

# T.H.I. Premier Auction Terms & Conditions

## 1. Registration and Participation Requirements

The terms and conditions below are the condition for participating in the Premier Auction sponsored by T.H.I. Therefore, bidding at the THI Premier Auction is considered as agreement with terms and conditions by the bidder. All machines are exhibited in "As is where is" condition supplied Assessment Sheets are for information purposes only.

Holding a THI Member Card and being a registered member of T.H.I. is a pre-requisite for participating in the Premier Auction.

For Customers wishing to bid with a status other than described in 1.1 a safety deposit payment of JPY 500,000 (Japanese yen five hundred thousand) will be required in advance for eligibility. The deposit amount will be deducted from the machine charge in case of a successful bid. In the case that no successful bids are made the deposit is retained to be used as a balance for your future purchases from THI. Furthermore, we can refund the deposit less the banking charges should the depositor request us to do so. Should T.H.I. suffer a financial loss due to any violation of the rules concerning payment by the customer, then, the amount of loss will be deducted from the deposit. Please note however, that the amount of the deposit does not represent any limit on the required compensation amount in case of such loss.

Those customers who are not yet registered members of AssetLine the internet auction managed by THI by the day of the Auction, must agree that Assetline registration will be completed and direct mails will be sent from the following day onwards.

Auction participants must be eligible under Japanese law and legislation to deal in used goods and other associated activities as applicable.

## 2. Bidding and Purchasing

- 2.1. There are two types of lots, Unreserved units and Reserved units. The Unreserved listed units will start with a minimum bid price (Opening Price) decided by T.H.I. If there are no bids made at minimum bid price, then T.H.I. conductor shall reduce the minimum bid price until a bid has been made. Units listed in the Reserved section have a minimum bid price decided by the consignor and are started below the minimum bid price. The highest bidder will be the winner for the both types of auction.
- 2.2 All bid amounts are indicated in Japanese yen. Japanese yen is the only acceptable currency for bidding.
- 2.3 The risk and title to the machine will be transferred to the winning bidder (Buyer) after confirming receipt of the full payment amount.
- 2.4 The indicated prices are Ex-THI Yokohama Yard prices or Ex-Port Yard indicated by the T.H.I. price in "As Is" condition not including any Consumption Tax (5%), inland transport charge to the seaport, FOB, Carry out fee from PortYard or other charges. These expenses will be charged separately.
- 2.5 Basic washing (Asian washing) is completed on all listed units. The following washing charges will additionally be charged: any additional washing or special washing required at the time of export (E.g.: USA or Australian/N.Z. washing) as requested by the Buyer or additional washing required by the shipping company.
- 2.6 No Cancellation requests or claims after bidding can be accepted under any circumstances. T.H.I. does not take responsibility for oil leakage, seizure, battery defect or other problems caused by the passing of time. These are the responsibility of the winning bidder. In case of cancellation the bidder will be charged a cancellation fee equivalent to the amount of the financial loss suffered by T.H.I..

## 3. Payments and Delivery

- 3.1 The winning bidder will be invoiced by T.H.I. who collects the machine charge instead of the consignor. All payments must be in Japanese yen only.
- 3.2 All payments must reach T.H.I. Corp by, July 15th (Tue.), 2008 via telegraphic transfer. Please note that all banking charges are the responsibility of the buyer and that Letter of Credit payments cannot be accepted.
- 3.3 Where payment is delayed, a penalty interest rate of 14% p.a. will be applied for the duration in the delay incurred.
- 3.4 Machines are available for collection from THI Yokohama yard or Ex-Port Yard determined by T.H.I. Where units are to be moved by THI to another yard or port yard this carry out fee will be separately invoiced by THI.
- 3.5 The deadline to remove all purchased equipment is July 22nd (Tue.), 2008. From July 23rd (Wed.), 2008 a daily storage fee of JPY 500 for machines, JPY800 for trucks will be charged per unit. For overseas buyers wishing to arrange export of their units through THI a daily storage of JPY 500 per unit for machines and JPY 800 per unit for trucks will be charged from August 7th 2008 (Thu.).
- 3.6 Please note that all charges for dismantling, loading onto trucks and repair etc. required for transportation or shipping are to be borne by the Buyer.
- 3.7 Please submit your Transport Request form to T.H.I. at least two working days before collecting your unit(s) in order for us to prepare the machines for collection from our yard in a timely manner.

## 4. Bidder Agrees

All bids have to be placed within the time limits set by T.H.I..

No withdrawals are accepted on any bid considered valid by T.H.I. Some units remaining unsold during the auction may be sold after the end of the auction as a Post Auction Sale with the consent of T.H.I. and the consignor. Nevertheless, Post Auction Sale prices will be the same or higher than Opening Prices at the auction.

- 4.1 T.H.I. retains the right to invalidate bids in the following cases:

- If the bid is proved to be a fake or a void bid
- If the bidder refuses to agree with T.H.I. Terms & Conditions
- If the bid is considered to be against the law

- 4.2 Under the auction terms the bidder has the legal responsibility of the buyer until being outbid by a third party. Acceptance of T.H.I. terms is a precondition of placing any bid, therefore the bidder automatically assumes legal obligation to comply with T.H.I. terms. Failure to pay the machine charge by the winning bidder by the payment deadline and/or breaching the applicable law is considered as violation of this agreement with T.H.I. In this case THI will initiate legal action against defaulters in order to recuperate the full amount of financial losses, costs and expenses suffered due to the regulation breach. The range of legal action includes bankruptcy and liquidation procedures. Any buyer who violates the present rules is obliged to pay a cancellation penalty by the due date which will be assigned by T.H.I. The penalty amount per unit shall be specified as JPY 100,000.- for unit sale prices of under JPY 1,000,000.-, JPY 300,000.- for sale prices of under JPY 2,000,000.- and JPY 500,000 for sale prices of more than JPY 2,000,000.-. Furthermore, THI will also notify other auction companies. Should the violation be judged intentional and of bad will, the name of the defaulting bidder will be exposed on the homepages of THI and Assetline.

- 4.3 If the winning bidder fails to comply with T.H.I. sales terms, THI retains the right to resell the unit to the bidder with the second highest bid price (the second bidder) without the consent of the buyer (highest bidder/ winning bidder) with no legal consequence whatsoever.

In case of practicing this right T.H.I. will offer the unit to the second bidder and expects his swift decision on whether he accepts or declines the offer. If the second bidder accepts the offer he will be considered the buyer with all legal obligations under the present sales terms.

## 5. Documentation and Change of Ownership

- 5.1 For units with registration remaining (Or numbers affixed) the registration should be changed and evidence of this (A photocopy of the registration certificate) must be presented to THI within 2 weeks of the auction close. (Evidence of change of registration or de-registration)
- 5.2 Where the change of ownership or de-registration is delayed a penalty of 5,000 YEN per week will be invoiced.
- 5.3 Where due to delays additional paperwork is required from consignors or THI a penalty fee of 15,000 yen per item is applicable (In addition to revenue stamps as required)
- \*\* Where THI exports units on behalf of customers' paperwork will only be prepared once full payment for the unit and all applicable export fees have been received. An export certificate issued by the department of transport will be provided with shipping documents. THI will export on behalf of customers but are not able to advise as to regulations in destination countries. We encourage buyers to confirm overseas regulations before bidding on units at the auction.

## 6. Vehicle Tax and Recycling Certificates (Only applicable to domestic sales)

- 6.1 For units with registration remaining (Or numbers affixed) annual vehicle tax will be calculated on a monthly basis and charged to the successful bidder from the month of purchase to the end of the tax year. We request successful bidders who win a unit that has Japanese Registration remaining and intend to de-register the vehicle, to inform us immediately. In this situation we will calculate the relevant annual car tax portion to be billed and invoice together with the unit price.
- 6.2 Where a Recycle fee certificate is provided with units, an 'R' symbol will be displayed on the auction list. This will be charged separately.

## 7. Export Control

It is the responsibility of the winning bidder (Buyer) to take all necessary actions to comply with the import/export control laws and regulations of Japan and the destination countries and areas so that the purchased equipment shall not be used for the development and/or transportation of the mass destruction weapons etc.

## 8. Auction Yard Safety Warning

The bidder acknowledges that the Auction Yard is a potentially dangerous place. Heavy equipment is being operated, potentially dangerous materials may be present, electric circuits may be live and other potential dangers may be present. Every person at the Auction Yard (and any other area where the property is located or displayed) shall be there at his or her own risk. No person shall have any claim against the Auctioneer, T.H.I. Corp., and its partners and employees neither for any personal injury sustained or death nor for damages or loss of property that may occur from any causes whatsoever.

## 9. Governing Law & Jurisdiction

T.H.I and its bidders and buyers shall make efforts to settle any controversies and disputes in good faith. The terms and conditions of this auction shall be governed by and construed in accordance with the laws of Japan unless otherwise expressly provided. All controversies and disputes, arising out of or relating to the terms and conditions of this auction shall be submitted to the Tokyo District Court or Yokohama District Court of Japan as the first court of instance.