

GUIDIANCE TERMS OF SERVICE – COACHES

These Terms of Service apply to the use of Guidance as defined below. We advise you to read these Terms of Service carefully so that you are aware of your rights and obligations when using Guidance. By using Guidance, you agree to the Terms of Service and you enter into an Agreement with Coachorado. If you do not wish to agree to them, you cannot use Guidance. Questions about the Terms of Service should be sent to legal@guidance.com. You can download and print these Terms of Service here: www.guidanceforcoaching.com/terms

1. Definitions

1. In these Terms of Service the capitalized terms listed below shall have the following meaning:

Account	the personal environment of the Coach within Guidance, to which the Coach obtains access after entering his Login Details;
Agreement	the agreement between Coachorado and the Coach;
Coach	the Content creator (natural person or company) that has entered into an Agreement with Coachorado;
Coach Revenue	Net Fee minus Coachorado commission fee and any (administrative) costs paid;
Coachorado	the company with limited liability established and existing under the laws of The Netherlands, having its registered office in (1062 KT) Amsterdam, the Netherlands, at Carnapstraat 48 A, registered with the Chamber of Commerce under number 63459760;
Coachorado commission fee:	difference between Net fee and Coach Revenue as acquired by Coachorado
Content	all information, data or material in the form of text, photos, video's and audio-visual materials and any other form provided, changed or uploaded by the Coach through Guidance, including – but not limited to –coaching programs;
Guidance	the service, including the Software, provided by Coachorado through the Websites and Mobile Applications;
IP-rights	all intellectual property and ancillary rights, such as copyrights, trademark rights, patent rights, design rights, trade name rights, database rights and related rights, as well as know-how rights and performances on a par with patentable inventions;
Login Details:	the information such as username and password which the Coach provides when creating his Account and with which the Coach gains access to his Account;
Mobile Application	the iOS mobile application which is available in the Apple Store;

Net fee	the total fee, based on the Sale Price, paid for the use of the Content, minus the costs paid to the Apple store and minus the Coacherado commission fee and other (administrative) costs as may be applicable;
Privacy Policy	Coacherado's privacy policy available on https://www.iubenda.com/privacy-policy/7829805
Sale Price	the actual price to be paid for the purchase of the Content to be determined by the Coach;
Software	the software, including sourcecode, infrastructure, specifications and all related documentation, developed by Coacherado;
Terms of Service	the underlying terms of service;
User	the natural person or legal entity which is the end-user that uses Guidance and the Content;
Website	www.guidiance.com and www.guidianceforcoaching.com

2. General

1. These Terms of Service apply, to the exclusion of your terms and conditions, to all agreements between you and Coacherado and every use made of Guidance via your Account.
2. Coacherado may, at all times, amend or supplement these Terms of Service. The most up-to-date Terms of Service can always be found on the Website or in the settings of the Mobile Application. Continued use of Guidance after any such changes shall constitute your consent to the changes. If you do not agree to the amended or supplemented Terms of Use, your only option is to terminate the Agreement in accordance with article 9.
3. Additions to and/or deviations from these Terms of Service are only valid when confirmed in writing by Coacherado.

3. Service and availability

1. Coacherado has developed Software which enables you to create, market and sell Content to Users. The service of Coacherado consists of making the Software in the form of 'Software as a Service' accessible through the Website and/or Mobile Application under the name Guidance. You can choose to charge a fee for the use of the Content by the Users. In the context of the Service, Coacherado will act as a platform for bringing you and the User together.
2. Coacherado has no obligation to exploit and or use the Content and cannot guarantee that the exploitation of the Content will be successful.
3. If you comply in full with all obligations pursuant to these Terms of Service, Coacherado will grant you a limited personal, revocable, non-exclusive, non-sublicensable and non-transferable right to use Guidance, including the Software and Mobile Application.
4. To the best of its ability, Coacherado will make efforts to provide Guidance with due care. Coacherado may use subcontractors or third party licensors to provide Guidance. You accept

that Guidance, including the Software, only contains the functionalities and other characteristics as it contains at the moment of your use (“as is” and “as available”).

5. Coacherado is at all times entitled, without prior announcement and without in any way becoming liable to you:
 - to make procedural and technical alterations and/or improvements to the Software and/or Guidance, and
 - to (temporarily or permanently) discontinue, limit or terminate Guidance or your Account. Coacherado will notify you of the temporary unavailability or restricted use of Guidance insofar as reasonably possible.

4. Account

1. To use Guidance, you must create an Account by following the registration process on the Website and/or the Mobile Application. You warrant that all information you provide to Coacherado, including the information you provide during registration is accurate, complete and up-to-date at any time.
2. You are responsible for keeping your Login Details secret. As soon as you know or have reason to suspect that your Login Details are no longer secret, or that the Account is being abused, you must take all necessary steps to prevent unauthorized access inter alia by changing your password in your Account settings. Coacherado is not liable for any loss or damage from unauthorized access or use of your Account.
3. It is not permitted to, and at the sole discretion of Coacherado your Account may be blocked and/or removed if you:
 - create more than one (1) Account.
 - create an Account for another natural person or legal entity.
 - provide access to your Account to another natural person or legal entity.
 - create an Account by “bot” or any other automated method, Account creation is solely permitted to humans.
 - create an Account for subversive reasons.

5. Your obligations

1. Each and every use of Guidance by you is for your own risk and responsibility. You are solely responsible and liable for the Content provided through his Account. You indemnify and hold Coacherado harmless against all claims relating to the Content, including but not limited to claims from Users.
2. You may not resell, distribute, or in any other way make profit of Guidance
3. You are not permitted to use Guidance for a purpose as listed below or make Content available:
 - which, at the discretion of Coacherado, is discriminating or is otherwise deemed hurtful, offensive or inappropriate;
 - which encourages aggressive behavior against and/or harasses Users;
 - which is of medical nature or is medical related nor for providing any form of medical advice;

- which will lead to or will have the consequence that Users are being misused, mislead or driven to undesirable behavior;
 - which is false, based on false facts and information and/or is misleading;
 - in which personal data is made available, other than in compliance with applicable law;
 - which contains viruses, Trojan horses, worms, bots or other software which can damage automated work or make it unusable or inaccessible or delete it, or which can appropriate it or which is intended to circumvent technical protection measures of Guidance, the Software and/or the computer systems of Coacherado;
 - that consist of creating a false identity or will otherwise suggest to you are involved and/or engaged with Coacherado;
 - which is contrary to the Guidelines provided by the Apple Store;
 - which infringes the rights of Coacherado and/or third parties, including but not limited to IP-rights or rights concerning the protection of privacy;
 - which qualifies as or transmits unwanted or unsolicited material or content (spam);
 - is contrary to these Terms of Service or any applicable laws and/or regulations, is in any other manner unlawful or which could prejudice the interests and reputation of Coacherado.
4. Coacherado reserves the right, without prior notice, to abridge, alter, refuse and/or remove Content if this is necessary in Coacherado's opinion, without this resulting in any liability.
 5. You acknowledge and agree that the Content you makes available trough Guidance can be used by Coacherado for analytical purposes and/or promotional purposes in connection with Guidance. Cocherado is not obliged to mention the name of the Coach or use a copyright notice when making the Content available. You will, for as far as possible in accordance with the law, renounce all moral rights as mentioned in article 25 of the Dutch Copyright Act.
 6. If you made Content available through Guidance it is not permitted to link to content which is behind a paywall outside of Guidance for commercial purposes.
 7. Your use of Guidance is restricted to the amount of posted Content at any given time, as specified when creating an Account. Coacherado reserves the right to at all times and at its sole discretion, further restrict the amount of posted Content when the size of the uploaded Content exceeds 400MB per environment.

6. Payment

1. Guidance is provided by Coacherado free of charge.
2. You may decide to charge a Sale Price for every use of the Content by the User. You will be responsible for determining the Sale Price. Coacherado will not have any influence on the formation of the Sale Price and does not accept any liability thereto. Any complaints and/or discussion with regard to the Sale Price should be sent and will be forwarded by Coacherado to the Coach in question.
3. Coacherado will collect the Net Fee with the User directly. The User shall pay the Net Fee due, by means of in app purchase, into the bank account of Coacherado.
4. Coacherado is, dependent on the Agreement you concluded with Coacherado, entitled to receive a Coacherado commission fee consisting of a commission price per active User or a percentage of the Net Fee paid for the use of Content as mentioned on the pricelist which is available on the Website www.guidianceforcoaching.com

5. Unless stated otherwise, all fees mentioned on the pricelist are in Euro's and exclusive of all taxes, levies, or duties imposed by taxing authorities.
6. Coacherado will pay the Coach Revenue to you. The Coach Revenue is only payable and due after the User has properly paid the relevant amounts, by means of an in app purchase, to Coacherado. Therefore, the risk of (non-)payment by the User vests in you.
7. Coacherado will pay you based on an invoice including specification of the purchases to be prepared by Coacherado monthly or quarterly depending on the amount due to you. Coacherado will pay the relevant amounts between €100,= and €1.000,= on a quarterly basis. Amounts exceeding €1.000,= will be paid on a monthly basis. Any late payment by Coacherado does not entitle you to suspend your obligations under these Terms of Service, including the license provided in article 8, nor does entitle you to interest.
8. Coacherado is allowed to set off any of its payment obligations to you against a payment obligation of you, including but not limited to the obligation of you to pay damages under these Terms of Service.
9. Coacherado is entitled to change its commission fees and/or percentages at any time, without becoming liable to you, and will inform you of such changes. If you do not agree with the changes of the fees you may terminate your Account in writing within thirty (30) days after the notification as of the date on which the adjustment would take effect.

7. Privacy

1. When creating an Account and providing Login Details, while Guidance is being provided and when visiting the Website and/or Mobile Application, (personal) data about you shall be processed by Coacherado. These (personal) data shall be processed in accordance with Coacherado's Privacy Policy and the applicable laws and regulations.

8. Intellectual Property Rights

1. The IP-rights in relation to Guidance, including the Software, Website and Mobile Application are held by Coacherado or its licensors. Nothing in the Terms of Service is intended to entail any transfer of IP-rights to you.
2. You retain all IP-rights on the Content you provide through Guidance. By making available or uploading Content to Guidance you automatically grant Coacherado a cost-free, worldwide, irrevocable, sub-licensable and transferrable right to use this Content insofar as is related to Guidance.
3. You warrant that you hold all the rights relating to the Content you provide through Guidance and fully indemnify Coacherado of any infringement claims regarding the Content. In the event you use third party content you hereby warrant that you have granted the unconditional and irrevocable right to use such third party content. You indemnify and hold Coacherado harmless against any and all claims with regard to the use of third party content.
4. Save to the extent that it is allowed by mandatory statutory law, you may not reproduce or decompile the Software or apply reverse engineering to it. Furthermore, removal and/or circumvention of security measures or technical limitations (to use) of Guidance and/or the Software is not allowed.

9. Term and Termination

1. The Agreement between you and Coachorado shall commence when you create an Account and will be in force until it is terminated in accordance with this article.
2. You can terminate the Agreement at any time by indicating this in the settings of your Account. You are solely responsible for properly canceling your Account. An email or phone request to cancel your Account is not considered cancellation.
3. In the event the Agreement is terminated, there will be no reversal of that which Coachorado has already delivered nor the related obligation to make payment. You will not receive any refunds as a result of termination.
4. Coachorado may, without prior notice and without becoming liable to you, terminate your Account with immediate effect if:
 - You do not fulfill your payment obligations; and/or
 - You do not comply with applicable laws and regulations; and/or
 - You in any way violate the Agreement and/or these Terms of Service.
5. Upon termination of the Agreement, Coachorado shall keep all Content available to you for two (2) weeks after termination of the Agreement. You will be able to use Guidance during this period insofar as is necessary for the exporting of Content. You may only add Content during this period after explicit approval from Coachorado with the sole goal to properly notify Users that your Content won't be available soon. After this period, Coachorado shall make your Account inaccessible to you. Coachorado has no obligation to restore the Content or assist in any data conversion or exportation.

10. Liability

1. To the extent permitted by law Coachorado does not accept any liability for damages caused by imputably failing to perform the Agreement and/or these Terms of Service, an unlawful act or any other act. If Coachorado should nevertheless be liable for damage on whatever ground, the total, cumulative, aggregate liability of Coachorado shall at all times be limited to direct damages only (as defined below) and never exceed the amount of 250,= euro.
2. Direct damage shall solely mean:
 - property damage ("zaakschade");
 - reasonable expenses that you would have to incur to make Coachorado's performance conform to the Agreement, unless the Agreement is rescinded ("ontbonden") by you;
 - reasonable expenses incurred by you to determine the cause and scope of the damage, insofar as the determination relates to direct damages; and
 - reasonable expenses incurred to prevent or mitigate damages, insofar as they relate to direct damages.
3. Any liability on Coachorado's part for damages other than direct damages including but not limited to indirect loss, consequential loss, loss and/or damage of data (including Content), loss of profit and loss of revenue, loss of savings, reduced goodwill, damage by business interruption and damage as a result of claims from third parties is excluded.
4. The restrictions mentioned in the preceding paragraphs of this article will lapse if and in so far as the damage is the result of intentional or willful recklessness on the part of Coachorado or its managers ("own actions").
5. No right to damages shall exist unless you notify Coachorado in writing of the damage promptly after it has arisen. Any claim for damages against Coachorado shall become

extinguished by the mere lapse of twelve (12) months after the claim has come into being.

11. Force Majeure

1. Coacherado is to the extent permitted by law released from all contractual obligations and liability (e.g. for damages) if Coacherado's performance is prevented or effected by force majeure or force majeure of Coacherado's subcontractor.
2. Force majeure includes, among other things, employees on sick leave and/or absence of employees who are crucial to the supply of Guidiance, interruptions in the supply of electricity, strikes, riots, government measures, fire, natural disasters, floods, failure on the part of Coacherado's suppliers, failure on the part of third parties engaged by Coacherado, interruptions in the connection to the internet (whether or not due to a DDoS attack), hardware malfunctions, malfunctions in networks, including telecommunication networks, and other unforeseen circumstances.
3. If the force majeure continues for at least thirty (30) days, Coacherado is entitled to terminate the Agreement without being obliged to pay any compensation for this termination.

12. Warranties and indemnifications

1. Coacherado does not guarantee:
 - that Guidiance or third party services they use shall be available to you at all times and without interruptions, faults or disturbances;
 - that Guidiance shall be effective or the use of Guidiance shall lead to certain results;
 - that the information provided through Guidiance shall be accurate, up to date and complete;
2. Coacherado is not responsible for:
 - the purchase and/or the proper operation of your infrastructure;
 - loss, damage, inaccuracy and/or incompleteness of any information provided through Guidiance;
 - transmission errors, malfunctions or non-availability of computer, data or telecom facilities, including the internet;
 - any unauthorized use or attempted use of Guidiance;
 - making backup copies of any information, Coacherado will however to the best of its ability secure your data by running frequent backups; or
 - the management, including checking the settings, the use of Guidiance and the manner in which the results of Guidiance are used.
3. You guarantee that you will not use Guidiance and/or the Software in a way that:
 - infringes the rights of Coacherado or third parties, including but not limited to IP-rights or rights in relation to the protection of privacy; and/or
 - is contrary to any applicable legislation or regulations; and/or
 - is contrary to any provision in these Terms of Service.
4. You indemnify Coacherado against all damage and costs as a result of claims of third parties arising from and/or related to your use of Guidiance, including the Software.

13. Notification of unlawful Content

1. Coacherado is not liable for any damages in connection with the (illegal) use of Guidiance by you. Coacherado will only, under the conditions as set out in this article, be obliged to remove

or block access to Content that is manifestly unlawful or to stop manifestly unlawful behavior after receiving a notification that is sufficiently precise and adequately substantiated.

2. Coacherado has established a procedure, by which any alleged illegal Content available through Guidance can be reported to Coacherado. This can be done via a notification to legal@guidiance.com
3. Coacherado reserves the right to not grant a request to remove or block access to the Content or to stop an activity in case it has reasonable grounds to doubt the accuracy of the notification or in case a balancing of interest requires this. In such a situation Coacherado can require a court order from a competent court in The Netherlands, to demonstrate that the material or the activity is manifestly unlawful.
4. Coacherado will not be a party in a dispute between the person making the report and any third party arising out of or in connection with a notification.
5. The person making the notification indemnifies Coacherado against all claims of third parties in relation to the blocking or removal of Content or the stopping of activities. The indemnification includes all damages and costs Coacherado suffers, could suffer or which Coacherado incur in relation to such a claim, including but not limited to the compensation of legal assistance.
6. Coacherado respects and protects the privacy of those who provide notifications. All personal data that it receives as part of a notification will always be processed in accordance with the Dutch Data Protection Act and will only be used to process the notification.

14. Miscellaneous

1. Coacherado may transfer rights and obligations arising from these Terms of Service to third parties and will notify you of this. You are not permitted to transfer to third parties any right derived from an Agreement without Coacherado's prior written consent.
2. These Terms of Service and the use of Guidance are governed by Dutch law.
3. To the extent that national or international rules of law do not prescribe otherwise as mandatory, any disputes that arise or are related to agreements concluded subject to these Terms of Service, or arise therefrom, will solely be submitted to the competent court in Amsterdam.

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