General Terms and Conditions for the Use of the App "dBEL Too.Loud?"

1 Scope

1.1 These General Terms and Conditions apply to the use of the mobile software application "dBEL Too.Loud?" (hereinafter referred to as the "App"). These GTC form the basis of the respective User Agreement between the provider, dBEL GmbH + Co. KG, Max-Planck-Str. 15, 97204 Höchberg (hereinafter referred to as "dBEL") and the respective User.

1.2 The User can be both a business entity and a consumer. A consumer is any natural person concluding a legal transaction for a purpose that cannot be ascribed to a commercial or independent business activity (§ 13 BGB [German Civil Code]). A business entity is every natural person or legal entity or legal partnership that acts within the scope of its employed or self-employed work while concluding a legal transaction. (§ 14 BGB).

1.3 The subject matter of the User Agreement is the free use of the App and the services offered through the App by the User. dBEL provides the User with the App in the latest version available. These GTC define the conditions under which the App is used.

1.4 Deviating or supplementary general terms and conditions of the User shall not apply. Their validity is expressly rejected herewith.

2 Subject Matter of the Contract

2.1 The App enables the measurement of sound levels and the determination of noise levels at freely chosen locations. Based on different occasions, such as parties or concerts, it can be determined whether the corresponding noises exceed predefined threshold values, independent of their origin. The App calculates a noise forecast for any given location. The results are evaluated based on legal limits, thus providing a reliable indication of how to assess the volume. Anyone can perform sound level measurements using the App. The mobile device used acts as a measuring microphone. In the App, the measurement data is presented in a clear manner and compared with legal reference values. Thus, the User receives an estimation of noise levels for the location where a potential threshold exceedance is expected.

2.2 The calculation of the noise forecast is based on the User's input and a recognized calculation method. To provide an understandable representation of the calculation result, the calculation provides only an approximation. The calculation result does not include precise sound level measurement. The App is explicitly not suitable for exact measurements!

2.3 The exact scope of functions of the App as well as instructions for usage are detailed on the website https://dbel.cloud/.

3 Conclusion of the Contract

3.1 The contract between dBEL and the respective User is concluded upon downloading the App. By clicking the "Accept" button during the installation process of the App, the User confirms their agreement with these terms of use. The same applies if the User uses, installs, copies, or accesses the App.

3.2 If the User does not agree to the terms of use, they must refrain from any use, installation, and duplication of the App.

4 Usage Rights

4.1 The dBEL App contains content for which dBEL holds rights (e.g., copyright exploitation rights) ("dBEL Content"). dBEL grants the User a non-exclusive, restricted in content, non-transferable, revocable right to use the App and dBEL Content on mobile devices for the duration of the contract, in accordance with these GTC.

4.2 All other rights remain with dBEL. In particular, the customer is not entitled to modify, alter, disassemble, decompile, reverse engineer, or generate copies of the App, especially the App's source code, unless the aforementioned uses are permitted under §§ 69a-69g UrhG [German copyright law].

4.3 The User is further not permitted to use dBEL Content outside of the App, especially to publicly reproduce it on websites.

4.4 The right to use the dBEL Content ends in the event of termination pursuant to Section 11, in the event of contractually prohibited use by the User, if dBEL no longer provides the operation, services, functionalities, content, and information in the previous manner, or if dBEL discontinues them entirely.

4.5 The App may only be used by the User and only for the purposes agreed upon in Section 2. The App is not developed or suitable for use in the areas of security, direct personal safety, and medicine, and therefore must not be used in these areas.

4.6 The App requires an iOS operating system version ### or higher for Apple devices. Although dBEL endeavors, without any legal obligation, to adapt the App to changed operating system versions and new mobile device variants and to make the App available on these devices, the User has no claim to such an update from dBEL. The User is solely responsible for checking and ensuring the suitability of the intended device for installing the App in relation to the aforementioned technical requirements.

4.7 There is no entitlement to use the App. dBEL reserves the right to change, supplement, delete, and/or discontinue parts of the App, the entire App and/or individual functionalities and/or the entire offering without separate notice in the presence of valid reasons, e.g., to implement a court decision and/or an administrative decision; in the event of changes in laws, to close security gaps, or to expand the offering.

5 User Inputs

dBEL allows its users to manually correct the measured location by manual input.

6 Compliance with Legal Regulations

The User is solely responsible for complying with legal regulations for user-generated content attributable to them. dBEL does not have access to user data and is therefore unable to review user-generated content.

7 User Responsibilities

7.1 The User undertakes:

- not to interfere with the App through technical or electronic means that affect the integrity of the App or intend to extract content from the App – whether it be content from dBEL or content from other users;
- not to use services in a manner that violates legal regulations, third-party rights, or good morals. The User must refrain from disrupting the services or from using accessible data beyond the intended use.

7.2 The User will take responsibility for externally securing important personal data (e.g., on external storage devices).

7.3 Furthermore, the use of "location-based" services and technologies is required for using the App. By installing the App, the User acknowledges that the functions for location tracking (e.g., GPS, etc.) of their mobile device must be activated at all times when using the App. dBEL explicitly disclaims any liability for improper functioning of the App if these functions have been deactivated or do not work properly on the mobile device. Moreover, dBEL is entitled to capture and use precise location data, including the real-time geographical location of the deployed mobile device, to the extent necessary for using the App or calculating noise forecasts.

8 Data Protection

Information regarding the processing of user data in connection with their use of the App is provided in our Privacy Policy, which can be accessed here ###.

9 Warranty

9.1 dBEL guarantees that the App corresponds to the contractually agreed state at the time of its provision. dBEL provides updates to the App via the Apple Store for retrieval. The User is free to download and install the respective update. If the User does not install the updates provided by dBEL, dBEL is not liable for deviations from the contractual state of the App resulting from the absence of the corresponding update.

9.2 The calculation method used by dBEL with the employed software only provides an approximation for calculating noise forecasts and is expressly not suitable for precise volume measurement.

9.3 The User's statutory claims due to inadequate performance remain unaffected in any case.

10 Liability

10.1 Subject to the liability limitations outlined in the subsequent provisions, dBEL assumes no liability for:

- the continuous, uninterrupted or error-free operability of any App. The User is obligated to take appropriate precautions on their mobile devices to prevent damages, particularly to regularly perform data backups. In the case of irretrievable data or data that can only be retrieved with significant effort, the User is obligated to perform separate backups, for example, through separate storage. dBEL is not liable for damages incurred by the User in connection with the loss of data;
- the App providing an accurate forecast. The forecast accuracy has certain uncertainties since the App is intended for analysis by non-experts, which is why the complexity required for accurate forecasts had to be reduced;

- the User's failure to take adequate security measures to prevent damages or disruptions caused by damaging computer programs (viruses) or other unlawful or morally objectionable interventions or data from third parties. dBEL is not liable for damages arising from the omission of security measures in this regard; and
- the User using the App in a manner that violates the contract and/or for purposes that the App is not suitable for, especially those expressly excluded in Section 4.5 Sentence 2.

10.2 dBEL's is liable, including for its executive bodies, legal representatives, and agents, without limitation in cases:

- of willful intent or gross negligence,
- of injury to life, body, or health,

- within the scope of any assumed guarantee, as well as
- under the German Product Liability Act.

10.3 dBEL's liability for negligently violated material contractual obligations is limited to the amount of damages that are foreseeable and typical in the nature of the business. Material contractual obligations are obligations that protect material legal positions of the customer, which the contract is intended to grant the customer in terms of its content and purpose; furthermore, material contractual obligations are those contractual obligations that are necessary for the proper execution of the contract and on whose fulfillment the customer regularly relies and is entitled to rely.

10.4 Further liability of dBEL is excluded.

11 Termination

11.1 The User Agreement is generally of indefinite duration. It can be terminated by the User at any time by deleting or deactivating the App.

11.2 dBEL is entitled to terminate the User Agreement at any time with a notice period of 14 days by means of a termination notice in the App.

11.3 The User is obligated to inform themselves about any new developments and information regarding the App's functions and the terms of use communicated through the App at least once per month during the term of this User Agreement.

11.4 The right to terminate for good cause remains unaffected for both parties. dBEL is especially entitled to terminate the User Agreement with immediate effect if the User seriously or repeatedly violates the provisions of these GTC.

12 Online Dispute Resolution

The European Commission provides a platform for online dispute resolution (ODR). You can find the platform at: http://ec.europa.eu/consumers/odr/. dBEL is neither obligated nor willing to participate in dispute resolution proceedings.

13 Applicable Law

The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG). This choice of law does not affect the assertion of tort claims or the potential applicability of mandatory consumer protection regulations according to the law of the state in which the User has their habitual residence.

14 Place of Jurisdiction

14.1 If the User is a consumer domiciled in the EU, they can file a lawsuit against dBEL in accordance with the statutory provisions on jurisdiction. In particular, the User may bring proceedings against dBEL either before the courts of the Member State in whose territory dBEL is domiciled or before the court of the place in which the User is domiciled.

14.2 If the User does not have a general place of jurisdiction in Germany or another EU Member State, or if the User is a merchant, a legal entity under public law, or a special public fund, the exclusive place of jurisdiction for all disputes arising from this contract is Würzburg.

15 Contract Language

The language of the contract is German.

16 Changes to These Terms and Conditions

16.1 dBEL reserves the right to change these GTC if required due to changes in legal, regulatory, or technical conditions.

16.2 Changes to these GTC will be offered to the User in the App no later than two weeks before the proposed effective date.

17 Storage Options

These GTC can be accessed in the App under ### at any time. The GTC can also be downloaded, saved and printed.

18 Severability Clause

Should individual provisions of these GTC be or become wholly or partially invalid, the validity of the remaining provisions shall not be affected thereby.

Note: Our App contains components of open-source software used under the terms of various licenses. A list of the open-source software used in our App, as well as the applicable license terms, can be found here. The open-source software license terms apply to the respective open-source software components used in the App, to the extent that they are used in accordance with the respective license terms, and take precedence over these terms of use.