party”) to the other party (“Recipient”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes without limitation,
- diagnostics, the Service, Service releases, documentation or materials supplied by RevControl; and
 - materials and information marked with a proprietary or confidential legend and disclosed by The Customer or RevControl in the performance of this Agreement.
- 4.2 The Recipient must keep a disclosure confidential using the same degree of care that it exercises with respect to its own information of like importance but in no event less than reasonable care, and may use it only for the purposes for which it was provided under the Agreement. Confidential Information may be disclosed only to employees, contractors and third party providers performing services in furtherance of this Agreement that are obligated to the Recipient under similar confidentiality restrictions and only for the purposes for which it was provided under the Agreement.
- 4.3 These obligations do not apply to information which:
- is rightfully obtained by the Recipient without breach of any obligation to maintain its confidentiality;
 - is or becomes known to the public through no act or omission of the Recipient;
 - the Recipient develops independently without using Confidential Information of the other party; or
 - is disclosed in response to a valid court or governmental order, if the Recipient has given the other party prior written notice and provides reasonable assistance so as to afford it the opportunity to object. The disclosing party is entitled to appropriate injunctive relief in the event of any unauthorized disclosure or use of its Confidential Information by the receiving party.

4.4 The obligations of the parties pursuant to this Section 5 shall survive the termination or expiration of this Agreement for a period of two (2) years, and indefinitely as to trade secrets of the Disclosing Party.

5. Term and Termination

5.1 Term and termination conditions are specified in a separate commercial agreement between RevControl and the Customer.

5.2 RevControl shall at all times have the right to terminate the Agreement with immediate effect if the Customer has not complied with the payment terms specified in article 6.

5.3 Upon termination of the Agreement RevControl shall deactivate the System and the Customer shall no longer have access to it.

6. Fees and Payment

6.1 The fees for RevControl's Services are specified in the separate Commercial Agreement and are invoiced in advance monthly or yearly depending on the chosen payment interval.

6.2 RevControl provides, and will develop, add-on functionalities which may not be included in the contracted subscription plan. These functionalities will be available for a supplement on the contracted monthly/yearly fees.

6.3 PMS migration entitles RevControl to charge an additional one-time migration fee per property since it requires a new onboarding.

6.4 Any variable charges for API calls from the PMS provider used by the client hotel will be charged onward to the client by adding monthly Interface Fees to the invoice.

6.5 Invoicing starts from the day the system is made available to the Customer

6.6 A payment term of 14 days after the invoice date applies.

6.7 When the payment term is not adhered to, RevControl reserves the right to restrict the access to the system until full payment of all outstanding invoices is received.

7. Limitation of Liability

7.1 *Indirect Damages.* Neither party will be liable for any indirect, punitive, special, incidental or consequential damages arising out of this agreement (including, without limitation, loss of business, revenue, profits, goodwill, use, data or other economic advantage) however they arise, whether in breach of contract, breach of warranty, or in tort, including negligence, and even if that party has previously been advised of, or could reasonably have foreseen, the possibility of such damages. Liability for damages will be limited and excluded, even if any exclusive remedy provided above fails of its essential purpose.

7.2 *Direct Damages*. Except for indemnification claims and breaches of a party's confidentiality obligations herein, each party's aggregate liability to the other for claims arising out of or relating to this Agreement, whether for breach or in tort, is limited to the amount of fees paid the preceding twelve-month period. Notwithstanding the foregoing, RevControl shall have no liability to the Customer whatsoever.

8. Collection of data

8.1 The Customer agrees that RevControl may collect and use information gathered from the Customer's PMS in order to perform its Services to the Customer as well as to improve the Services in general. It is the Customer's responsibility that the information that RevControl is having access to shall not, directly or indirectly, be related to an identified or identifiable person. However, to the extent that the collected information constitutes Personal Data, RevControl shall be the controller of such Personal Data.

8.2 The Parties acknowledge that if the Customer is providing Personal Data to RevControl through its PMS that RevControl is processing Personal Data for the purpose set out in Section 8.1 based on RevControl's legitimate interest to fulfill its contractual obligations towards its Customers. Any processing of Personal Data shall take place in accordance with applicable data protection laws and regulations. RevControl will not transfer Personal Data to any third party and will not store any Personal Data after processing the PMS data.

8.3 In relation to processing of Personal Data for the purpose specified above, (i.e. where RevControl is the controller of the Personal Data), Customer ensures that all data subjects are provided with adequate information. The Customer shall indemnify RevControl for any and all damages due to non-compliance with this Section 8.

9. Limitation of the Services

9.1 The Customer is aware that the Services may be interrupted and delayed due to unforeseen technical issues and during updates of the software. RevControl shall at all time provide any information available regarding such interruption.

9.2 RevControl is not a storage service. The Customer agrees that RevControl have no obligation to store, maintain or provide a copy of any content or information that the Customers or others provide. The data used for it's reports and algorithms is stored for a limited time on the servers of RevControl. The storage period is a maximum of 3 years, and may be changed without prior notice.

10. Miscellaneous

10.1 **Governing Law.** This Agreement and any action related thereto will be governed and interpreted by and under the laws of the Netherlands.

10.2 **Notifications.** Notifications and communications between parties shall be sent to the addresses given in the preamble of the agreement. Any change of address shall be communicated to either party at least ten days in advance of the date it comes into effect. Any communications or

notifications sent to the addresses given in this agreement shall be considered correctly sent and valid in the event that the aforementioned notice is not respected.

10.3 Changes and additions. RevControl may modify these Terms and Conditions from time to time. If any material changes are made to it, RevControl will provide the Customer with notice through our Service, or by other means, to provide the Customer the opportunity to review the changes before they become effective. If the Customer continues to use the Services after this notification this means that the Customer is consenting to the updated terms.

10.4 Marketing. RevControl lists its clients on its website and may do so in any other marketing materials. Signing of the commercial agreement is considered a declaration of no objection.