

# BCA GREEN AND GRACIOUS BUILDER AWARD

## TERMS & CONDITIONS

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### 1 Interpretation

The following words and expressions have the following meanings, unless they are inconsistent with the context:

**'Applicant'** - a builder registered with the Singapore Registry of Companies & Businesses who applied for the Audit of the company, which is the subject of this Agreement.

**'Audit'** - the evaluation of the standard of green and gracious performance of the company based on the criteria as set out in the Green and Gracious Builder Criteria.

**'Auditors'** - BCA officers or any other persons authorised by BCA to carry out Audits.

**'BCA'** - Building and Construction Authority

**'Certificate'** - a document issued on completion of the Audit of the company stating the company's achievement of green and gracious standard set by BCA.

**'Report'** - a document stating the evaluation, findings and results of BCA arising from BCA's Audit of the company.

### 2 Agreement for Audit

2.1 Subject to the terms and conditions hereinafter set out, BCA shall conduct an Audit of the company.

2.2 Fee for each Audit shall be charged based on the prevailing rate. The result of the Audit shall be final.

2.3 On completion of the Audit, BCA shall issue a Certificate of BCA Green and Gracious Builder Award to the Applicant provided:

2.3.1 the performance of the company have met the prevailing Green and Gracious Criteria set by BCA at the date of BCA's acceptance of the application.

2.3.2 BCA have received all fees due to it; and

2.3.3 any other requirements set by BCA have been fulfilled.

### **3 Scope of Audit**

3.1 BCA Green and Gracious Builder Audit would be carried out using the Green and Gracious Builder Criteria determined at point of application.

3.2 The issuance of BCA's Certificate is solely based on audit of areas covered in the Audit criteria and declarations by the builder.

3.3 The Applicant unconditionally agrees that the Certificate is not a detailed evaluation of the company, nor based on a detailed examination or inspection of the company. Other than the examination of the criteria as stated in Clause 3.1, no other examinations, tests or inspections are conducted by BCA.

3.4 BCA's Audit of the company, and the information and opinion contained in the Certificate or Report shall be valid for a period of 3 years. Nothing in the Certificate or Report shall be taken as warranting or guaranteeing that the green and gracious performance of the company will remain in the condition as stated in the Certificate or Report as design changes, building additions or alterations, misuse and accident may occur after the Audit. All implied terms and warranties are expressly excluded to the maximum extent permitted by law.

3.5 Any determination, opinion, or valuation made by BCA shall be conclusive and binding and not subject to review, save for manifest error and the Applicant undertakes not to challenge or contest any such determination, opinion or valuation.

- 3.6 Upon the award of the Green and Gracious Builder rating, the rating will be valid for three years. During this period, surveillance Audits will be conducted on a yearly basis. The Applicant shall make an application for a re-certification audit if it wants to apply for a higher tier rating category.
- 3.7 Renewal Audits shall be carried out by BCA every three years in order to maintain the validity of the Green and Gracious Builder certificate. The Applicant shall make an application for the renewal Audit 2 months before the expiry of the Certificate.

#### **4 Limitation on Liability**

- 4.1 The Certificate issued on completion of the Audit of the company is a representation by BCA to the Applicant only. BCA disclaims all responsibility and will not accept any liability to any other party. In the event that any claim or dispute should arise as a consequence of or relating to the Audit by BCA, no claim whatsoever shall be made by the Applicant against BCA.
- 4.2 The Certificate is an Audit by BCA that the company has met BCA's prevailing standard and should not be construed as indicative of or in any way related to the value or worth of the company.
- 4.3 While every effort is made to ensure that consistent standards are used in carrying out the Audit, there is a degree of objectivity involved in the Audit which may result in any actual and/ or perceived deviations or variations in the Audit as to the standard of green and gracious performance. Any determination, opinion, or valuation made by BCA shall be conclusive and final and BCA will not be liable for any loss or damage suffered by reason of such deviation or variation.
- 4.4 BCA will not be liable for any damage to the company and/ or properties of the company which may be caused by the Auditor in the course of any Audit.

4.5 BCA's Audit and certification of the company is conducted at the Applicant's own risk. While all possible care is taken in the Audit and certification of the company and preparation of the Certificate and Report, neither BCA nor its directors, servants, agents or employees shall be liable (whether under the express or implied terms of this Agreement, at common law or in any other way) to the Applicant or to any other persons for any loss, damage or injury of whatever nature arising out of or resulting from any act, neglect, omission or default on the part of BCA, its directors, servants, agents or employees from any information or opinion given or expression whether in the Certificate, Report or elsewhere or from any other causes or acts.

4.6 The Applicant shall fully indemnify, defend and hold BCA, its directors, servants, agents and/ or employees harmless from any loss, damage, costs or expense (including legal costs on an indemnity basis), in the event that:

4.6.1 a claim, demand, action or proceeding is made or commenced against BCA, its directors, servants, agents and/or employees by the Applicant or any other persons in respect of any loss, damage or injury of whatever nature arising or resulting from or in relation to the Audit of the company, the Certificate or any information or opinion given or expressed therein or elsewhere in relation thereto by BCA;

4.6.2 a Writ of Subpoena or any other Orders of Court or directions is served on BCA, its directors, servants, agents and/or employees by the Applicant or any other persons or if BCA, its directors, servants, agents and/or employees are in any way required to provide any discovery/ inspection of documents, evidence, attend court or in any other way required to be involved in legal proceedings arising or resulting from or in relation to the Audit of the company, the Certificate or any information or opinion given or expressed therein or elsewhere in relation thereto by BCA.

## **5 Fees**

5.1 The fees for certification Audit, surveillance Audit and renewal Audit shall be payable according to the fee structure specified by BCA.

- 5.2 All fees shall be payable in full on acceptance of the application of certification Audit, renewal Audit and before each surveillance Audit by BCA.
- 5.3 Payment must be made within 30 days after the date of issue of invoice by BCA by way of a cashier's order or an account payee cheque made payable to "Building and Construction Authority".
- 5.4 GST is chargeable on the fees payable.
- 5.5 Fees paid are refundable in the event that the Applicant withdraws the application at any time before the commencement of the Audit. An administrative charge may be levied.
- 5.6 In the event that the Applicant withdraws the application at any time after the commencement of the Audit, any fees already paid will not be refundable.
- 5.7 BCA reserves the right to revise the fee structure from time to time. The revised fee structure will only apply to Applicants who submit applications following the effective date of the fee revision.
- 5.8 A computation of fees for the Audit by BCA is final and conclusive and binding to the Applicant.

## **6 Rights and Duties of Applicant**

- 6.1 The Applicant shall make available to BCA, documents detailing the green and gracious practices and the necessary documents as required for the purpose of the audit.

- 6.2 The Applicant shall render his full cooperation to BCA and its officers in the performance of the Audit:
- 6.2.1 the Applicant shall comply with all requirements, procedures, directions and requests of BCA;
  - 6.2.2 the Applicant shall procure the cooperation of its employees and servants in complying with the requirements, procedures, directions and requests of BCA;
  - 6.2.3 the Applicant shall not in any way interfere, hinder or seek to influence BCA's Audit and/or conduct of the Audit.
- 6.3 The Applicant shall appoint a co-coordinator to liaise with BCA for the duration of the Audit. The co-coordinator shall arrange for the Audit at the appropriate time and ensure that all necessary information are submitted for the Audit.
- 6.4 The Applicant shall allow BCA and its officers full access to the company premises for the purposes of the Audit and shall be responsible for the safety of the aforementioned while on site. The Applicant shall allow BCA and its officers to conduct inspections and Audit of the in-process work relating to the Audit criteria.
- 6.5 The Applicant shall give BCA at least 14 days written notice in arranging for an Audit.
- 6.6 The Applicant shall arrange for prompt payment of the Audit fees.
- 6.7 The Applicant shall arrange for the co-coordinator and relevant personnel to assist in the Audit.
- 6.8 The Applicant shall ensure that no Certificate or Report or any part thereof is used in a misleading manner.

6.9 BCA will permit the use of appropriate references to BCA and Green and Gracious Builder Award in advertising or promotional materials provided that the reference to BCA and Green and Gracious Builder Award in no way tends to create a misleading impression as to the nature of BCA's findings, coverage or service. The Applicant will not use the Certificate in such a manner as to bring BCA or Green and Gracious Builder Award into disrepute and will not make any statement regarding the Certificate that BCA may consider misleading or unauthorized.

## **7 Rights and Duties of BCA**

7.1 BCA will exercise due care in the performance of the Audit.

7.2 BCA will carry out the Audit in accordance with the criteria in the Green and Gracious Builder Audit Criteria. It is not intended to replace statutory requirements and/or responsibilities specified in the relevant acts and/or regulations.

7.3 BCA reserves the right to revise the Audit criteria in the Green and Gracious Builder Audit Criteria where necessary provided that the Applicant shall be given reasonable notice of such revision before any Audit is made based on such revised Audit criteria.

7.4 BCA reserves the right to maintain a register listing the names of Applicants where Audit of the company has been terminated by BCA.

7.5 BCA reserves the right to conduct a final review, if necessary, after completion of the Audit.

7.6 BCA reserves the right to refuse to audit any company without giving any reasons.

7.7 BCA reserves the right to publish a list of companies that have or have not attained the Green and Gracious Builder Award. BCA reserves the right to use any material (including but not limiting to photographs, powerpoint slides) for the publicity of Green and Gracious Builder Award.

7.8 BCA is under no obligation to make available to the Applicant the detail Audit scores or any other information pertaining to the Audit.

## **8 Termination**

8.1 BCA reserves the right to terminate the Audit at any stage of the Audit in the event that:

8.1.1 the Applicant has not paid the fees due within the time specified; or

8.1.2 the Applicant has failed to comply with any of the terms and conditions specified in this Agreement.

8.2 Notice of termination shall be deemed to be served on the Applicant if sent by registered post to the business address of the Applicant and shall be effective from the date specified on the notice.

8.3 In the event that the Audit is terminated by BCA under this Clause, the Applicant shall be liable for all monies due to BCA and no claim whatsoever shall be made by the Applicant for any monies already paid to BCA.

## **9 Downgrading, Withdrawal and Withholding Issuance of Certificate**

In the event where the builder commits an infringement against the law or carry out practices that go against the scheme's objectives or that affect public interest adversely, BCA reserves the right to downgrade, withdraw or withhold issuance of the Certificate. The period of downgrading, withdrawal or with holding issuance of the Certificate shall be the sole discretion of BCA.

## **10 Force Majeure**

No claims for damages against either the Applicant or BCA shall arise out of any breach of this Agreement if such breach is caused by government intervention or regulation, Act of Parliament, war, riot, acts of public enemies, strikes or other labour disturbances, fire, flood, Act of God or other cause beyond the control of the Applicant or BCA.

## **11 General**

11.1 This Agreement, the Application Form and the Green and Gracious Builder Criteria as revised from time to time, constitutes the entire agreement between the parties and supersedes any and all other agreements, oral or in writing.

11.2 The failure of BCA to insist upon strict compliance with any terms of this Agreement shall not be construed as a waiver with regard to any subsequent failure to comply with such term or provision.

11.3 This Agreement does not create or purport to create any right under the Contracts (Rights of Third Parties) Act 2001 or any subsequent amendment thereto, which is enforceable by any person or party who or which is not a party to this Agreement. Any person or party who or which is not a party to this Agreement shall have no right under the Act or subsequent amendment thereto, to enforce any of the terms and conditions herein.

11.4 If any provision in this Agreement is invalid or unenforceable under applicable law, the remaining provisions will continue in full force and effect.

11.5 This Agreement shall be governed by the law of Singapore.