

BCA-MSF **UDFF Mark**

Terms & Conditions

1. Glossary

The following words and expressions shall have the following meanings in these Terms and Conditions, unless the context otherwise requires:

- 1.1 **ADMINISTRATORS** – comprising BCA and/or MSF.
- 1.2 **AGREEMENT** – these Terms and Conditions, the Email Acceptance, the Application Form and the BCA-MSF UDFF Mark Criteria.
- 1.3 **APPLICANT** – the business owner, business management, developer of a building development and/or building owner of an existing building who applies for the Assessment of the Business, Building or Project, which is the subject of the Agreement.
- 1.4 **APPLICATION FORM** – the application form that an Applicant submits to the Administrators when applying for the Assessment of the Business, Building or Project.
- 1.5 **ASSESSMENT** – the rating of the Business, Building or Project based on the BCA-MSF UDFF Mark Criteria provided always that:
 - (a) the Assessors may at their sole discretion assess if the Business, Building or Project meet the applicable BCA-MSF UDFF Mark Criteria; and
 - (b) the version of the BCA-MSF UDFF Mark Criteria adopted for the Assessment shall be the version that is published on the BCA webpage www.bca.gov.sg/friendlybuilding on the date the Applicant submits the Application Form.
- 1.6 **ASSESSORS** – the Administrators’ officers or any other persons authorised by the Administrators to carry out the Assessment of the Business, Building or Project.
- 1.7 **BCA** – Building and Construction Authority.
- 1.8 **BCA-MSF UDFF MARK** – BCA-MSF Universal Design (UD) Mark for Family-Friendly Business Scheme as described in BCA’s web page/s at www.bca.gov.sg/friendlybuilding, the contents of which may be amended from time to time at the Administrators’ sole discretion and with no notice to the Applicant.
- 1.9 **BCA-MSF UDFF MARK CRITERIA** – the BCA-MSF UDFF Mark Criteria and methods of Assessment as described on BCA’s webpage at www.bca.gov.sg/friendlybuilding, the contents of which may be amended from time to time at the Administrators’ sole discretion. The version of the BCA-MSF UDFF Mark Criteria which will be adopted for

the Assessment shall be the version published on BCA's webpage on the date the Applicant submits the Application Form to BCA.

- 1.10 **BUSINESS/BUILDING/PROJECT** – the business (which is registered under the Companies Act (Cap. 50) or Business Names Registration Act 2014), new building development or existing building for which the Assessment is sought.
- 1.11 **CERTIFICATE** – document jointly issued by the Administrators setting out the rating on completion of the Assessment of the Business, Building or Project, which is valid for a period of two years or otherwise stated.
- 1.12 **EMAIL ACCEPTANCE** – the email sent by BCA to Applicant informing that the application has been accepted.
- 1.13 **FEES** – the fees to be paid by the Applicant to the Administrators for the Administrators' conduct of the pre-Assessment briefing, carrying out of the Assessment, and issuance and delivery of the Certificate, the amount of which is stated in the Email Acceptance.
- 1.14 **MSF** – Ministry of Social and Family Development.
- 1.15 **PARTIES** – the Administrators and the Applicant, and 'Party' refers to either the Administrators or the Applicant, where applicable.
- 1.16 **INTERPRETATION** – words importing the singular also include the plural and vice-versa, where the context requires.
- 2. Agreement for Assessment** - Subject to and in accordance with these Terms and Conditions and in consideration of the Applicant making payment of the Fees, the Administrators shall conduct a pre-Assessment briefing, and an Assessment of the Business, Building or Project (the results of which shall be final).
 - 2.1. Fees and the manner in which they are to be charged shall be set out in the Email Acceptance.
 - 2.2. Within a reasonable time after the completion of the Assessment and any presentation by the Applicant that the Administrators may request pursuant to clause 6.12 below, the Administrators shall issue and deliver the Certificate provided that:
 - 2.2.1. the Business, Building or Project has been assessed to have met the BCA-MSF UDFB Mark Criteria;
 - 2.2.2. the Administrators have received all Fees due to them; and
 - 2.2.3. the Applicant has met all the terms and conditions provided in this Agreement.

3. Scope of Assessment

- 3.1. The Applicant acknowledges and accepts that the Certificate is issued solely based on result of the Assessment (which is conducted with reference to the BCA-MSF UDFB Mark Criteria), and the declarations and information provided by the Applicant and third parties including but not limited to the business owner, business management, developer, building owner, consultants and contractors.
- 3.2. The Applicant acknowledges and accepts that the Certificate is not based on a detailed evaluation of the Business, Building or Project, nor based on a detailed examination or inspection of the Business, Building or Project. Other than the examination based on the BCA-MSF UDFB Mark Criteria, no other examinations, tests or inspections are conducted by the Administrators.
- 3.3. Nothing in the Certificate or any opinion conveyed during or relating to the Assessment shall be taken as warranting or guaranteeing that the universal design and family-friendly service provisions of the Business, Building or Project will remain in the condition as stated in the Certificate 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.
- 3.4. Any determination, opinion, or valuation made by the Administrators shall be final and not subject to review, save for manifest error, and the Applicant undertakes not to challenge or contest any such determination, opinion or valuation.

4. Limitation on Liability

- 4.1. The Certificate issued on completion of the Assessment of the Business, Building or Project is a representation to the Applicant only. The Administrators and their directors, servants, agents, and employees 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 Certificate, and for any damage caused by reliance on any representation made by the Applicant to a third party in respect of any opinion expressed during or in relation to the Assessment. In the event that any claim or dispute should arise as a consequence of or relating to the Assessment, the Certificate, any such opinion, or for any claim arising directly or indirectly in connection with the operation or maintenance of the Building or Project, no claim whatsoever shall be made against the Administrators, or their directors, servants, agents, and employees and the Administrators, or its directors, servants, agents and employees shall not have any responsibility (whether arising in contract, tort or otherwise).
- 4.2. The Applicant acknowledges and accepts that the Certificate represents that the Business, Building or Project has met the BCA-MSF UDFB Mark Criteria and should not be construed as indicative of or in any way related to the value or worth of the Business, Building or Project or as recommendation to buy, sell or otherwise deal with the Business, Building or Project. The Applicant further acknowledges that the results of the Assessment and/or the contents of the Certificate are not intended in any way

to replace or supersede statutory requirements and/or responsibilities specified in relevant acts and/or regulations.

4.3. The Applicant acknowledges and accepts that, while every effort is made to ensure that consistent standards are used in the carrying out of all Assessments for different Businesses, Buildings or Projects, there is a degree of subjectivity involved in the Assessments which may result in any actual and/or perceived variations in the Assessment results for different Businesses, Buildings or Projects. Any determination, opinion, or valuation made by the Administrators shall be conclusive and final and the Administrators will not be liable for any loss or damage suffered by reason of such deviation or variation.

4.4. The Administrators and their directors, servants, agents, and employees will not be liable for any damage to the Business, Building or Project and/or other buildings in the Project or in the vicinity of the Building which may be caused in the course of the Assessment.

4.5. The Assessment of the Business, Building or Project is conducted at the Applicant's own risk. While all possible care is taken in the Assessment, the certification of the Business, Building or Project, preparation of the Certificate, and the expression of any opinion relating to the Assessment, neither the Administrators nor their directors, servants, agents or employees shall be liable (whether under the express or implied terms of the Agreement, at common law or in any other way) to the Applicant, the owner or management of the Business, Building or 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 the Administrators or their directors, servants, agents, or employees, relating to any information or opinion given or expressed whether in the Certificate or elsewhere.

4.6. Without affecting the generality of the above, the Applicant unconditionally agrees that it shall not hold the Administrators and their directors, servants, agents, or employees liable for:

- 4.6.1. any direct loss or damage;
- 4.6.2. any consequential or indirect loss;
- 4.6.3. any loss of revenue, profits, business or custom;
- 4.6.4. any punitive, special or exemplary damages; or
- 4.6.5. any loss of use, anticipated savings, goodwill, reputation or business contracts, or any other form of pure economic loss,

notwithstanding any inaccuracy or mis-statement by the Administrators or their directors, servants, agents, or employees in the Certificate or elsewhere in conducting the Assessment.

4.7. The Applicant shall fully indemnify, defend and hold harmless the Administrators and their directors, servants, agents and employees harmless against any:

- 4.7.1. claim, demand, action or proceeding made or commenced against the Administrators or their directors, servants, agents and/or employees by any person(s) in respect of any loss, damage or injury of whatever nature arising or resulting from or relating to the Assessment of the Business, Building or Project, the Certificate, or any information or opinion given or expressed in relation to the Assessment, and any loss, damage, costs or expense (including legal costs on an indemnity basis) incurred or suffered by the Administrators or their directors, servants, agents and/or employees in such event;
- 4.7.2. expense, loss, costs or damage incurred and arising from any Writ of Subpoena or any other court orders or directions served on the Administrators or their directors, servants, agents and/or employees by the Applicant or any other person(s), and any expense, loss, costs or damage incurred by the Administrators or their directors, servants, agents and/or employees in the event that they are required to provide any discovery of documents, attend to inspection of documents, provide evidence, or 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 Business, Building or Project, the Certificate or any information or opinion given or expressed in relation thereto by the Administrators or their directors, servants, agents and/or employees.

5. Fees

- 5.1. Notwithstanding any other provision in the Agreement, for the avoidance of doubt, the Administrators shall not under any circumstance be under any obligation to conduct the pre-Assessment briefing, carry out the Assessment, issue or deliver the Certificate if the Fees have not been paid and received by the Administrators.
- 5.2. The Fees shall be paid by the Applicant to the Administrators in the amount(s) and manner set out in the Email Acceptance. The Applicant shall bear all applicable taxes and bank charges, if any, in addition to the said Fees.
- 5.3. Unless otherwise specified or agreed by the Administrators, payment(s) must be made within the timeline(s) and in the manner stated in the Email Acceptance.
- 5.4. In the event that the Applicant indicates in writing to the Administrators, not later than one (1) month before the date of the pre-Assessment briefing as proposed by the Applicant and agreed to by the Administrators, that it wishes to withdraw from the Agreement, the Fees paid will be refunded by the Administrators. Such refund is subject to both the Administrators and the Applicant releasing each other from their respective obligations under the Agreement, and subject to an administrative charge payable by the Applicant, the amount of which shall be determined by the Administrators.
- 5.5. For the avoidance of doubt and without prejudice to the Administrators' rights at law or under the Agreement, Fees shall not, in any other event, be refunded by the Administrators.

- 5.6. Any computation of Fees payable for the Assessment by the Administrators shall be final and conclusive and binding on the Applicant.

6. Rights and Duties of Applicant

- 6.1. The Applicant shall make available to the Administrators such documents detailing the user-friendly features and services of the Business, Building or Project and such other documents as deemed necessary and requested by the Administrators for purpose of the pre-Assessment briefing and Assessment.

- 6.2. The Applicant shall further warrant and undertake, in consideration of receiving the BCA-MSF UDFB Mark, he shall ensure that the provisions for which BCA-MSF UDFB Mark was awarded in relation to the Business, Building or Project (the "said provisions") are not removed, altered or obstructed so as to prevent persons from using or utilising such provisions for the validity period stated in the Certificate. In the event the Applicant sells his interest in the Business, Building or Project prior to the expiry of the validity period stated in the Certificate, the Applicant undertakes that he shall use best efforts to procure the agreement of the person with whom such interest in the Business, Building or Project shall retain after the sale for the remaining period of validity stated in the Certificate, that the said provisions shall not be removed, altered or obstructed for the remaining period of validity stated in the Certificate.

- 6.3. The Applicant shall render his full cooperation to the Administrators and their officers in the performance of the pre-Assessment briefing and Assessment:

6.3.1. the Applicant shall comply with all requirements, procedures, directions and requests (including requests for documents) of the Administrators;

6.3.2. the Applicant shall procure the cooperation of its employees and servants in complying with the requirements, procedures, directions and requests of the Administrators; and

6.3.3. the Applicant shall not in any way interfere, hinder or seek to influence the Administrators' Assessment and/or conduct of the Assessment.

- 6.4. The Applicant shall appoint one of its staff as a Co-ordinator to liaise with the Administrators for the duration of the Assessment and in relation to the pre-Assessment briefing:

6.4.1. the Co-ordinator shall inform the Administrators of the progress at each stage of the construction works (where applicable) concerned;

6.4.2. the Co-ordinator shall propose to the Administrators the date(s) for the Assessment, provided always that the Assessment shall be carried out only after 30 days have elapsed from the date of the Email Acceptance but no later than 1 year from the date of the Email Acceptance. If the Assessment is not carried out within 1 year from the date of the Email Acceptance, the Administrators shall

cease to be under any obligation to carry out the Assessment and issue and deliver the Certificate and shall, for the avoidance of doubt, be under no obligation to refund any Fees which have been paid; and

- 6.4.3. the Co-ordinator shall ensure that all information submitted for the purposes of the Assessment are true.
- 6.5. The Applicant shall allow the Administrators and their Assessors full access to the Business, Building or Project site for the purposes of the Assessment or the pre-Assessment briefing and shall be responsible for the safety of the aforementioned while on site.
- 6.6. The Applicant shall arrange for the Co-ordinator and relevant personnel to assist in the Assessment as requested by the Administrators.
- 6.7. The Applicant shall make provision for and maintain unhindered and safe access to facilitate the Assessment, the pre-Assessment briefing and inspection works.
- 6.8. The Applicant shall ensure that the Certificate, or any part thereof, is not used in a misleading manner.
- 6.9. The Applicant undertakes to the Administrators that it will not use the Certificate in such a manner as to bring the Administrators or the BCA-MSF UDFF Mark into disrepute and will not make any statement regarding the Certificate that the Administrators may consider misleading or unauthorised.
- 6.10. Upon the Administrators' request (if any), the Applicant shall make a presentation to the Administrators regarding the Business, Building or Project addressing such issues and/or in such manner as the Administrators may specify.

7. Rights and Duties of the Administrators

- 7.1. The Administrators will exercise reasonable diligence and care in the performance of the Assessment.
- 7.2. The Applicant acknowledges and accepts that the Administrators have the right and discretion to revise the BCA-MSF UDFF Mark Criteria as it deems fit.
- 7.3. The Administrators shall be entitled to conduct a final review, as they deem necessary, after completion of the Assessment.
- 7.4. The Applicant shall not make any reference to the Administrators nor use the BCA-MSF UDFF Mark in any form of publication, and in particular, any marketing or publicity materials without first obtaining written consent from the Administrators. The Administrators may, upon the Applicant's written request, grant to the Applicant permission for the use of appropriate references to BCA, MSF and the BCA-MSF UDFF

Mark in advertising or promotional materials solely in connection with the specific Business, Building or Project that it has certified, provided always that:

- (a) the reference to BCA, MSF and UD Mark shall in no way tend to create a misleading impression as to the nature of the Administrators' findings, coverage or service; and
- (b) the Applicant shall at all times comply with the Guidelines and terms and conditions relating to the use of the BCA-MSF UDFB Mark Logo as set out in BCA's webpage at www.bca.gov.sg/friendlybuilding.

7.5 The Applicant irrevocably consents to:--

- (a) BCA publishing a list of Businesses, Buildings or Projects in any manner it deems fit in any medium that have or have not attained BCA-MSF UDFB Mark certification and any statistical and/or other information in relation to these Businesses, Buildings or Projects; and
- (b) The Administrators producing any publication or informative materials about the Business, Building or Project in any manner and presenting the said publication or materials via any medium it deems appropriate in so far as such publication or materials shall relate to the purposes of publicity of BCA-MSF UDFB Mark provided always that the Administrators shall be under no obligation to make such publications or materials.

7.6 For the avoidance of doubt, the Administrators shall be under no obligation to make available to the Applicant the detailed scores from the Assessment or any other information pertaining to the Assessment except for the final valuation of the Business, Building or Project based on the BCA-MSF UDFB Mark Criteria.

7.7 The Administrators shall carry out:-

- (a) the pre-Assessment briefing on the date agreed by the Parties and
- (b) the Assessment on date(s) proposed by the Applicant and agreed to by the Administrators (such agreement not to be unreasonably withheld), provided that the Assessment shall be carried no later than 1 year from the date of the Email Acceptance, failing which, the Administrators shall cease to be under any obligation to carry out the Assessment and pre-Assessment briefing, and to issue and deliver the Certificate, and shall, for the avoidance of doubt, be under no obligation to refund any Fees which have been paid.

8. Termination

8.1. Without prejudice to its rights at common law, the Administrators shall be entitled to terminate the Assessment and/or the Agreement at any time in the event that:

- 8.1.1. the Applicant has not paid the Fees due within the timelines stipulated in the Email Acceptance or
- 8.1.2. the Applicant has failed to comply with Clause 6.2; or
- 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 or such other correspondence address of the Applicant as notified to the Administrators from time to time and shall be effective from the date specified on the notice.
- 8.3. In the event that the Assessment and/or Agreement is terminated by the Administrators under this clause, the Applicant shall nevertheless be liable for all Fees or monies due to the Administrators and all out of pocket expenses incurred by the Administrators in carrying out its obligations under the Assessment and/or Agreement. Further, the Administrators shall be under no obligation to pay any claim whatsoever by the Applicant for any Fees or monies already paid to the Administrators pursuant to this Agreement.

9. Withdrawal and Withholding Issuance of Certificate

In the event of any site incident or conditions that may, in the sole opinion of the Administrators, compromise the Business's, Building's or Project's environment, health and safety performance, result in any fatality or any permanent disablement, or that may compromise the structural integrity of the Building or Project or any adjoining developments, the Administrators shall be entitled to withhold the issuance and/or delivery of the Certificate. The period of withholding shall be at the Administrators' sole discretion.

10. Waiver

No failure on the part of the Administrators to exercise, and no delay on its part in exercising, any right or remedy under the Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in the Agreement are cumulative and not exclusive of any other rights or remedies (whether provided by law or otherwise).

11. Invalidity

If at any time any provision of the Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions of the Agreement shall not in any way be affected or impaired thereby. The Administrators and the Applicant agree to amend or replace any invalid, illegal or unenforceable provision of the Agreement by a valid, legal and enforceable provision which achieves, to the greatest extent possible and in the interests of the Administrators and the Applicant, the economic and all other purposes of the invalid, illegal or unenforceable provision.

12. Entire Agreement

The Agreement supersedes and cancels all previous agreements, warranties, undertakings, statements or representations whether oral or written, express or implied, given or made by or between the Administrators and the Applicant, and constitutes the entire agreement between the Administrators and the Applicant in respect of the matters set out herein, and no other terms and conditions shall be included or implied.

13. Governing Law

The Agreement shall be governed by and construed in accordance with the laws of Singapore.

14. Assignment

The Applicant shall not assign, transfer, subcontract or delegate any of its rights, interest or obligations without the prior written consent of the Administrators, which may be given on such terms and subject to such conditions as the Administrators shall may require.

15. Amendments

15.1. The Agreement shall be amended only by agreement in writing executed by the Administrators and the Applicant.

15.2. Unless expressly agreed, no variation shall constitute a general waiver of any provision of the Agreement, nor shall it affect any rights, duties, obligations, undertakings, warranties, covenants or liabilities under or pursuant to the Agreement which have already accrued up to the date of variation. The rights of both the Administrators and the Applicant under or pursuant to the Agreement shall remain in full force and effect, except and only to the extent that they are so varied.

16. Dispute Resolution

16.1. The 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.

16.2. For avoidance of doubt, the provision herein shall not amount to any legal obligation on the part of either Party to attempt mediation or continue mediation, as a means of resolving their dispute or difference.

16.3. Notwithstanding any other provision in the Agreement, in the event of any dispute or difference of any kind arising from the Agreement between the Administrators and the Applicant, the Administrators shall be entitled to elect to have the dispute or difference resolved by the Singapore Courts, in which event, the Applicant shall submit to the exclusive jurisdiction of the Singapore Courts.

16.4. Subject to and without prejudice to Clause 16.3 above, any dispute or difference arising out of or in connection with the 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.

- 16.5. 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.
- 16.6 The award of the arbitrator shall be final and binding on the Parties.