

FEHD Market Stalls Auction Rules and Conditions

A. Introduction

- (1) Subject to the Participation Conditions below, the basic rule is that a stall will be allocated to the person making the highest bid (which will be repeated thrice) at the fall of the hammer. The Food and Environmental Hygiene Department (the Department) reserves the right to withdraw any stall from being auctioned before the fall of the hammer.

B. Participation Conditions

- (2) Except those persons specified in paragraph (3) below, the following persons can take part in an open auction-
 - (a) any person who is 18 years of age or above and is an ordinarily resident in Hong Kong. (Please refer to Section 2 of the Immigration Ordinance (Cap. 115) for interpretation of “ordinarily resident”.);
 - (b) a charitable organization which has been approved by the Department to take part in open auctions and is represented by an authorized representative with proper documentary proof to show his capacity (such authorized representative must be 18 years of age or above).
- (3)
 - (a) Except for item (3)(b) below, a stall tenant, whose tenancy has been terminated due to breach of tenancy condition or relevant legislation, will be disqualified from bidding for any market stall for one year from the date of termination.
 - (b) A stall tenant, whose tenancy has been terminated due to non-payment of rent, is prohibited from bidding for any stall until the rental in arrears plus interest thereon are settled.
 - (c) An existing stall tenant, who is repaying any rentals in arrears of the tenancy by instalments, is prohibited from bidding for any stall until the rentals in arrears are settled.
 - (d) Any person who rents the same stall in a public market twice each time for a period of three months or less within a period of 12 months will be blacklisted and prohibited from bidding any stall in that particular market for 12 months, counting from the date of termination of the second tenancy (Tenants renting market stalls on a short-term tenancy are excluded).
 - (e) No person who is renting a stall under the one-year short term tenancy scheme shall be allowed to rent more than one stall of one-year short term tenancy in one market.
 - (f) Any person who is currently a stall tenant is not allowed to bid in the first round of auction for any stalls in the same market where his/her stall is located. He/she (except a person renting a stall under the one-year short term tenancy) may however be allowed to bid one stall in the second round of auction held on the same occasion of the same day.
 - (g) Any person who succeeded in his/her bid for a stall under the one-year short term tenancy will not be allowed to bid, in any other round of the auction, a second stall in the same market where the stall he/she successfully bid is located.

- (h) For the avoidance of doubt, if in the first round of auction, the highest bidder is found to be currently a stall tenant or has in the first round of auction successfully bid another stall in the same market, the bidder will be ineligible to sign the tenancy agreement. The stall will be released for bidding again within the first round (during which the bidder in question will not be allowed to bid). If there is no bid offered within the first round, the FEHD will release the stall for bidding in the second round, the bidder who is currently a stall tenant (except a person renting a stall under the one-year short term tenancy) in the same market will then be allowed at that stage to bid.
- (i) A bid by a person, who is prohibited from bidding for any stall, shall become null and void even if the bid is accepted.

C. Deposit and Market Stall Rent

- (4) A successful bidder is required to pay at the fall of the hammer of stalls let on tenancy for a fixed term of one year –
 - (a) a deposit equivalent to one month's rent plus air-conditioning charge (if applicable). Subject to paragraph (4)(b) below, this deposit is refundable when the tenant delivers vacant possession of the stall to the Department on or before the effective date of termination of the tenancy after giving notice in writing to the Department in accordance with the relevant clauses in the tenancy agreement; and
 - (b) one month's rent and air-conditioning charge (if applicable). Thereafter, rent and air-conditioning charge (if applicable) are payable monthly in advance. The tenancy cannot be terminated by the tenant in the first month after the commencement of the tenancy agreement. If the tenant terminates the tenancy within the first month after the commencement of the tenancy agreement, the tenant shall pay to the Department an amount equivalent to one month's rent plus air-conditioning charge (if applicable), less the same he has paid under the tenancy agreement for any period which falls within that one month. The amount to be paid is in addition to any other charges or costs due to the Department.

D. Payment of Rent and Deposit

- (5) Immediately after bidding the stall, a successful bidder will be required to register in person on the spot in his/her own name as tenant of the stall bid and to sign a declaration (a sample at Appendix I) to acknowledge that he/she fully and clearly understands that the term of the tenancy agreement of the stall will be for a fixed term of one year certain with no right to renew the tenancy agreement and submit it on the spot to the Department, failing which his/her bid will be revoked.
- (6) After signing the declaration, the successful bidder is required to pay the deposit and rent plus air-conditioning charge (if applicable) as mentioned in paragraphs (4) in cash or by cheque. Post-dated cheques will not be accepted.
- (7) No refund of deposit will be made if a bidder abandons his tenancy right of the stall after his successful bidding.

- (8) No refund of deposit will be made if the successful bid becomes null and void for reason stated in paragraph (3) above.
- (9) If the successful bidder fails to take the necessary steps to become the tenant of the stall, the successful bidding will be revoked with no refund of deposit and the auctioneer is entitled to put the stall up for "re-auction".

E. Signing of Tenancy Agreement

- (10) A successful bidder will be invited by letter to sign a tenancy agreement for a fixed term of one year tenancy, at the following offices –

For market stalls in Hong Kong & Islands District

Hawker and Market Section Office (Hong Kong) - 8/F, Lockhart Road Complex, 225 Hennessy Road, Wan Chai, Hong Kong

For market stalls in Kowloon

Hawker and Market Section Office (Kowloon) - Rm 301-302, 3/F, Food and Environmental Hygiene Department Nam Cheong Offices and Vehicle Depot, 87 Yen Chow Street West, Kowloon

For market stalls in the New Territories

At respective district offices in N.T.

(Specimen of the tenancy agreement is available for inspection at the above Hawker and Market Section Office and respective district offices during office hours.)

- (11) Market stall tenant shall not assign, sublet, transfer or otherwise part with any of the benefits or obligations of the stall tenancy agreement. Before entering into the market stall tenancy agreement with this Department, a successful bidder shall sign a declaration (a sample at Appendix II) that he/she shall not assign, sublet, transfer or otherwise part with any benefits or obligations of the stall tenancy agreement.
- (12) If there are additional installations left behind by the ex-tenant in the stall, the successful bidder will be required to sign an undertaking (a sample at Appendix III) to acknowledge his acceptance of such installations and the associated rights and obligations before entering into the tenancy agreement.
- (13) A successful bidder will be required to enter into agreement and to sign the declaration and undertaking (if applicable) on the date specified in the letter prescribed in paragraph (10) above. Failure to enter into tenancy agreement and to sign the declaration and undertaking (if applicable) within two weeks from the date specified, save with the approval of the Department, will lead to forfeiture of the deposit and his/her right to lease the market stall.

F. Transfer or Succession of Tenancies

- (14) Bidders should note that transfer or succession of the tenancy agreements signed by successful bidders is not permitted. However, this does not affect the rights of a tenant's legal personal representative.

G. Erection of Cooked Food Stall Structure

(15) A successful bidder for a stall designated as being used for the sale of cooked food shall provide a structure in strict conformity with the design and dimension specified by the Department if no such structure has already been provided.

H. Communal Seating of Cooked Food Centres and Cooked Food Markets

(16) Cooked food centres and cooked food markets under FEHD generally offer communal seating, which is for the shared use of all customers and not for the exclusive use of any one stall. According to the tenancy agreement, a tenant shall not in any manner occupy the communal seating for the exclusive use of his/her stall.

I. Supply of Electricity and Water

(17) The successful bidder himself is required to arrange for the supply of electricity and water direct with the Hong Kong Electric Co. Ltd./China Light and Power Co. Ltd. and the Water Supplies Department.

J. Stall Usage

(18) The Department reserves the right to specify from time to time the number of stalls to be designated for selling the prescribed commodities or to vary the specific purpose or use of an individual stall in a market.

K. Additional Installations of the Stall

(19) There are additional installations (e.g. roller shutter, wire-mesh stall top cover, etc.) left behind by the ex-tenants in some of the market stalls. The Government does not guarantee that such installations are fit for use by the incoming tenants or are in good working condition. Subject to the consent of the Government, an incoming tenant may remove such installations at his own expense. He will be responsible for the removal and disposal of the installations (except those allowed to be retained in the stall with Government's permission) upon expiry or termination of the tenancy at his own expense.

L. Surrender of Hawker Licence

(20) Successful bidders shall surrender to the Director of Food and Environmental Hygiene any hawker licences held by them upon the tenancy of the market stall commences. If for any reasons the tenancy agreement is terminated in future, the cancelled hawker licences will not be returned.

M. Prevention of Bribery / Collusion

(21) Bidders are advised that it is an offence under Sections 7(1) and 7(2) of the Prevention of Bribery Ordinance (Cap. 201) for any person to offer an advantage or to solicit or accept an advantage respectively as an inducement to or reward for refraining from bidding at an auction. Anyone who defrauds the Department at an auction by dishonest means is liable to criminal prosecution.

(22) If the auctioneer suspects that someone is conspiring to refrain from competitive bidding causing everyone to win the bid for their stalls at the upset prices during an open auction, the auctioneer has the right to revoke the bidding and withdraw the market stall from the auction even if the bid is accepted.

(23) A successful bidder shall submit on the spot to the Department a warranty (a sample is at Appendix IV) signed by him/her in the presence of the Department officers immediately after he/she has successfully bid the stall, failing which his/her bid will be revoked, and the auctioneer may put up the relevant stall for re-auction at any time or make other decisions.

N. Remarks

(24) This Department may arrange for modernisation improvement works including retro-fitting of air-conditioning system in some of the markets/cooked food centres. Please note that the tenants of the market concerned would be required to pay the air-conditioning system recurrent and maintenance costs after the completion of the installation works. In addition, some of the market stalls may be affected during the improvement works.

(25) According to the past auction experience, the successful bids in respect of some stalls may become null and void for some specific reasons, and the auctioneer would immediately on the spot put up the stalls for re-auction. Therefore persons who are unsuccessful in bidding a particular stall in the first attempt are requested to wait until the deposit and rent of the stall have been paid and registration of the stall has been completed, or else they will miss the chance of bidding the stall when it is put up for re-auction.

(26) With a view to providing one more chance for the bidders who have not decided to offer bid in the first round of the auction, a second round of auction for the unbid stalls will be held immediately after completion of the first round auction. The auctioneer will announce such arrangement before conducting the first round auction.

(27) By making a bid, the bidder represents that he/she agrees to be bound by the above auction rules and conditions.

**Food and Environmental Hygiene Department
June 2021**

Food and Environmental Hygiene Department

Declaration

I am (Name : _____) (HKID No. : _____), the successful bidder of Stall No. _____ of _____ Market (hereinafter referred to as “the Market Stall”). I am willing to be the tenant of the Market Stall and I hereby declare that : -

I clearly understand and acknowledge that the term of the tenancy agreement of the Market Stall will be for **a fixed term of one year certain** from the ___ day of _____ 20__ to the ___ day of _____ 20__ . On the expiry of the term of the tenancy agreement or early termination of the tenancy agreement, I have no right to renew the tenancy agreement. The Government of the Hong Kong Special Administrative Region will not be liable for any loss or damage incurred by or caused to me arising from or in connection with the expiry or early termination of the tenancy agreement with no right of renewal of the tenancy agreement.

Name of the successful bidder (in capital letter) : _____

Signature : _____ Date : _____

Name of the witness (in capital letter) : _____ Post : _____

Signature : _____ Date : _____

Food and Environmental Hygiene Department

Declaration for Renting Market Stall

Stall No. _____ at _____ Market

I understand that in public markets under the management of the Food and Environmental Hygiene Department, market stall tenant shall not assign, sublet, transfer or otherwise part with any of the benefits or obligations of the stall tenancy agreement. The stall tenancy agreement cannot be transferred or succeeded either.

I undertake that upon entering into the captioned market stall tenancy agreement with the Food and Environmental Hygiene Department, I will not assign, sublet, transfer or otherwise part with any of the benefits or obligations of the stall tenancy agreement. I confirm to acknowledge that the stall tenancy agreement cannot be transferred or succeeded.

Signature : _____

Name of Tenant : _____

HKIC No. : _____

Date : _____

X-X

Witness

Signature : _____

Name : _____

Post : _____

Date : _____

**Food and Environmental Hygiene Department
Undertaking Signed by Market Stall Tenants**

I, _____ (name) _____ (Hong Kong Identity Card No.: _____), succeeded in bidding for Stall No. _____ of _____ Market on _____ (date) _____. I am fully aware of the existence of the following additional installations (the “installations”) in the said stall:

<u>Installations</u> (e.g. roller shutter, wire-mesh stall top cover etc.)	<u>Quantity</u>

Before entering into a Tenancy Agreement with the Government of the Hong Kong Special Administrative Region (the “Government”) in respect of the said stall for a term of 1 (ONE) year, I hereby agree to accept the installations. I will be responsible for their inspection and maintenance (including fair wear and tear). The Government does not guarantee that such installations are fit for my use or in good working condition. Subject to the consent of the Government, I may remove the installations at my own expense.

I will be responsible for the removal and disposal of the installations (except those allowed to be retained in the stall) upon expiry or termination of the tenancy at my own expense.

Signed by Tenant : _____

Name of Tenant : _____

Date : _____

Signed by Witness : _____

Name of Witness : _____

Post of Witness : _____

Date : _____

Warranty

(1) By making a bid, the bidder represents and warrants that in relation to the auction of _____ (date of auction) for letting out the vacant stalls in _____ (name of market) :

- (i) he/she has not communicated and will not communicate to any person other than the Government the amount of any bid price;
- (ii) he/she has not fixed and will not fix the amount of any bid price by arrangement with any person;
- (iii) he/she has not made and will not make any arrangement with any person as to whether he/she or that other person will or will not make a bid; and
- (iv) he/she has not otherwise colluded and will not otherwise collude with any person in any manner whatsoever in the auction process.

(2) In the event that the bidder is in breach of any of the representations and/or warranties in Clause (1) above, the Government shall be entitled to, without compensation to any person or liability on the part of the Government :

- (i) reject the bid;
- (ii) if the Government has accepted the bid, withdraw its acceptance of the bid; and
- (iii) if the Government has entered into the contract with the bidder, terminate the contract.

(3) The bidder shall indemnify and keep indemnified the Government against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations and/or warranties in Clause (1) above.

(4) Clause (1) shall have no application to the bidder's communications in strict confidence with its own insurers or brokers to obtain an insurance quotation for computation of the bid price, or with its professional advisers, consultants or sub-contractors to solicit their assistance in preparation of bid submission. For the avoidance of doubt, the making of a bid by a bidder to the Government in public during an auction will not by itself be regarded as a breach of the representation and warranty in Clause 1(i) above.

(5) The rights of the Government under Clauses (2) and (3) above are in addition to and without prejudice to any other rights or remedies available to it against the bidder.

Bidder's signature : _____

Witness's signature : _____

Bidder's name : _____

Witness's name : _____

HKIC No : _____

Witness's post : _____

Date : _____

Date : _____