

USED MACHINE BIDDING PROCEDURE

PLEASE READ VERY CAREFULLY THESE TERMS AND CONDITIONS BEFORE YOUR BID. YOUR BID PLACED IN KOBELCO TENDER THAT YOU ACCEPT THESE TERMS AND CONDITIONS.

ENTRY QUALIFICATOINS

You are required to register for membership (the "Membership") with Kobelco Construction Machinery International Trading Co., Ltd. ("KIT") on website and accepted this Bidding Procedure (this "Bidding Procedure").

BID RECEPTION

Kobelco Construction Machinery International Trading Co., Ltd.

Kobe Used Machinery Center

7-15, Minato-Jima, Chuo-Ku Kobe, Hyogo, Japan.

TEL : +81-78-303-0900 FAX : +81-78-303-2622

WEBSITE : <https://www.kobelco-kenki.com/kit/eng/index.php>

BID ON KOBELCO TENDER

- 1 The bids for tender based on this Bidding Procedure (the "Tender") must be submitted by bidding form with Company name, Address, Phone number, FAX number, Lot number, Model, Serial number, Bidding price and your sign on.
- 2 The bids for the Tender must be submitted in the amount greater than the minimum bidding price, which KIT designates for each unit of the construction machinery (the "Machine").
- 3 In the event you submit multiple bids for the same Machine, the bid with the highest price shall be considered to your bid.

BID PRICE & PAYMENT

- 1 The currency used in the Tender shall be Japanese Yen ("JPY") only.
JPY 1,000.- (One Thousand Japanese Yen) shall be the minimum bid increment amount.
- 2 The bid price is strictly for 'AS-IS & WHERE-IS' condition. It does not include any consumption tax (if applicable), any other tax, or freight charges.
- 3 You shall pay KIT the invoiced amount in full by wire transfer to a bank account designated by KIT within fourteen (14) calendar days from the date of Tender result.

AWARD OF BID

KIT shall open the bids after closing of the Tender and determine who has submitted highest bid amongst all of valid bids who is awarded. If there is more than one of the highest bid price, then selected by earliest bid.

Results of the Tender will be sent by email or FAX.

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DELIVERY

Deliveries will be made upon receipt of the full payment by TTR or L/C at sight.

The terms of delivery shall be as follows:

- 1 Ex Yard
 - Ten percent (10%) consumption tax will be levied
 - You shall arrange your own transportation and inform KIT of the collection schedule within fourteen (14) calendar days after the receipt of your payment.
- 2 FOB Japanese Ocean Port
 - You shall be responsible to arrange a suitable vessel from the agreed ocean port at the agreed date and time. Please inform KIT of the shipment schedules fourteen (14) calendar days after the receipt of your payment.
- 3 CIF Destination Port
 - KIT shall advise sailing schedules to the agreed port of your choice within fourteen (14) calendar days after the receipt of your payment.

In the cases where transportation is required, please confirm with KIT the transport costs prior to making any payment.

Please refer to the attached transportation cost for FOB charges and ocean freight.

The latest version of INCOTERMS shall be referred and applied for this Bidding Procedure.

SPECIAL WASHING

Washing service for the Machine before delivery (the "Special Washing") is available if the successful bidder desires. The Special Washing involves extra costs and shall be levied for the Machine whose destinations call for such treatments as entry criteria.

Please confirm with the staff of KIT regarding the additional charges incurred for the Special Washing.

CANCELLATION

- 1 In case of cancellation of the winning bid, you shall pay twenty percent (20%) of the winning price to KIT as cancellation charges.
- 2 If you fail to pay or to open L/C within fourteen (14) calendar days after the winning bid, KIT reserves the right to cancel the winning bid.

WARRANTY

- 1 You acknowledge and agree that you shall purchase the Machine from KIT on an as is basis only. You have to confirm the Machine's condition and quality by yourself.
- 2 THE MACHINE PROVIDED BY KIT TO YOU IS PROVIDED "AS IS" BASIS ONLY AND EXCEPT AS EXPLICITLY STIPULATED IN THIS BIDDING PROCEDURE. KIT, KOBELCO

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CONSTRUCTION MACHINERY CO., LTD., AND ITS AFFILIATES (COLLECTIVELY "KOBELCO GROUP COMPANIES") ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXEMPT FROM ANY WARRANTY EXPRESS, IMPLIED OR OTHERWISE, INCLUDING WITHOUT LIMITATION PERFORMANCE, DESIGN, QUALITY, FUNCTION, CONFORMITY OF GOODS, AND NON-INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHT .

- 3 KOBELCO Group Companies shall not be responsible for any personal injury, death or property loss which you may incur at the auction site.
- 4 TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL KOBELCO GROUP COMPANIES BE RESPONSIBLE FOR OR LIABLE TO ANY LOSS OF PROFIT, PERSONAL INJURY, PROPERTY DAMAGE, OR ANY OTHER DAMAGES OR ECONOMIC LOSSES (WHETHER DIRECT, INDIRECT, CONSEQUENTIAL OR PUNITIVE), TO YOU OR ANY THIRD PARTY, ARISING OUT OF OR IN CONNECTION WITH THE MACHINE, EXCEPT FOR THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF KOBELCO GROUP COMPANIES.
- 5 If KOBELCO Group Companies incur any losses or damages in relation to the failure of this Bidding Procedure by you, you shall immediately compensate KOBELCO Group Companies against such costs (including, without limitation, reasonable legal and other fees) incurred by KOBELCO Group Companies

LIST INSTRUCTIONS

- 1 Priced on the list (minimum bidding price) shall be valid only for each Tender.
- 2 Please understand that the contents of the list, is subject to change without any notice.

COMPLIANCE

- 1 If you export or use the Machine in countries other than Japan, you shall comply with the all applicable laws, regulations and/or standards of destination countries and Japan, including without limitation those related to environment, quality and safety (collectively, the "Regulations"). You shall take necessary measure to comply with such Regulations, including without limitation conversion of the Machine or obtaining approval of the authorities, at your cost and expense and responsibility. In no event shall Kobelco Group Companies be responsible or liable for your failure or breach of the Regulations. You shall be liable to compensate Kobelco Group Companies for any damage incurred by Kobelco Group Companies due to your failure or breach of the Regulations.
- 2
KIT reserves the right to screen you, your customer who buys the Machines from you and the intended use of the Machine. KIT may take measures set forth below taking account of the result of the screening:

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- KIT may limit resale of the Machine.
- KIT may cancel the bid either partially or entirely.
- KIT may prohibit you from bidding temporarily or perpetually.
- KIT may suspend your Membership.

Provided however that, KIT is not obligated to screen under this clause.

- 3 Prior consent from KIT is required when you resell to countries and/or area designated by Japanese authorities under Export Control of Japan. KIT may take measures set forth above clause 2 taking account of the result of the prior screening. The online references are appended below.

<http://www.mofa.go.jp/policy/un/disarmament/policy/index.html>

<http://www.meti.go.jp/policy/anpo/englishpage.html>

POLICY OF EXPORT TO USA & EU

- 1 EU : KIT never: (i) sells used machineries to be exported to EU countries which require CE mark; and (ii) accepts a bid from EU countries for the reason that KIT is unable to obtain CE mark.
- 2 USA : Due to the emission regulation of the USA, EPA mark is essential for all construction machineries imported to the USA., Furthermore safety regulations applied to excavators are not same as them of Japan.

As a policy adopted by Kobelco Group Companies, we prohibit to sell used construction machineries as-is to any part of the USA.

RADIATION TEST

Radiation test for the Machine has been made by KIT and its results are mentioned only in case that 0.2 μ Sv/hr and over.

However the results are not guarantee basis. If you require the official report issued by the authorized inspection organization, the cost and expense for issuance of such official report shall be incurred by your account. Please ask our staff in charge if you need furthermore details.

EXPORT CONTROL

- 1 Objective

Upon the Resolution over Decision on Nonproliferation of Weapons of Mass Destruction at the United Nations, the Ministry of Economy, Trade and Industry (the "Regulatory Authority" including the successor of the Regulatory Authority.) of Japan established national Security Trade Control Programs to prevent proliferation of weapons of mass destruction and excessive stockpiling of conventional weapons.

Japan's Security Trade Control Programs also abide by the government's strict principles controlling arms export.

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Based upon the national programs, Kobelco Construction Machinery Co., Ltd. ("KCM") established in-house export control rules and the export activities of KIT as a subsidiary of KCM, are regulated according to the rules.

2 Compliance with Export Control Laws and Regulations

The person and/or company who purchases and exports the Machine and/or any other KIT's commodities or merchandise is (collectively referred to "KIT's Commodities") obligated to comply with the Japanese Foreign Exchange and Foreign Trade Law, Export Trade Control Order and all other related laws, regulations or ordinances as well as the U.S. Re-export Regulations and the similar laws and regulations of other countries (if applicable) (collectively referred to "Export Control Laws and Regulations").

3 Destination countries and/or areas

Regulatory Authority publishes lists showing concerned countries and/or areas under the Security Trade Control Programs. Companies or individuals who export KIT's Commodities to such countries and/or areas may be subject to examination by Regulatory Authority and may be obligated to obtain export license from Regulatory Authority as a condition to entering into export contracts.

4 Use, End-users and/or buyers

Companies and/or individuals who purchase KIT's Commodities is obligated to pledge to KIT that the end-users and/or buyers will abide by Export Control Laws and Regulations and will not use them for any activities related to proliferation of mass destruction weapons or any other military purpose including the following 1 and 2.

1. Sale, development, manufacture, use, transport or storage of conventional weapons, weapons of mass destruction including nuclear weapons, chemical weapons, biological weapons, spraying system of these weapons, missiles and unmanned aircrafts for delivery of these weapons, and the related items such as manufacturing facilities; and
2. Other use for which approval/permission of Regulatory Authority or other foreign authorities are required to export under Export Control Laws and Regulations and out of such use approval/permission are not issued.

Regulatory Authority and the U.S. Department of State/Department of Commerce issue lists showing persons and/or companies who actually committed activities related to proliferation of mass destruction weapons or whose activities imposed a risk of diverting exported and re-exported items into programs related to weapons of mass destruction. Companies or individuals purchasing KIT's Commodities are obligated to pledge to KIT that end users or purchasers will not export KIT's Commodities to such concerned end-users.

Force Majeure

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Kobelco Group Companies shall not be liable for any failure to implement the contents of this Bidding Procedure (including bidding), due to natural disasters, wars, riots, disturbances, changes and abolition of laws and regulations, transportation accidents, reductions or suspension of business to prevent the occurrence and the spread of infectious disease.

Governing Law

This Bidding Procedure shall be governed by and construed in accordance with the laws of Japan, without regard to any conflicts of the law rule or principle that would cause the application of the laws of any other jurisdiction other than the laws of Japan. No provision of United Nations Convention on Contracts for the International Sale of Goods shall apply to this Bidding Procedure.

Arbitration

All disputes, controversies or differences which may arise between KOBELCO Group Companies and you, out of or in relation to or in connection with this Bidding Procedure or the breach thereof, shall be finally settled by arbitration in Tokyo in accordance with the Rules of Arbitration of the International Chamber of Commerce by one (1) or three (3) arbitrator(s) appointed in accordance with the said rules. All the arbitrator(s) should be conversant with the language of this this Bidding Procedure. The award rendered by the arbitration shall be final and binding on both KOBELCO Group Companies and you.