Guide ID Terms

These terms apply to all services of Guide ID regarding the Podcatcher platform. The Podcatcher platform includes the Podcatcher handsets and the online Podcatcher Platform.

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Article 1  Applicability

1.1 These terms apply to all offers by Guide ID BV (hereinafter: Guide ID) and to all agreements and other legal relationships between Guide ID and the client. These terms also apply to additional agreements and to new agreements with the client.

1.2 These terms are easily electronically accessible on the Guide ID website (www.guideid.com) and shall be sent upon request without delay and at no cost.

1.3 Terms and conditions applied by the client are explicitly rejected by Guide ID and are not part of the agreement, unless otherwise agreed upon in writing.

Article 2  Formation of the agreement

2.1 Offers from Guide ID are without obligation.

2.2 The agreement with the client is formed by oral or written acceptance by Guide ID of an Order Form signed by an authorized officer of the client. In the case of oral acceptance, Guide ID shall confirm the acceptance in writing.
2.3 For the purpose of these terms, an electronic message shall be deemed equivalent to a written notice.

**Article 3** Use of the products

3.1 For the use of the Podcatcher platform, Guide ID rents out to the client and the client rents from Guide ID the Podcatcher handsets, docking stations, IDentifiers and other products that the parties have agreed upon. Guide ID provides the number of products that have been agreed upon.

3.2 During the agreement, the client can request an additional number of products. Depending on the availability, Guide ID shall meet such requests if it is reasonable to expect that the additional number of products is necessary to meet the demand of the visitors of the client.

3.3 The Podcatcher handsets and other products are exclusively made available for use by the client at the agreed upon location for providing Podcatcher handsets to visitors. The client is not authorized to use the products for any other use. The client is not authorized to change the products or to add or remove any part of the products.

3.4 The client shall act as a good and responsible renter and treat the products made available by Guide ID with all due care. The client shall take the appropriate measures to prevent damage and shall actively and carefully follow the specifications and instructions of Guide ID regarding the use of the products. The client is liable for the use of products by employees and visitors.

3.5 Information and data files that are stored in the products, such as log files and user information, belong to Guide ID and can, at all times, be accessed by Guide ID. If agreed upon, Guide ID will provide the client access to (part of) this data.

**Article 4** Delivery of the products

4.1 The products rented by the client shall be sent to the client by Guide ID in a way determined by Guide ID. The cost of shipping is charged to the client.

4.2 The client shall prepare the location and install the products upon delivery according to the instructions and manuals of Guide ID. Guide ID can be reached by telephone to assist the...
installation remotely. Guidance of the installation at the location of the client and training in use of the products can be purchased on an hourly basis. Guide ID cannot be held liable for delivered products that do not function or partially function if the client has not properly prepared and equipped the location and has not installed the products according to the instructions and manuals.

4.3 At the client’s request, the Podcatcher handsets can be provided with a label. The client guarantees that the use of images and other information that the client provides to Guide ID for that purpose, does not breach any rights of third parties. The client indemnifies Guide ID from all claims of third parties in that respect.

4.4 Guide ID retains the legal ownership of the rented products at all times. The client is not authorized to rent, sub-rent or provide the products to third parties other than visitors as part of giving a tour.

Article 5 Obligations of the client

5.1 The client is obliged to follow the instructions and directions provided by Guide ID with regard to the installation and the use of rented products.

5.2 The client shall use its own Windows computer or rent a computer from Guide ID to function as a synchronization computer for the Podcatcher platform. With this synchronization computer, tours can be loaded onto the Podcatcher handsets via the docking station and changes to the tours can be synchronized. The client is obliged to keep the synchronization computer that is used for the Podcatcher platform available, provide it with power and connect it to the internet with an internet cable (no Wi-Fi) at all times; that is 24 hours a day, 7 days per week, throughout the entire year. The client is also obliged to place all of the Podcatcher handsets in the docking stations every night and to connect the docking stations to both the power supply and to the synchronization computer that is used for the Podcatcher platform.

5.3 Non-compliance with the obligations stated in Article 5.2 is considered to be a default that justifies suspension of the obligations of Guide ID or termination of the agreement.

5.4 The client shall actively offer visitors the Podcatcher handsets in a visible way and have sufficient personnel available to offer the Podcatcher handsets to visitors; to hand them out and take them back. The availability of the Podcatcher handsets for tours shall be clearly stated at the register and
on price lists. The client shall further report the availability of the Podcatcher handsets on the website of the client and on and in other promotional materials that are used by the client.

**Article 6  Lost, stolen and damaged products**

6.1 The client is responsible for the security of the products that are provided to the client by Guide ID. Use of the Warning IDentifiers does not guarantee that products will not be lost or stolen. Loss and theft of products from Guide ID is for the account of the client. The client is obliged to report loss and theft to Guide ID in writing. The client shall also replace all lost and stolen products within a term of 30 days against payment of the applicable replacement fees plus shipping costs.

6.2 The client is obliged to report any damage to products made available to the client by Guide ID in writing. Guide ID shall repair these products within a reasonable time period at its own cost, unless the damage can be attributed to the client. Damage to products can be attributed to the client in case the damage occurred as a result of culpable failure to comply with the obligations of the client as set out in these terms. Should the damage be attributed to the client and repair not considered meaningful in the opinion of Guide ID, Guide ID shall replace the products and the applicable replacement fees and the shipping costs shall be charged to the client.

6.3 The definition of damage is a defect, meaning a condition or characteristic of the product, whereby it cannot be used in the way the client may expect of a well-maintained product to which the agreement applies.

**Article 7  Use of the online Podcatcher Platform**

7.1 Guide ID grants the client a non-exclusive, non-transferable and non-sublicenseable license during the duration of the agreement to use the online Podcatcher Platform to maintain and develop content for the tours. The license is applicable for an unlimited number of tours and languages.

7.2 In the online Podcatcher Platform, content can be uploaded and developed that can be loaded onto the Podcatcher handsets as intended in Article 5.2. Content in the online Podcatcher Platform is not uploaded to the Podcatcher handsets and synchronization is not possible if the client does not meet the obligations stated under Article 5.2.
7.3 The content made in the online Podcatcher Platform can, if required, also be published in the Guide ID App. This App is available for iOS and Android.

7.4 The client shall provide the names of the employees that are required to use the online Podcatcher Platform. The use of aliases in user names is not permitted. Login details are personal and shall be treated as strictly confidential. It is not permitted to post login details on publicly accessible places or to provide these to third parties unless explicitly permitted, in writing, by Guide ID. Should the client have the impression that unauthorized persons have or can obtain access to the online Podcatcher Platform, it shall directly report this to Guide ID.

7.5 The client shall make a copy of all content uploaded and developed in the online Podcatcher Platform and keep it available in their own systems. The online Podcatcher Platform is not intended to function as a storage or archiving platform.

7.6 The client shall not develop or upload content that is punishable by law, or unlawful, or that violates the rights of third parties. The client guarantees that it is authorized to post the content.

7.7 Guide ID is authorized to reproduce and edit the content in the online Podcatcher Platform and make it public to fulfill the agreement. The client guarantees that Guide ID does not violate the rights of third parties as a result thereof and indemnifies Guide ID against all claims of third parties in that respect. Guide ID is also authorized to use parts of the content of the client for the promotion of its services unless the client communicates, in writing, to Guide ID that certain content cannot be used in that way.

**Article 8** Availability of the online Podcatcher Platform

8.1 Guide ID strives for optimum availability of the online Podcatcher Platform, but does not give any guarantee as to availability.

8.2 Necessary maintenance work and the performance of updates that can impede availability shall be performed outside normal working hours as much as possible.

8.3 Software used for the Podcatcher platform is made available to the client as is without any warranty.
8.4 For technical and functional questions, the client can contact the Guide ID helpdesk via helpdesk@guideid.com or via the contact details that are published on http://www.guideid.com/site/Contact.

Article 9 Fees

9.1 The client shall pay Guide ID the fees that have been agreed upon. All fees charged by Guide ID are in EURO, unless otherwise specified on the Order Form, and excluding shipping costs, travel and accommodation costs and VAT, if applicable.

9.2 In case the price for a tour is not included in the price of the entry ticket for the visitor of the client, the client and Guide ID shall agree on the price for the tour and the client shall not adjust this price without agreement from Guide ID.

Article 10 Payment

10.1 Fees to be paid are invoiced on a monthly basis by Guide ID, unless otherwise agreed in writing. In the first month after each calendar year or after the termination of the agreement at another time, Guide ID will also send a final invoice based on the actual use.

10.2 Payment will be made within 14 days after the invoice date.

10.3 Exceeding a payment term results in default without a notice of default being required. Should a payment term be exceeded, Guide ID is authorized to charge a default interest rate of 1% of the outstanding amount per month, or part of the month, unless the statutory commercial interest rate is higher, in which case the statutory commercial interest rate shall apply. The client is liable for all judicial and extrajudicial expenses (including attorney fees) that Guide ID incurs as a result of the collection of invoices with a minimum of 15% of the outstanding invoice amount including the interest payable.

10.4 The client is not authorized to suspension of its payment obligations. The client is not permitted to offset any payment obligation to Guide ID, on whichever ground, against a claim from the client to Guide ID.
10.5 Guide ID is authorized to suspend the compliance of any of its obligations in case the client fails to meet its (payment) obligations, on whichever ground, to Guide ID. Guide ID is not liable for damages as a result of exercising the right of suspension.

Article 11 Services of third parties

11.1 Guide ID has a network of third parties that can perform services for the client. For example in terms of writing a script, translating, recording a text and interactive design. In case the client wishes to use the services of these third parties, it shall conclude agreements with these third parties in its own name and at its own cost and risk. Therefore, the client is responsible for making arrangements with these third parties regarding the execution of the agreement, planning, and regarding intellectual property rights on deliverables. Guide ID is not liable for the services performed by these third parties, even if the invoices by these third parties are sent through Guide ID.

Article 12 Information and the right of inspection

12.1 The client is obliged to provide Guide ID with the information regarding the number of visitors per month over the past year at the end of each calendar year, or after the termination of the agreement at another time. Furthermore, at the request of Guide ID, the client shall provide these details at any other time. The number of tours taken by visitors of the client is shown in the information in the online Podcatcher Platform in which this is automatically logged.

12.2 Guide ID is authorized to read out the Podcatcher handsets and other products made available as well as to inspect the location of the client, at all times. The client shall provide Guide ID access to all areas in order to perform the aforementioned inspection and shall cooperate with the inspection.

Article 13 Intellectual property

13.1 All intellectual property rights, including but not limited to copyrights, neighboring rights, database rights, design rights, trademark rights, trade name rights and patent rights on and regarding the Podcatcher platform and the other services of Guide ID, including the know-how related thereto, and in connection with the company of Guide ID, are vested in Guide ID and its licensors. The client
has no user right and is not permitted to reproduce, edit or publish other than as expressly stated in these terms or as is permitted under mandatory law.

13.2 Guide ID is allowed to take technical measures to protect intellectual property rights. The client shall not remove, avoid or bypass this security. Guide ID is allowed, as far as reasonably necessary regarding the enforcement of intellectual property rights, to impose (temporary) restrictions regarding the extent of the user rights.

13.3 The client is not permitted to integrate or combine parts of the Podcatcher platform software in part or as a whole in or with software that was not made available by Guide ID. Decompilation, reverse engineering or any form of translating or editing of the Podcatcher platform software is not permitted unless and exclusively when these actions completely fall under what is permitted by the Dutch Copyright Act. It is not permissible to upload viruses or malicious codes, to hack or spam or to send DDOS attacks.

Article 14 Privacy

14.1 Guide ID processes personal data exclusively in agreement with the Dutch Personal Data Protection Act and other applicable rules and regulations.

Article 15 Competition

15.1 During the course of the agreement, the client shall not use the services or products of suppliers that compete with the services and products of Guide ID.

Article 16 Force majeure

16.1 In addition to the provisions of Article 6:75 of the Dutch Civil Code, a failure to comply with the agreement cannot be attributed to Guide ID in case of circumstances that are outside of the control of Guide ID, including: war, threat of war, mobilization, riots, strikes or lockouts, fire, flood, illness and/or injury of its personnel, computer malfunctions, business interruption and reduced production, lack of raw materials or packaging materials, transport delays, judicial intervention, import restrictions or other restrictive measures imposed by the government as well as any other
hindering circumstances which do not exclusively depend on the will of Guide ID, such as non
delivery or late delivery of goods and services by third parties engaged by Guide ID.

16.2 In such a case the obligations of Guide ID are suspended. Only after the expiration of a six-month
period, Guide ID and the client are authorized to fully or partially terminate the agreement.
Suspension and termination by Guide ID do not lead to any liability for damages, even if Guide ID
would gain any advantage therefrom.

Article 17 Liability

17.1 Guide ID is liable for damages the client suffers as a result of a culpable failure on the part of Guide
ID in the fulfillment of its obligations. However, Guide ID is only liable for damages that are the
direct and immediate result of the failure from which its liability arises. Guide ID is therefore among
other types of damages not liable for consequential damages such as those in the form of loss of
turnover, loss of profit, interruption of business or damage and damage claims of third parties.

17.2 The liability of Guide ID is at all times limited to the amount paid by its insurance company in the
specific circumstances. If, for whichever reason, there is no payment under the insurance policy of
Guide ID, the liability of Guide ID is limited to an amount of €10,000.

17.3 Default on the part of Guide ID is only established after the client notifies Guide ID of the default in
writing and has given Guide ID the opportunity to fulfill its obligations within a reasonable term and
Guide ID lets this term pass without fulfilling its obligations still.

17.4 Damage claims are due and payable only after the insurance company made its payment to Guide
ID. Each damage claim shall expire one year after the date on which the client becomes aware, or
could have reasonably have become aware, of the damage and of Guide ID as the party liable.

17.5 The abovementioned exclusions and limitations of liability do not apply in case of willful misconduct
of gross negligence on the part of Guide ID.
Article 18  
Duration and termination of the agreement

18.1 The agreement with the client is entered into for the period that is agreed upon. After this period, the agreement shall be tacitly renewed for a period of 12 months, which period shall be tacitly renewed for a further period of 12 months each time, unless the agreement is terminated in writing by one of the parties taking effect from the end of the running period bearing in mind a notice period of 2 months.

18.2 Guide ID is allowed to fully or partially terminate an agreement with the client in writing with immediate effect without notice of default and without any compensation or payment in case the client is granted suspension of payment, bankruptcy has been filed with regard to the client or the Debt Rescheduling for Natural Persons Act is invoked for the client who is a natural person, or if the client has lost its right to free disposal of its property.

18.3 In case of termination, all claims by Guide ID on the client are due and payable with immediate effect.

18.4 After the agreement has ended, the client is obliged to immediately return the Podcatcher handsets and all other products Guide ID made available to the client, in their original condition except for normal signs of usage. Shipping is at the client’s risk and for the client’s account. Should there be a difference of opinion regarding the number of products that are to be returned, Guide ID’s administration is decisive.

18.5 The client is in no way authorized to the suspension of any obligation to return rented products to Guide ID.

Article 19  
Applicable law and dispute resolution

19.1 The legal relationship between Guide ID and the client is exclusively governed by Dutch law. The applicability of the Vienna Sales Convention is excluded.

19.2 All disputes arising from the agreement between Guide ID and the client shall exclusively be resolved by means of arbitration at the Stichting Geschillenoplossing Automatisering (Foundation
for the Settlement of Disputes in the Automation or SGOA) in Haarlem, the Netherlands in agreement with the arbitration rules of the SGOA.

**Article 20** Other provisions

20.1 The client cannot transfer the legal relationship with Guide ID and its rights under the agreement without the prior written consent of Guide ID. This provision has effect under property law as intended in Article 3:83 paragraph 2 of the Dutch Civil Code.

20.2 Periods for the delivery of goods or services by Guide ID are target periods and not mandatory.

20.3 Guide ID is authorized to change these terms. Changes to the terms also apply to existing agreements. Guide ID shall make changes to the terms known via its website prior to implementation. The changed terms enter into force two weeks after publication or at such a time as is stated in the aforementioned publication.

20.4 These terms are also drawn up in languages other than the Dutch language. In case of contradictions, only the Dutch text applies.

20.5 Should a provision of these terms become partially or fully ineffective, the other provisions shall remain unaffected. The ineffective provision is, in such a case, considered to be replaced by a provision that is effective and differs as little as possible from the content and scope of the original provision.

20.6 These terms also apply on behalf of the legal persons or entities, auxiliary persons, and subordinates that Guide ID engages in carrying out the agreement.

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