

Terms of Use of the “UGC TBM Soil Condition App” Mobile Application from Master Builders Solutions

1. General Information

These Terms of Use govern the granting of rights of use to the “**UGC TBM Soil Condition App**” mobile application (“**App**”) developed by Master Builders Solutions Deutschland GmbH, Dr.-Albert-Frank-Straße 32, 83308 Trostberg and provided via the Apple App Store /Google Play Store (“**App Stores**”). These Terms of Use are consequently a component of all contracts and agreements regarding the use of the App offered by Master Builders Solutions (“**MBS**”) via the App Stores between MBS and any user (“**User**”) who wishes to download and use the App on suitable devices.

The subject matter of the contract is the free provision of the App by MBS to Users.

The App provides following features for Users:

- Calculate the quantities of foaming agent, water, and air needed to reach the required foaming volume per minute, per ring and for the total length of tunnel, taking into consideration parameters such as advance rate, TBM diameter, foaming agent or polymer concentration.

The use of the App is only allowed for this specific purpose.

2. License to Use the App

2.1 General Provisions

Use of the App, which the User wishes to download for free via the App Stores requires prior consent to these Terms of Use by the User. The User is aware that in addition to these Terms of Use of the App, it may be necessary to comply with further terms of use of the App Stores, and that MBS might have no influence on such further terms of use and consequently assumes no responsibility thereof.

Downloading the App requires suitable mobile terminal devices and Internet access, through which costs for the connection to the App Stores may be incurred.

The usage of the App may require a successful User registration with MBS. If required the User must create an account and fill in certain mandatory information. The User must ensure that all data provided is accurate and true. The User must further define a username and a safe password following certain predefined criteria provided in the registration section of the MBS Database to be able to access the MBS Database. The User is solely responsible to strictly protect the secrecy of the username and the passwords from any unauthorized access and/or use.

2.2 Maintenance and Support for the App

MBCC Group is not obligated to update and/or upgrade the App and/or to offer regular updates and/or upgrades. If, however MBS provides downloadable updates and/or upgrades for the App, the User is obligated to install these in order to receive information that is as up-to-date as possible. Otherwise, MBS cannot warrant that the App will function properly, or that the information provided reflects the current status. Should the User not install an update and/or updates that have been provided but continue to use the old version of the App, the User thereby waives any claims regarding defects and claims for payment of damages to which he or she may be entitled.

2.3 Intellectual Property; Trademarks

The App contains protected content and materials (e.g. graphics, video clips, diagrams, photos and illustrations, user interfaces, audio clips, and editorial content etc.) of MBS or third parties. All rights thereto are held by MBS or third parties. This applies even if the User modifies the App or combines it with the User's own programs or those of a third party. If and insofar as content of the App contains intellectual property of third parties, it is warranted that MBS has properly obtained such intellectual property from third parties and is authorized to use it and license it to further parties within the scope of the App. The User is not authorized to use any such protected content or materials in any manner whatsoever except within the scope of the use of the App as intended in accordance with these Terms of Use.

2.4 Third-Party Websites; Disclaimer

Hyperlinks to third-party websites may be contained within the scope of the App. MBS does not endorse either these third-party websites or their content. In all cases, the respective provider or operator of the sites in question is responsible for the content of the sites linked to. The sites linked to were reviewed for possible legal violations at the time of placement of the link. Unlawful content

was not ascertainable at the time of placement of the link. Ongoing monitoring of the content of the sites linked to is, however, not reasonable without concrete reason to suspect a legal violation. MBS will remove such links immediately if it becomes aware of any legal violations.

Furthermore, MBS is not responsible for the availability of these websites or their content. The use of hyperlinks to these websites is at the User's own risk. In this context and subject to section 2.10, MBS is not liable for damage or losses occurring through or as a result of the use of third-party websites. The use of links to outside websites is therefore at the User's own risk.

2.5 Rights of Use

a. Scope of License Subject to acknowledgement of and compliance with these Terms of Use by the User, MBS hereby grants the User a free, non-exclusive, non-transferrable and unlimited in term right of use of the App License (“**License**”) as intended and within the scope necessary for such purpose on any number of suitable mobile terminal devices.

Beyond the scope provided in sections 69c et seq. of the German Copyright Act (UrhG), the User is not permitted to copy, decompile, reverse-engineer, or disassemble the App, any updates and/or upgrades to the App, or any portions thereof, or to attempt to obtain the source code of the App, modify the App, or create derivative works based on the App.

Unless otherwise provided in these Terms of Use, the User is not permitted to sell or distribute the App or to make the App available via a network through which the App can be used by multiple devices simultaneously. The User is not permitted to rent or lease, lend, sell, transfer, resell or redistribute, or sublicense the App.

The provisions of these Terms of Use also apply to all updates and/or upgrades that are made available by MBS and replace or supplement the original App, unless such an update and/or upgrade is subject to separate terms of use. In this case, the update and/or upgrade is subject to the provisions of such separate terms of use.

b. Export Control The User is not permitted to use the App or otherwise export it or re-export it except as permitted by the laws of the USA and those of the country in which the App was acquired. In particular, the App is not permitted to be exported or re-exported to (a) countries embargoed by the USA or (b) persons who are listed on the list of “Specially Designated Nationals” of the U.S. Treasury Department or the “Denied Persons” or “Denied Entity” list of the U.S. Department of Commerce. By using the App, the User affirms that he or she is not located in any of these countries and is not listed on any of these lists. The User shall not use the App for purposes that are prohibited under the laws of the USA, particularly not to develop, design, manufacture or produce nuclear weapons, missiles, or chemical or biological weapons.

2.6 Safety Systems

It is pointed out to the User that the App may contain a safety system that protects the digital information and limits the use of the App according to certain usage standards that have been established by MBCC Group (“**Safety systems**”). Each Safety system is an inseparable part of the App. The User is obliged not to (i) violate (ii) to bypass (iii) to reverse engineer (iv) to decompile (v) disassemble (vi) or in any other manner to carry out unauthorized changes to the Safety systems or elements thereof or to help others in such actions.

2.7 Termination; Discontinuation of Rights of Use

This License remains in effect until termination by the User or by MBS. Both, the User and MBS may terminate this License any time. The User may terminate this License with MBS at any time without cause by deactivating / deleting the App from the terminal device and discontinue the usage of the services. The User is no longer entitled to use the App once the License of the App has been terminated.

The User may at any time request that his/her User account be deleted by sending a request to dataprotection@masterbuilders.com. In this situation, the User account will be deleted within a period of 45 days.

2.8 Industrial Property Rights of Third Parties

MBS warrants that the App is free of third-party rights that restrict or preclude use thereof in accordance with these Terms of Use. If the use thereof as agreed is adversely affected by industrial property rights of third parties, MBS has the right to either modify the App such that the adverse effect no longer applies or to obtain authorization for the App to be used in accordance with the Terms of Use, without limitation and without additional costs to the User.

MBS's warranty obligation with regard to third-party industrial property rights is limited in any event to the App and does not extend to third-party software that is necessary for the functionality of the App.

In all cases, the User is obligated to notify MBS in writing without delay if any claims regarding infringement of third-party industrial property rights are asserted vis-à-vis the User.

2.9 Warranty

The User shall have no warranty claims regarding defects in the App unless MBS has concealed the defects through deceit. MBS disclaims all warranties,



express or implied, including, but not limited to, warranties of merchantability, noninfringement, or fitness for a particular purpose.

2.10 Limitation of Liability

MBS provides the App with appropriate care, and merely on an "as is" basis. The User is, in particular, responsible for making his or her own backups of his or her system, including the App. MBS is liable for damage or losses occurring through or as a result of the use of the App only in cases of intent and gross negligence.

Further, MBS is liable without limitation in case of damages resulting from injury to life, body or health due to a negligent breach of duty by MBS or an intentional or negligent breach of duty by a legal representative or vicarious agent of MBS. Liability under the Product Liability Act (*Produkthaftungsgesetz*) remains unaffected.

2.11 Limitation of Claims

Any and all warranty claims, claims for damages, and claims to compensation for expenditures by the User shall become timebarred after one (1) year from installation of the App or any update provided by MBS and installed by the User. This limitation period does not apply if MBCC Group has concealed a defect through deceit or is subject to compulsory liability on other legal grounds.

2.12 Changes to the MBCC App

MBS reserves its right to change or modify the functionalities included in the App or to offer deviating functionalities, to terminate or suspend the App in part or in whole at any time and without a prior notice.

2.13 Availability of the App

MBS endeavors to offer unlimited availability of the App within the scope of what is technically feasible and economically reasonable. However, MBS does not assume any guarantee for this. In particular, maintenance work, safety and capacity reasons, technical conditions and events outside the company's sphere of control may lead to the App being temporarily unavailable.

2.14 Data Protection

MBS processes personal data to the extent necessary in accordance with its privacy policy, which has been made available prior to downloading of the App Stores and can also be viewed at: [Privacy statement \(master-builders-solutions.com\)](https://www.master-builders-solutions.com/privacy-statement)

2.15 Amendments and Changes to these Terms of Use

MBS reserves the right to amend these Terms of Use with regard to problems of equivalence or gaps / loopholes in the provisions hereof at any time and to subject the User's use of the App to new or further terms of use.

However, the aforementioned amendments will expressly not be referring to the content of the services performed by MBS through the App. Such amendments as well as the reasons for such amendments will be communicated to the User and will take effect without delay as soon as they have been accepted, and are then integrated into these Terms of Use. If and to the extent the User does not expressly disagree to such amendments within ten (10) calendar days as of the respective information the approval and consent of the User to these amendments will be deemed granted.

In the event that the User does not accept the amendments, MBS is permitted to terminate these Terms of Use with the User. Should the User not expressly accept the amendments, but continue to use the App nonetheless, this is deemed to constitute tacit acknowledgement of the amendments as well.

3. Alternative Dispute Resolution

The European Commission has established an internet platform for online dispute resolution. More information is available at the link: <http://ec.europa.eu/consumers/odr/>. We are neither willing nor obliged to participate in a dispute resolution procedure before a consumer arbitration board.

4 Miscellaneous

4.1 Entire Agreement

These Terms of Use constitute the entire agreement between the User and MBS. These Terms of Use supersede any prior agreements between the User and MBS.

4.2 Severability Clause

Should individual provisions of these Terms of Use be or become null and void or invalid in whole or in part, the validity of the remaining provisions shall be unaffected thereby.

4.3 Governing Law

These Terms of Use and the use of the App are subject to the laws of the Federal Republic of Germany, with the exclusion of the United Nations Convention 3 of March 3, 2021 on Contracts for the International Sale of Goods of April 11, 1980 ("CISG") and the German conflict-of-laws rules. The statutory

provisions on the restriction of the choice of law and on the applicability of mandatory provisions, in particular of the state in which the User resides as a consumer, shall remain unaffected by the choice of law made in sentence 1.

4.4 Place of Jurisdiction

Insofar as there is no general place of jurisdiction in Germany or in another EU member state or the User transfers his place of residence to a country outside the EU or his place of residence or habitual residence is unknown at the time of bringing an action, the exclusive place of jurisdiction for all disputes arising from this contract shall be Mannheim, Germany.

