

Warning and Debarment System for Auctions
held by Government Logistics Department (“GLD”)

General

1. Unless otherwise specified, the defined terms shall have the same meanings as provided in Part I - Interpretation of the Standard Terms and Conditions of Auction Sale (“T&CS”) (Rev. January 2021).

Warning and Debarment System for Auctions

For Bidders

(Reference Paragraph 17 of the Terms of Auction Sale of the T&CS.)

2. On the occurrence of any of the events referred to in Paragraph 17.2 of Part II - Terms of Auction Sale of the T&CS concerning a Registered Bidder (“Defaulting Registered Person”), the Government shall have the right to debar the Defaulting Registered Person from participating in any auction held by or on behalf of the Government for the following periods:

	Event under Paragraph 17 of Part II - Terms of Auction Sale	Debarment Period
(a)	<p>Paragraph 17.2(b)</p> <p><i>(“the Registered Person has transferred the Bidding Paddle to another person in breach of Paragraph 3.2”)</i></p> <p>Paragraph 17.2(c)</p> <p><i>(“the Registered Person has taken any photograph and/or recorded any video of the Items/Lot(s) –</i></p> <p><i>(i) during inspection in breach of Paragraph 4.4; or</i></p> <p><i>(ii) at the Auction Venue in breach of Paragraph 14.2”)</i></p>	<p>1st default : 3 months* (extendable)</p> <p>2nd default@ : 6 months*^ (extendable)</p> <p>3rd default@ : Removal from the GLD Registered Person List (“the List”). The Defaulting Registered Person will not be eligible to apply to be admitted to the List for 12 months.*^</p>

	Event under Paragraph 17 of Part II - Terms of Auction Sale (continued)	Debarment Period
	<p>Paragraph 17.2(f)</p> <p><i>(“the Registered Person has caused undue disturbance or disorder that interfered with the bids of other persons or caused other persons to surrender their bids for a certain Lot in breach of Paragraph 14.2”)</i></p> <p>Paragraph 17.2(g)</p> <p><i>(“the Registered Person has used abusive language to public officers at the Auction Venue, or willfully obstructed or resisted them in the execution of their duties at the Auction Venue under Paragraph 14.2”)</i></p> <p>Paragraph 17.2(h)</p> <p><i>(“the Registered Person has received three (3) warning letters issued by the Government in respect of the Registered Person’s breach of Clause 19.1 of the General Conditions of Auction Sale in his capacity as a Buyer at any auction arranged by or on behalf of the Government within the three (3) months immediately preceding (and including) the date of the latest warning letter”)</i></p>	

	Event under Paragraph 17 of Part II - Terms of Auction Sale (continued)	Debarment Period
(b)	Paragraph 17.2(a) <i>(“the Registered Person has submitted any false or inaccurate statement or forged document for substantiating his eligibility for registration as a Registered Person and/or participation in any auctions held by or on behalf of the Government”)</i>	Charged by the relevant : 12 months authorities (extendable) and pending the Court’s judgement
		Obtained any conviction : Removal from under Part IX (Forgery the List. and Related Offences) of the Crimes Ordinance (Cap. 200): The Defaulting Registered Person will not be eligible to apply to be admitted to the List for 36 months.
(c)	Paragraph 17.2(d) (“the Registered Person has failed to comply with the requirements in relation to the Prevention of Bribery Ordinance (Cap. 201) stipulated in Paragraph 12.1”)	Charged by the relevant : 12 months authorities (extendable) and pending the Court’s judgement
		Obtained any conviction : Removal from under the Prevention of the List. Bribery Ordinance The Defaulting Registered Person will not be eligible to apply to be admitted to the List for 36 months.

	Event under Paragraph 17 of Part II - Terms of Auction Sale (continued)	Debarment Period
(d)	<p>Paragraph 17.2(e)</p> <p><i>(“the Government has reasonable grounds to believe that the Registered Person is in breach of its representations, warranties and undertakings under Paragraph 13.2”)</i></p> <p>i.e. breach of the representation, warranty and undertaking that he has not entered into any prior agreement, arrangement or understanding or otherwise engaged in any conduct which has or is likely to have the effect of preventing or hindering competitive bidding.</p>	<p>The Government has reasonable grounds to believe that the Registered Person is in breach of Paragraph 13.2 of the Terms of Auction Sale:</p> <p>For examples where:</p> <p>(i) the Government has made a report to the Competition Commission as mentioned in Clause 13.3(b) of the Terms of Auction Sale; or</p> <p>(ii) the Registered Person is the subject of a current case brought before the Competition Tribunal by the Competition Commission.</p> <p>12 months (extendable) and pending the Tribunal’s judgement</p>
		<p>When the Registered Person is found by the Competition Commission to have entered into any prior agreement, arrangement or understanding or otherwise engaged in any conduct which has or is likely to have the effect of preventing or hindering competitive bidding</p> <p>Removal from the List.</p> <p>The Defaulting Registered Person will not be eligible to apply to be admitted to the List for 36 months.</p>

For Buyers

(Reference Clause 12 of the General Conditions of Auction Sale of the T&CS.)

3. In the event that a Buyer has breached Clause 19.1 of Part III - General Conditions of Auction Sale (“GCAS”) of the Standard Terms and Conditions of Auction Sale (“T&CS”) (“Defaulting Buyer”), a warning letter may be issued to the Defaulting Buyer.
4. On the occurrence of any of the events referred to in Clause 12.3 of GCAS, the Government shall have the right to debar the Defaulting Buyer from participating in any auction held by or on behalf of the Government for the following periods:

	Event under Clause 12.3 of Part III - General Conditions of Auction Sale	Debarment Period
(a)	<p>Clause 12.3(n) <i>(“the Buyer has received three (3) warning letters issued by the Government as mentioned in Clause 12.1 within the three (3) months immediately preceding (and including) the date of the latest warning letter”)</i></p> <p>Clause 12.3(b) <i>(“the Buyer has transferred the Bidding Paddle to another person in breach of Paragraph 3.2 of the Terms of Auction Sale”)</i></p> <p>Clause 12.3(c) <i>(“the Buyer has taken any photograph and/or recorded any video of the Items/Lot(s) – (i) during inspection in breach of Paragraph 4.4 of the Terms of Auction Sale; or (ii) at the Auction Venue in breach of Paragraph 14.2 of the Terms of Auction Sale”)</i></p>	<p>1st default : 3 months* (extendable)</p> <p>2nd default[@] : 6 months*[^] (extendable)</p> <p>3rd default[@] : Removal from the List. The Defaulting Buyer will not be eligible to apply to be admitted to the List for 12 months.*[^]</p>

	Event under Clause 12.3 of Part III - General Conditions of Auction Sale (continued)	Debarment Period
	<p>Clause 12.3(e)</p> <p><i>(“the Buyer has caused undue disturbance or disorder that interfered with the bids of other persons or caused other persons to surrender their bids for a certain Lot in breach of Paragraph 14.2 of the Terms of Auction Sale”)</i></p> <p>Clause 12.3(f)</p> <p><i>(“the Buyer has used abusive language to public officers at the Auction Venue, or willfully obstructed or resisted them in the execution of their duties at the Auction Venue under Paragraph 14.2 of the Terms of Auction Sale”)</i></p> <p>Clause 12.3(i)</p> <p><i>(“the Buyer has conducted any activities at the Location other than the collection and removal of the Lot purchased from the Location without the prior written consent by the Government under Clause 3.9”)</i></p> <p>Clause 12.3(k)</p> <p><i>(“the Buyer has assigned or transferred any of his rights or obligations under the Contract without prior written consent of the Government in breach of Clause 9”)</i></p>	

	Event under Clause 12.3 of Part III - General Conditions of Auction Sale (continued)	Debarment Period
	<p>Clause 12.3(l)</p> <p><i>“(the Buyer has not submitted advertising or other publicity materials as required under Clause 10.1, or the Buyer has published or used advertising or other publicity materials without the prior written consent of the Government under Clause 10.1)”</i></p>	
(b)	<p>Clause 12.3(g)</p> <p><i>“(the Buyer has failed to pay the full purchase price for the Lot by the deadline stipulated in Clause 2.1)”</i></p> <p>Clause 12.3(h)</p> <p><i>“(the Buyer has failed to collect and remove the Lot purchased from the Location in accordance with Clause 3.1)”</i></p>	<p>1st default : 3 months* (extendable)</p> <p>2nd default[@] : 6 months*^ (extendable)</p> <p>3rd default[@] : Removal from the List.</p> <p>The Defaulting Buyer will not be eligible to apply to be admitted to the List for 12 months.*^</p>
(c)	<p>Clause 12.3(a)</p> <p><i>“(the Buyer has submitted any false or inaccurate statement or forged document for substantiating his eligibility for registration as a Registered Person and/or participation in any auctions held by or on behalf of the Government)”</i></p>	<p>Charged by the : 12 months relevant authorities (extendable) pending the Court’s judgement</p> <p>Obtained any : Removal from conviction under Part the List. IX (Forgery and Related Offences) of the Crimes Ordinance (Cap. 200): The Defaulting Buyer will not be eligible to apply to be admitted to the List for 36 months.</p>

	Event under Clause 12.3 of Part III - General Conditions of Auction Sale (continued)	Debarment Period
(d)	<p>Clause 12.3(d)</p> <p><i>("the Government has reasonable grounds to believe that the Buyer is in breach of any of its representations, warranties and undertakings under Paragraph 13.2 of the Terms of Auction Sale")</i></p> <p>i.e. breach of the representation, warranty and undertaking that he has not entered into any prior agreement, arrangement or understanding or otherwise engaged in any conduct which has or is likely to have the effect of preventing or hindering competitive bidding.</p>	<p>The Government has : 12 months reasonable grounds to (extendable) believe that the Buyer pending the is in breach of Tribunal's Paragraph 13.2 judgement</p> <p>For examples where:</p> <p>(i) the Government has made a report to the Competition Commission as mentioned in Clause 13.3(b) of the Terms of Auction Sale; or</p> <p>(ii) the Buyer is the subject of a current case brought before the Competition Tribunal by the Competition Commission.</p> <p>When the Buyer is : Removal from found by the the List. Competition Commission to have entered into found entering into any prior agreement, arrangement or understanding or otherwise engaged in any conduct which has or is likely to have the effect of preventing or hindering competitive bidding.</p> <p>The Defaulting Buyer will not be eligible to apply to be admitted to the List for 36 months.</p>

	Event under Clause 12.3 of Part III - General Conditions of Auction Sale (continued)	Debarment Period
(e)	Clause 12.3(j) <i>("the Buyer fails to hold a licence as contemplated under Clause 7.1(a) or commits an offence under the Telecommunications Ordinance (Cap. 106) or the Waste Disposal Ordinance (Cap. 354) and its subsidiary regulations in connection with the handling of the Lot purchased")</i>	Charged with any : 12 months offence by the relevant (extendable) authorities with under pending the (i) the Court's Telecommunications judgement Ordinance (Cap. 106); or (ii) the Waste Disposal Ordinance (Cap. 354) and its subsidiary regulations.
		Obtained any : Removal from conviction under the List. (i) the The Defaulting Telecommunications Buyer will not be Ordinance (Cap. 106); eligible to apply or to be admitted to (ii) the Waste Disposal the List for Ordinance (Cap. 354) 36 months. and its subsidiary regulations.
(f)	Clause 12.3(m) <i>("the Buyer, any officer (including director), employee, agent or sub-contractor of the Buyer commits an offence under the Prevention of Bribery Ordinance (Cap. 201) or any law of a similar nature in relation to the Contract")</i>	Charged by the : 12 months relevant authorities (extendable) pending for the Court's judgement
		Obtained any : Removal from conviction under the List. the Prevention of Bribery The Defaulting Ordinance or any law Buyer will not be of a similar nature in eligible to apply relation to the to be admitted to Contract the List for 36 months.

5. Applicable to all the tables above:

- @ *over a period of 36 months immediately before (and including) the date of committing the latest default*
- * *counting from the date of the notice issued by the Government to the Defaulting Registered Person or Buyer notifying the recipient of the debarment.*
- ^ *each debarment period will be counted separately. In other words, if the debarment period of a previous default has not yet expired, the commencement of the 2nd / 3rd debarment period will only start after the expiry of the debarment period of the preceding default*

Appeal Mechanism

6. The Defaulting Registered Person / Buyer can appeal against the warning and/or debarment by sending the Director of Government Logistics (Attn: Senior Supplies Officer (Storage & Distribution)) an appeal letter in writing. Upon receipt of an appeal letter in writing from the Defaulting Registered Person / Buyer, GLD will review the case and advise the appellant of the review results in writing. However, GLD reserves the right not to review the appeal if the default case is under legal proceedings. GLD will notify the appellant of GLD's decision in writing should it decide not to review the appeal if the default case is under legal proceedings.

Reinstatement

7. Upon the expiry of the debarment period, the relevant Defaulting Registered Person / Buyer will, unless there are outstanding legal claims or the relevant Defaulting Registered Person / Buyer has been removed from the List, be reinstated back into the List.
8. After removal from the List, if the Defaulting Registered Person / Buyer whose name has been removed from the List wishes to participate in Government auctions he is required to submit a fresh application for inclusion in the List again after the expiry of the debarment period.