Guide ID Terms
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These terms apply to all services of Guide ID regarding the Podcatcher platform. The Podcatcher platform includes the Podcatcher handsets and the Online Podcatcher Portal.

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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 by Guide ID are without obligation.

2.2 The agreement with the client is formed by signing of the Guide ID Order Form by an authorized representative of the client. Guide ID may agree to another way of formation of the agreement.

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 are noted on the signed Order Form. Guide ID will provide the number of products that are noted on this Order Form.

3.2 The client may request for an additional number of products during the agreement. Depending on availability Guide ID shall meet such requests.
3.3 The Podcatcher handsets and other products are exclusively made available for use by the client at the agreed upon location for handing out Podcatcher handsets to visitors. The client is not entitled to any other use. Without the prior written permission of Guide ID, the client is not authorized to change the products or to add anything to or remove anything from the products.

3.4 The client shall act as a good and responsible person and treat the products made available by Guide ID with all due care. The client shall take 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 automatically, such as log files and information on the use of the Podcatcher handsets, belong to Guide ID and can be accessed by Guide ID at all times. This information and these data files do not contain personal data. Guide ID will provide access to the client to (part of) this information and these data files in the form of analytics.

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 costs of shipping are charged to the client. Any import duties or taxes and import or custom formalities are for the account of the client.

4.2 The client shall prepare and equip the location and upon delivery install the products according to the instructions and manuals of Guide ID. Guide ID can be reached by telephone to assist the installation remotely. Assistance with regard to the installation on site and training in the use of the products is available for a fee. Guide ID cannot be held liable for delivered products that do not function or that partially function if the client has not properly prepared and equipped the location or has not installed the products according to the instructions and manuals of Guide ID.

4.3 At the request of the client and for a fee, Guide ID can provide labels for the Podcatcher handsets that are specifically designed for the client. The client guarantees that the use of images and other information that the client provides to Guide ID for that purpose, does not violate 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 for use 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 the Guide ID Syncbox or a Windows computer or its own 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 and to 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 their docking stations every night and to connect the docking stations both to the power supply and to the synchronization computer that is used for the Podcatcher platform.

5.3 Non-performance of 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 the Podcatcher handsets to visitors in a visible location and have sufficient personnel available to offer the Podcatcher handsets to visitors, 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. The use of Warning IDentifiers does not guarantee that products will not be lost or stolen. Loss and theft of rented products is for the account of the client. The client is obliged to report loss and theft of products to Guide ID in writing. The client shall also replace all lost and stolen products within a period of 30 days on 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 a culpable failure to comply with the obligations of the client as set out in these terms. In case the damage can be attributed to the client and repair is 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 Portal

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

7.2 In the Online Podcatcher Portal, 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 Portal is not uploaded to the Podcatcher handsets and synchronization is not possible if the client does not perform the obligations stated in Article 5.2.

7.3 The content made in the Online Podcatcher Portal 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 Portal. 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 Portal, it shall immediately report this to Guide ID.

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

7.6 The client shall not develop or upload content that is in violation of criminal law or unlawful or that violates the rights of third parties. The client guarantees that it is authorized to reproduce, modify and publish the
content as part of a tour. Guide ID is authorised on the basis of these terms to process the content in the Online Podcatcher Portal and to make it available on the Podcatcher handsets through the synchronisation computer in order to be able to perform the agreement. The client guarantees this does not violate any rights of third parties and indemnifies Guide ID from all claims of third parties in that respect.

7.7 Guide ID is authorized to use part of the content of the client and the name, trade mark, logo and design of labels of the client for the promotion of its services, unless the client communicates to Guide ID in writing that specific content may not be used in that way.

Article 8 Availability of the Online Podcatcher Portal

8.1 Guide ID strives for optimum availability of the Online Podcatcher Portal, 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 Online Podcatcher Portal 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 MapMyVisit

9.1 If agreed between the parties, Guide ID shall place a MapMyVisit console on site at the location of the client on which visitors can sign up for the MapMyVisit service offered by Guide ID. Using this service, visitors can listen to audio stops of a tour online and see what they may have missed.

9.2 In case a MapMyVisit console is placed at the location of the client, the client is considered to have given permission to Guide ID to reproduce and publish the name, trade mark, logo, design of labels of the client and the content of tours in the form of audio stops by offering these through mapmyvisit.com to visitors who have signed up for MapMyVisit on the console. MapMyVisit allows visitors to publish content by sharing it on social media. The client is aware of this and agrees. The client guarantees that such use of content does not violate any rights of third parties and indemnifies Guide ID from all claims of third parties in that respect.

Article 10 Fees

10.1 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.

10.2 In case the parties have agreed that the fees are based on the number of tours used by visitors of the client and 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.

10.3 In case the parties have agreed that the fees are based on the number of Podcatcher handsets that are made available to the client, the use of the Guide ID App is in principle free of charge. If the amount of tours used through the Guide ID App is however 10% or more of the total amount of tours used by visitors of the client on a monthly level, Guide ID is entitled to charge a fee to the client for the use of the Guide ID App to an amount to be agreed upon.
Article 11  Payment

11.1 Fees to be paid are invoiced on a monthly basis by Guide ID, unless otherwise agreed in writing. In case the parties have agreed that the fees are based on the number of tours used by visitors of the client, Guide ID will also send a final invoice based on the actual number of tours used in the first month after each calendar year or after the termination of the agreement at another time.

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

11.3 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.

11.4 The client is not authorized to suspend the compliance 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.

11.5 Guide ID is authorized to suspend the compliance of any of its obligations in case the client fails to meet its (payment or other) obligations, on whichever ground, to Guide ID. Guide ID is not liable for damages as a result of exercising the right of suspension.

Article 12  Services of third parties

Guide ID has a network of third parties that can perform services for the client. For example installation of products or services 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 solely 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 13  Information and the right of inspection

13.1 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 Portal in which this is automatically logged.

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

Article 14  Intellectual property

14.1 All intellectual property rights, including but not limited to copyrights, neighbouring rights, database rights, design rights, trademark rights, trade name rights, trade secret rights and patent rights on and regarding the Podcatcher platform and the other products and 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 use 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.

14.2 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.

14.3 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 15  Privacy

15.1 Guide ID processes personal data in accordance with the EU General Data Protection Regulation (679/2016) and other applicable data protection rules and regulations.

Article 16  Competition

16.1 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 17  Force majeure

17.1 In addition to the provisions of Article 6:75 of the Dutch Civil Code, a failure to perform the agreement cannot be attributed to Guide ID if it is the result of circumstances that are outside of the control of Guide ID, including: war, threat of war, mobilization, riots, epidemics, pandemics or illness outbreaks or the worsening thereof, 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, the absence of (local) quality marks for the products of Guide ID, 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.

17.2 In such a case the obligations of Guide ID are suspended. Only after the expiry 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 18  Liability

18.1 Guide ID is liable for damages the client suffers as a result of an attributable unlawful act of Guide ID or an attributable failure in the performance of its contractual obligations by Guide ID. However, Guide ID is only liable for damages that are the direct and immediate result of the unlawful act or failure from which its liability arises (direct damages). Guide ID is therefore among other types of damages not liable for indirect damages or consequential damages, such as those in the form of loss of turnover, loss of profit, interruption of business or damage claims of third parties.

18.2 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.
18.3 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.

18.4 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 reasonably have become aware, of the damage and of Guide ID as the party liable.

18.5 The abovementioned exclusions and limitations of liability do not apply in case of wilful misconduct of gross negligence on the part of Guide ID.

**Article 19**  Duration and termination of the agreement

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

19.2 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.

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

19.4 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.

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

**Article 20**  Applicable law and dispute resolution

20.1 The legal relationship between Guide ID and the client is exclusively governed by the laws of the Netherlands. The applicability of the Vienna Sales Convention is excluded.

20.2 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 21**  Other provisions

21.1 Guide ID is free to involve third parties in the performance of the agreement.

21.2 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.

21.3 Periods for the delivery of goods or services by Guide ID are target periods and not mandatory.
21.4 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.

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

21.6 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.

21.7 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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