

## 1. General Information

These Terms of Use govern the granting of rights of use to the “Early Strength App” mobile application (“**MBCC App**”) developed by Master Builders Solutions Deutschland GmbH, Dr.-Albert-Frank-Straße 32, 83308 Trostberg, a company of the MBCC Group (“**MBCC Group**”) and provided via the Apple App Store / Google Play Store. These Terms of Use are consequently a component of all contracts and agreements regarding the use of the MBCC App offered by MBCC Group via the Apple App Store / Google Play Store between MBCC Group and a user (“**User**”) who wishes to download and use the MBCC App on suitable devices. The subject matter of the contract is the free provision of the MBCC App by MBCC Group to Users.

The MBCC App provides following features for the Users:

- Calculate the early strength of sprayed concrete up to a level of one (1) MPa based on penetration needle results. The calculation background is the Austrian Guideline on Sprayed Concrete and the EN 14488-2 “Compressive Strength of young Sprayed Concrete. The input for the calculation is the penetration force of a 3 mm diameter needle, which is pushed 15 mm into the sprayed concrete;
- Control the timing, store the readings of the penetration force and convert it to compressive strength.
- The results are displayed in a graphical way by showing the strength development over time with reference to the J curves.
- All data may be transferred as text files for further evaluation.

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

## 2. License to Use the MBCC App

### 2.1 General Provisions

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

Downloading the MBCC App requires suitable mobile terminal devices and Internet access, through which costs for the connection to the Apple App Store / Google Play Store may be incurred.

The usage of the MBCC App may require a successful User registration with MBCC. 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 MBCC Database to be able to access the MBCC 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 MBCC App

MBCC Group is not obligated to update and/or upgrade the MBCC App and/or to offer regular updates and/or upgrades. If, however, MBCC Group provides downloadable updates and/or upgrades for the MBCC App, the User is obligated to install these in order to receive information that is as up-to-date as possible. Otherwise, MBCC Group cannot warrant that the MBCC 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 MBCC 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 MBCC App contains protected content and materials (e.g. graphics, video clips, diagrams, photos and illustrations, user interfaces, audio clips, and editorial content etc.) of MBCC Group or third parties. All rights thereto are held by MBCC Group or third parties. This applies even if the User modifies the MBCC App or combines it with the User’s own programs or those of a third party. If and insofar as content of the MBCC App contains intellectual property of third parties, it is warranted that MBCC Group 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 MBCC 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 MBCC 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 MBCC App. MBCC Group 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. MBCC Group will remove such links immediately if it becomes aware of any legal violations. Furthermore, MBCC Group 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, MBCC Group 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, MBCC Group hereby grants the User a free, non-exclusive, non-transferable and unlimited in term right of use of the MBCC App (“**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 MBCC App, any updates and/or upgrades to the MBCC App, or any portions thereof, or to attempt to obtain the source code of the MBCC App, modify the MBCC App, or create derivative works based on the MBCC App

Unless otherwise provided in these Terms of Use, the User is not permitted to sell or distribute the MBCC App or to make the MBCC App available via a network through which the MBCC 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 MBCC App

The provisions of these Terms of Use also apply to all updates and/or upgrades that are made available by MBCC Group and replace or supplement the original MBCC 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 MBCC 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 MBCC App was acquired. In particular, the MBCC 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 MBCC 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 MBCC 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 MBCC App may contain a safety system that protects the digital information and limits the use of the MBCC App according to certain usage standards that have been established by MBCC Group ("Safety systems"). Each Safety system is an inseparable part of the MBCC 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 MBCC Group. Both, the User and MBCC Group may terminate this License any time. The User may terminate this License with MBCC Group at any time without cause by deactivating / deleting the MBCC App from the terminal device and discontinue the usage of the services. The User is no longer entitled to use the MBCC App once the License of the MBCC App has been terminated. The User may at any time request that his/her User account be deleted by sending a request to [dataprotection@mbcc-group.com](mailto:dataprotection@mbcc-group.com). In this situation, the User account will be deleted within a period of 45 days.

## 2.8 Industrial Property Rights of Third Parties

MBCC Group warrants that the MBCC 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, MBCC Group has the right to either modify the MBCC App such that the adverse effect no longer applies or to obtain authorization for the MBCC App to be used in accordance with the Terms of Use, without limitation and without additional costs to the User.

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

In all cases, the User is obligated to notify MBCC Group 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 MBCC Group App unless MBCC Group has concealed the defects through deceit. MBCC Group 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

MBCC Group provides the MBCC 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 MBCC App. MBCC Group is liable for damage or losses occurring through or as a result of the use of the MBCC App only in cases of intent and gross negligence.

Further, MBCC Group is liable without limitation in case of damages resulting from injury to life, body or health due to a negligent breach of duty by MBCC Group or an intentional or negligent breach of duty by a legal representative or vicarious agent of MBCC Group. 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 time-barred after one (1) year from installation of the MBCC App or any update provided by MBCC Group 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

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

## 2.13 Availability of the MBCC App

MBCC Group endeavors to offer unlimited availability of the MBCC App within the scope of what is technically feasible and economically reasonable. However, MBCC Group 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 MBCC App being temporarily unavailable.

## 2.14 Data Protection

MBCC Group processes personal data to the extent necessary in accordance with its privacy policy, which has been made available prior to downloading of the MBCC App via the Apple App Store / Google Play Store and can also be viewed at <https://www.mbcc-group.com/en/data-protection/>

## 2.15 Amendments and Changes to these Terms of Use

MBCC Group 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 MBCC 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 MBCC Group through the MBCC 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, MBCC Group is permitted to terminate these Terms of Use with the User. Should the User not expressly accept the amendments, but continue to use the MBCC 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 following 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 MBCC Group. These Terms of Use supersede any prior agreements between the User and MBCC Group.

##### **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 MBCC App are subject to German law, with the exclusion of the United Nations Convention 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.