

TERMS AND CONDITIONS FOR GREEN MARK GROSS FLOOR AREA (“GM GFA”) INCENTIVE SCHEME (“GM GFA INCENTIVE SCHEME”)

TERMS AND CONDITIONS

- 1) The following documents shall form the agreement between BCA and the applicant:
 - (a) the letter of offer from BCA accepting the applicant into the GM GFA Incentive Scheme;
 - (b) the letter of acceptance from the applicant;
 - (c) the Commitment Letter from Residential or Non-residential applicants (depending on building type) submitted together with the application form;
 - (d) the Commitment Letter from applicants who have commenced superstructure works on site submitted together with the Application Form;
 - (e) these Terms and Conditions;
 - (f) Circular No. BCA/GM GFA/2009-04-TD01 URA/PB/2009/04-DCG dated 29 April 2009 available at www.bca.gov.sg/GreenMark/gmgfa.html (“**2009 Circular**”);
 - (g) Circular No. BCA/GM GFA/2012-07-TD URA/PB/2012/09-DCG dated 02 July 2012 available at www.bca.gov.sg/GreenMark/gmgfa.html (“**2012 Circular**”);
 - (h) the prevailing version of the Green Mark Scheme for Residential Building or Non-Residential Building (depending on building type)

(collectively defined to be the “**Agreement**”).

- 2) Notwithstanding any other provision in the Agreement, the following will be determined by BCA at its sole discretion:
 - (a) the eligibility of the project or building for the GM GFA Incentive Scheme;
 - (b) the merits of the green building design concept proposal;
 - (c) the full quantum of allowable GM GFA;
 - (d) the equivalent market value of the additional Gross Floor Area for the purposes of determining the amount for which the applicant is liable to pay;
 - (e) the accuracy of the contents in the application form;
 - (f) the authenticity of the documents submitted with the application form;
 - (g) the verifications and assessments required to be made by BCA under these Terms and Conditions; and
 - (h) the exercise of BCA’s rights under these Terms and Conditions.
- 3) BCA shall not be liable to the applicant for any loss, damage, delay or prejudice due to the applicant’s breach of any documents under the Agreement or negligence, omissions or actions. BCA’s assessment of the Green Mark Rating is a representation only to the applicant. BCA shall not be liable for any damage caused by reliance on any representation made by the applicant to a third party in respect of the assessment, and for any damage caused by reliance on any representation made by the applicant to a third party in respect of the assessment. The applicant shall fully indemnify, defend and hold harmless BCA for any claims, costs and expenses (includes reasonable legal costs) in relation to claims by any third party.
- 4) **GM GFA Incentive**
 - (a) The GM GFA incentive shall be subject to caps / limits as set out / exemplified in paragraph 3 and Appendix 3-2 of the 2009 Circular.
 - (b) The grant of the GM GFA incentives shall be subject to:-
 - i. the endorsement of the green building design concept by the Green Mark Incentive Committee (GMIC) of BCA;
 - ii. the achievement of stipulated Green Mark ratings / standards, such achievement to be determined solely by BCA in accordance with BCA’s prevailing Green Mark Assessment criteria;
 - iii. compliance by the applicant with all planning and urban design requirements as may be imposed by any statutory authority or under law in respect of the site; and
 - iv. payment of Development Charge (DC) or Differential Premium (DP), whichever is applicable.

5) Security Deposit

- (a) The applicant shall, within [30] days from the date of the written notification issued by BCA to the applicant, informing the applicant of the amount of security deposit required ("Stipulated Time") pay to BCA a security deposit in the amount specified by BCA.
- (b) The security deposit shall be in the form of cash, a banker's draft or in the form of performance bond or banker's guarantee requested by BCA.
- (c) The security deposit shall be calculated in accordance to the procedure set out in Appendix 4 of the 2009 Circular. The security deposit shall remain valid for up to 2 years for Residential applicants and 3 years for Non-residential applicants from the date of the Temporary Occupation Permit ("Initial Security Deposit") and the applicant shall extend the validity of the security deposit as so directed by BCA.
- (d) If the security deposit is not paid within the Stipulated Time, BCA may at its sole discretion cancel the Letter of Offer for the GM GFA Incentive Scheme, and the application for the GM GFA Incentive Scheme shall be void and the applicant shall not be entitled to any benefit under the GM GFA Incentive Scheme.
- (e) The applicant and BCA hereby expressly agree and accept that the amount payable for the additional GFA calculated in the manner as set out in Appendix 4 and Appendix 5 of the 2009 Circular is a genuine pre-estimate of the market value of the additional GFA. The GM GFA computation shall be based on the equivalent market value (EMV) of the additional cost / green premium to be incurred for attaining the targeted tier of Green Mark and computed using the Development Charge (DC) in accordance with Appendix 3-2 of the 2009 Circular. The prescribed Green Premium and DC rate to be used for computing the GM GFA shall be pegged to the date of planning submission to the Urban Redevelopment Authority (URA) where the GM GFA is proposed and leading to a conveyance where the GM GFA is first endorsed by the URA.
- (f) The applicant may choose not to take up the full quantum of allowable GM GFA under this GM GFA Incentive Scheme. In such a circumstance, the applicant is still required to compute the security deposit based on the full quantum of allowable GM GFA applicable for the application and payable to BCA using the formula as stated in Appendix 4 of the 2009 Circular and Appendix 1 of the 2012 Circular. BCA, may at its direction, revise the sum of the security deposit.

6) Green Mark Rating before TOP (for all buildings)

- (a) The applicant shall obtain the Green Mark Rating before the building/project receives the Temporary Occupation Permit by providing BCA with the necessary documentation and taking the necessary action.
- (b) In the event the applicant is unable to obtain the targeted Green Mark Rating as indicated in the GM GFA Letter of Offer, the applicant shall pay to BCA the amounts in the manner set out in Appendix 5 of the 2009 Circular and BCA shall have the right to forthwith deduct from the security deposit the said applicable amount(s). For avoidance of doubt, if the amount to be deducted exceeds the amount of the security deposit or the available balance, the applicant shall be liable to pay to BCA the shortfall thereof on demand.
- (c) The applicant shall also not be considered for same or similar GM GFA incentive schemes offered by BCA for up to 2 years from the date the applicant is not able to receive the targeted Green Mark Rating. However, the applicant will still be entitled to the GM GFA incentive applicable to the GM rating the building actually achieves.

7) Green Mark Verification Stage 1 (for residential buildings)

- (a) The applicant shall apply to BCA for Green Mark Verification Stage 1, submit documentation that demonstrates achievement of the Green Mark Rating and complete Green Mark Verification Stage 1 no later than 2 years after obtaining the Temporary Occupation Permit¹ with respect to the building. Applicants who do not complete Green Mark Verification Stage 1 before the expiry date of the Initial Security Deposit (i.e. 2 years after TOP) will have 50% of the security deposit forfeited.
- (b) If BCA finds, pursuant to the Green Mark Verification Stage 1 and at its sole discretion, that the site validation have been completed, then BCA shall refund the security deposit or balance

¹ Note to applicants: Notwithstanding Paragraph 18 of the 2009 Circular, clearance for TOP will not be withheld if the application has not yet conducted the Green Mark Verification Stage 1 before the Temporary Occupation Permit issuance.

thereof to the Applicant within [3] months from the time the formal application to release the security deposit is received by BCA.

- (c) In the event that the applicant is unable to meet the Green Mark Rating at the Green Mark Verification Stage 1, the applicant shall be allowed a grace period determined by BCA at its sole discretion (“the said period”) to comply and submit the evidence of having met the Green Mark Rating as agreed. For avoidance of doubt, during the Further Period, the security deposit or balance thereof shall be valid and remain with BCA.
- (d) Within reasonable time after the expiry of the said period, BCA shall (again) determine, at its sole discretion, if the required site validation have been achieved. The evidence submitted does not indicate attainment of the targeted Green Mark Rating as agreed, the applicant shall pay to BCA the amount(s) in the manner set out in Appendix 5 of the 2009 Circular and BCA shall have the right to forthwith deduct from the security deposit the said applicable amount(s). For avoidance of doubt, if the amount to be deducted exceeds the amount of the security deposit or the available balance, the applicant shall be liable to pay to BCA the shortfall thereof on demand.
- (e) Applicants who are unable to attain the targeted Green Mark Rating shall also not be considered for same or similar GM GFA incentive schemes offered by BCA for up to 2 years from the date the applicant is not able to receive the targeted Green Mark Rating. However, the applicant will still be entitled to the GM GFA incentive applicable to the GM rating the building actually achieves.

8) Green Mark Verification Stages 1 and 2 (for non-residential buildings)

- (a) The applicant shall:
 - i) apply to BCA for Green Mark Verification Stage 1 and submit documentation that demonstrates achievement of the Green Mark Rating; and
 - ii) provide BCA with the necessary documentation and take the necessary action so that BCA conducts the Green Mark Verification Stage 2 to assess building performance based on actual operation of the building. Building performance will be demonstrated through BCA Green Mark site validation and energy modeling using the actual building operational data (if applicable). BCA’s prevailing Green Mark assessment criteria will be adopted for the purposes of the aforesaid verification.
- (b) If BCA finds, pursuant to the Green Mark Verification Stage 1 and 2 and at its sole discretion, that the site validation and energy modeling (if applicable) have been completed and achieved, then BCA shall refund the security deposit or balance thereof to the Applicant within [3] months from the time the formal application to release the security deposit is received by BCA.
- (c) In the event that the applicant is unable to meet the Green Mark Rating and energy modeling (if applicable) at the Green Mark Verification Stage 1 and 2, the applicant shall be allowed a grace period determined by BCA at its sole discretion (the “Further Period”) to comply and submit the evidence of having met the Green Mark Rating and energy modeling as agreed. For avoidance of doubt, during the Further Period, the security deposit or balance thereof shall be valid and remain with BCA.
- (d) The applicant shall ensure that clause 8(a) should be completed no later than 3 years after obtaining the Temporary Occupation Permit² with respect to the building. Applicants who do not submit documents and take the necessary action to complete Green Mark Verification Stage 1 and 2 before the expiry date of the initial security deposit (i.e. 3 years after TOP) will have 50% of the security deposit forfeited.
- (e) Within reasonable time after the expiry of the Further Period, BCA shall (again) determine, at its sole discretion, if the required site validation and energy modeling (if applicable) have been achieved. In the event that BCA finds that the said targets have been fully achieved, BCA shall refund the security deposit or balance thereof. If the applicant fails to meet the site validation and energy savings targets (if applicable) after the expiry of the Further Period, the applicant shall pay to BCA the amount(s) calculated in the manner set out in Appendix 5 in the 2009 Circular. BCA shall deduct from the security deposit the said applicable amount(s). If the amount to be deducted exceeds the amount of the security deposit or the available balance, the applicant shall pay to BCA the shortfall thereof on demand. The calculation of the shortfall sum shall be pursuant to the formula in Appendix 5 in the 2009 Circular and shall be provided to the applicant in writing. This written calculation shall be conclusive of the amount of the shortfall

² Note to applicants: Notwithstanding Paragraph 18 of the 2009 Circular, clearance for TOP will not be withheld if the application has not yet conducted the Green Mark Verification Stage 1 before the Temporary Occupation Permit issuance.

sum owed by the applicant to BCA. Any failure by the applicant to pay the shortfall sum shall be a breach of these terms and conditions.

- (f) BCA shall keep the applicant informed of any deduction from the security deposit. Applicants who are required to pay more than 10% of the EMV as a result of non-attainment of the targeted Green Mark Rating shall also not be considered for same or similar GM GFA incentive schemes offered by BCA for up to 2 years from the date the applicant is not able to receive the targeted Green Mark Rating. However, the applicant will still be entitled to the GM GFA incentive applicable to the GM rating the building actually achieves.

9) False, fraudulent and misleading information

- (a) Each applicant warrants to BCA that the information and documents provided to BCA and its employees are true in every particular. BCA and its employees reserve the right to contact references and other sources to verify the information and documents submitted by each applicant. The applicant understands that the information and contents in documents submitted may be disclosed to third parties in the course of verification checks conducted by BCA and its employees.
- (b) BCA may, in addition to reporting the applicant to the relevant authorities for legal action and , take the following courses of action if any information and/or documents submitted are false, forged, fraudulent, misleading or reasonably suspected by BCA to be false, forged, fraudulent or misleading:

GM GFA utilised	Security Deposit collected from the Applicant	Course of Action to be taken by BCA
Yes	Yes	Forfeit SD (50% of EMV) and claim remaining 50% of EMV from Applicant as a debt.
No	Yes	Withdraw GM GFA incentive that has been allocated but remains unutilized. SD will not be forfeited.
No	No	Withdraw GM GFA incentive that has been allocated but remains unutilized.
Yes	Collected and subsequently released to applicant	Claim 100% of EMV from Applicant
<ul style="list-style-type: none"> In all cases, the applicant shall also not be considered for same or similar GM GFA incentive schemes offered by BCA for up to 6 years from the date the breach of warranty is discovered by BCA. The Equivalent Market Value shall be calculated in accordance to Appendix 4 of Circular 2009 		

- 10) The GM GFA Incentive Scheme, this document, the Circulars, and their respective appendices shall be governed by and construed in all respects in accordance with Singapore Law.

11) Dispute Resolution

- (a) Both parties agree that before referring any dispute or difference to arbitration or court proceedings, they may consider resolving the dispute or difference through formal mediation. If both parties agree to attempt resolving the dispute through mediation, the parties shall do so at the Singapore Mediation Centre in accordance with its prevailing prescribed forms, rules and procedures.
- (b) Subject to and without prejudice to Clause 11(a) above, any dispute or difference arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause. If the parties are unable to agree to the choice of an arbitrator, the matter shall be referred to the Minister for National Development who shall appoint the arbitrator. The Minister's decision shall be final. The award of the arbitrator shall be final and binding on the parties.