

BCA GREEN MARK SCHEME

TERMS & CONDITIONS

1. Glossary

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

APPLICANT - the developer of a building development and/or building owner of an existing building who applied for the Assessment of the building, which is the subject of this Agreement.

ASSESSMENT - the valuation of the standard of environmental performance of the building based on the criteria as set out in the Green Mark Criteria.

ASSESSORS - BCA officers or any other persons authorised by BCA to carry out the Assessment of the building.

BCA – Building and Construction Authority.

GM – BCA Green Mark Scheme

CERTIFICATE - document issued on completion of the Assessment of the building stating the building's achievement of environmental standard set by BCA.

REPORT - document stating the evaluation, findings and results of BCA arising from BCA's assessment of the building.

BUILDING / PROJECT - the new building development or existing building of which the Assessment is sought.

2. Agreement for Assessment

2.1 Subject to the terms and conditions hereinafter set out, BCA shall make an Assessment of the PROJECT.

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

2.3 On completion of the Assessment, BCA shall issue a Certificate of BCA Green Mark to the Applicant provided that:

2.4.1 the environmental performance of the PROJECT have met the prevailing standard set by BCA at the date of BCA's acceptance of the application;

2.4.2 the receipt of BCA of all fees due to it; and

2.4.3 the fulfilment of any other requirements set by BCA.

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3. Scope of Assessment

- 3.1 BCA Green Mark assessment would be carried out using the Assessment Criteria determined at point of application for Green Mark assessment.
- 3.2 The issuance of BCA's certificate is solely based on assessment of areas covered in the assessment criteria and declarations by developer / building owner/ consultants/contractors.
- 3.3 The Applicant unconditionally agrees that the Certificate is not a detailed evaluation of the Project, nor based on a detailed examination or inspection of the Project. Other than the examination of the criteria in the 5 categories as stated in Clause 3.1, no other examinations, tests or inspections are conducted by BCA.
- 3.4 BCA's Assessment of the Project, 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 environmental performance of the Project will remain in the condition as stated in this Certificate or Report as design changes, building additions and alterations, misuse and accident may occur after the Assessment. 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 award of the Green Mark rating, the rating will be valid for three years from the date of award, or TOP date, which ever is later. During this period, no reassessment of the project would be allowed.
- 3.7 Renewal assessment shall be carried out by BCA every 3 years in order to maintain the validity of the Green Mark Certificate. The APPLICANT shall make an application for the renewal assessment 2 months before the expiry of the Green Mark certificate.

4. Limitation on Liability

- 4.1 The Certificate issued on completion of the Assessment of the PROJECT is a representation by BCA to the Applicant only. BCA disclaims all responsibility

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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 Assessment by BCA, no claim whatsoever shall be made by the Applicant against BCA.

- 4.2 The Certificate is an Assessment by BCA that the PROJECT has met BCA's prevailing minimum standard and should not be construed as indicative of or in any way related to the value or worth of the PROJECT or as recommendation to buy, sell or otherwise deal with the PROJECT.
- 4.3 While every effort is made to ensure that consistent standards are used in the carrying out of the Assessment, there is a degree of objectivity involved in the Assessment which may result in any actual and/or perceived deviations or variations in the Assessment as to the standard of environmental 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 PROJECT and/or other parts of the buildings in the Project which may be caused by the Assessors in the course of any assessment.
- 4.5 BCA's Assessment and certification of the PROJECT is conducted at the Applicant's own risk. While all possible care is taken in the Assessment and certification of the PROJECT 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, the Owner of the PROJECT 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 expressed whether in the Certificate, Report or elsewhere or from any other causes or acts.
- 4.6 Without affecting the generality of the above, the Applicant unconditionally agrees that it shall not hold BCA, its directors, servants, agents, or employees liable for any direct, indirect special, consequential loss or damage including loss of profits in the event of sale, purchase, lease of or other dealings with the PROJECT resulting from any inaccuracy or mis-statement by BCA, its directors, servants, agents, or employees in the Certificate, the Report or elsewhere.
- 4.7 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:

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- 4.7.1 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 person(s) in respect of any loss, damage or injury of whatever nature arising or resulting from or in relation to the assessment of the PROJECT, the Certificate or any information or opinion given or expressed therein or elsewhere in relation thereto by BCA;
- 4.7.2 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 person(s) 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 Assessment of the PROJECT, 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 the Assessment and renewal assessment 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 Assessment or renewal assessment by BCA.
- 5.3 Payment must be paid 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 Assessment. 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 Assessment, any fees already paid will not be refundable.

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- 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 Assessment by BCA is final and conclusive and binding on the Applicant.

6. Rights and Duties of Applicant

- 6.1 The Applicant should preferably submit the application form for the Assessment before the commencement of design and construction works, and before handing over of possession of the PROJECT to the purchaser or the Applicant or any third party occupying the PROJECT.
- 6.2 The Applicant shall make available to BCA, documents detailing the environment-friendly features and the necessary documents of the Project as required for purpose of the Assessment.
- 6.3 The Applicant shall ensure that the PROJECT meets all current building regulations and codes relevant to the PROJECT.
- 6.4 The Applicant shall render his full cooperation to BCA and its officers in the performance of the Assessment:
 - 6.4.1 the Applicant shall comply with all requirements, procedures, directions and requests of BCA;
 - 6.4.2 the Applicant shall procure the cooperation of its employees and servants in complying with the requirements, procedures, directions and requests of BCA;
 - 6.4.3 the Applicant shall not in any way interfere, hinder or seek to influence BCA's Assessment and/or conduct of the Assessment.
- 6.5 The Applicant shall appoint a Co-ordinator to liase with BCA for the duration of the Assessment:
 - 6.5.1 the Co-ordinator shall inform BCA of the progress at each stage of the work concerned;
 - 6.5.2 the Co-ordinator shall arrange for assessments at the appropriate time. For new buildings, a pre-assessment briefing should be scheduled at the early stage of development phase, followed by actual assessment during

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the substantial completion of design phase. Follow-up assessments should be arranged during early stage of architecture construction phase and final assessment after TOP. For existing buildings, a pre-assessment briefing should be arranged, followed by the actual assessment to be conducted.

- 6.5.3 The Co-ordinator shall ensure that all information submitted for the assessment are true and also subsequently inform BCA on any material changes in the design, construction, operation of the PROJECT which may affect the score and rating.
- 6.6 The Applicant shall allow BCA and its officers full access to the Project site for the purposes of the Assessment 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 audits of the in-process work relating to the assessment criteria.
- 6.7 The Applicant shall give BCA at least 14 days written notice in arranging for an assessment on site.
- 6.8 The Applicant shall arrange for prompt payment of the Assessment Fees.
- 6.9 The Applicant shall arrange for the coordinator and relevant personnel to assist in the Assessment.
- 6.10 The Applicant shall provide and maintain unhindered and safe access to facilitate the assessment and inspection works, including but not limited to the provision of special ladders, platforms, ramps or scaffolding as required by the Assessors.
- 6.11 The Applicant shall ensure that no Certificate or Report or any part thereof is used in a misleading manner.
- 6.12 BCA will permit the use of appropriate references to BCA and GREEN MARK in advertising or promotional materials solely in connection with the specific PROJECT that it has certified, provided that the reference to BCA and GREEN MARK 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 MARK into disrepute and will not make any statement regarding the Certificate that BCA may consider misleading or unauthorised.

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7 Rights and Duties of BCA

- 7.1. BCA will exercise due care in the performance of the Assessment.
- 7.2. BCA will carry out the Assessment in accordance with the criteria in the Green Mark Assessment 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 assessment criteria in the Green Mark Criteria where necessary provided that the Applicant shall be given reasonable notice of such revision before any Assessment is made based on such revised assessment criteria.
- 7.4. BCA reserves the right to maintain a register listing the names of Applicants and the relevant PROJECT where Assessment of the PROJECT has been terminated by BCA.
- 7.5. BCA reserves the right to conduct a final review, if necessary, after completion of the Assessment.
- 7.6. BCA reserves the right to refuse to assess any Project without giving any reasons.
- 7.7. BCA reserves the right to publish a list of projects that have or have not attained the GREEN MARK standard and any statistical and/or other information in relation to these projects. BCA reserves the right to use any material (including but not limiting to photographs, powerpoint slides) for the publicity of Green Mark.
- 7.8. BCA is under no obligation to make available to the Applicant the detail assessment scores or any other information pertaining to the Assessment.

8 Termination

- 8.1 BCA reserves the right to terminate the Assessment at any stage of the Assessment, re-Assessment/appeal process 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 Clause 6.3; or
 - 8.1.3 the Applicant has failed to comply with any of the terms and conditions specified in this Agreement.

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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 Assessment 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. Withdrawal and Withholding Issuance of Certificate

In the event of any site incidence that may compromise the project's environmental, health and safety performance, result in any fatality or any permanent disablement or that may compromise the structural integrity of the Project or any adjoining developments, BCA reserves the right to withdraw or withhold issuance of the Certificate. The period of withdrawal or withholding issuance of the Certificate shall be at the sole discretion of BCA.

10. Force Majeure

No claim 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.

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11. General

- 11.1 This Agreement, the Application Forms and the Green Mark 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 term 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.