

Buying Solutions Limited – Terms and Conditions (Sales in Japanese yen)

1. DEFINITIONS USED IN THESE TERMS

- 1.1 All capitalised terms used are defined in clause 13 at the end of these terms and conditions.

2. WHEN THESE TERMS APPLY

- 2.1 **General Applicability:** By accessing or using our Website or giving us instructions to quote a price on a Vehicle, or to purchase or arrange the purchase of a Vehicle for you, or otherwise using our Services, you accept these terms and conditions, despite anything stated to the contrary on your order, terms and conditions of purchase, or any similar document or any communication you make with us.
- 2.2 **Purchase of Vehicle in Japanese yen or NZ Dollars:** Where you agree to purchase a Vehicle and the purchase price is denominated in Japanese yen, these terms and conditions will apply. Where you purchase a Vehicle and the purchase price is denominated in NZ dollars, our Terms and Conditions (Sales in New Zealand dollars) will apply.

3. METHODS OF VEHICLE PURCHASE

- 3.1 **Vehicle Purchase Methods:** You may buy a Vehicle using our Services in one of the following three ways:

- (a) **Pre-purchased Stock** – These are Vehicles displayed on the Website on the “Pre-purchased Stock” pages and which are available for immediate purchase. For more details see clause 3.2.
- (b) **Auction Stock** – These are the Vehicles displayed on the Website on the “Auction Online” pages, or advised by us via email or telephone to you as being available to purchase at forthcoming auctions. For more details see clause 3.3.
- (c) **Stock Request** – You may request us to locate a specific vehicle for you, using the “Stock Request” facility on the Website or by giving us instructions by telephone or email. For more details see clause 3.4.
- (d) **Email or Phone Stock Offer** - We may email you from time to time to give you details of vehicles which may be available for purchase from time to time. For more details see clause 3.5.

3.2 Pre-purchased Stock:

- (a) **Vehicle Details:** Each Pre-purchased Stock Vehicle is displayed on the Website with a “Checklist” containing basic details about the Vehicle. This will include the auction sheet obtained from the relevant Japanese Auction House if available at the time the Vehicle is listed on the Website.
- (b) **Availability:** While we use our best endeavours to ensure that all Pre-Purchased Stock is actually available for purchase, we do not guarantee that every Vehicle advertised is available.
- (c) **Vehicle Inspection:** The majority of Pre-Purchased Stock has been inspected by us as outlined in clause 8 below, before being listed for sale on the Website. However, some Pre-Purchased Stock is listed on the basis that an inspection is pending and inspection

information will be listed as soon as the inspection is complete. If you wish to check whether a Vehicle has been inspected and/or to obtain any specific information about a Vehicle, you may request this from us by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.

- (d) **Offer to Purchase:** If you wish to purchase a Vehicle displayed on the Website as Pre-purchased Stock, you may make an offer to purchase the Vehicle by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.
- (e) **Sale Contract:** If you make an offer to purchase any Pre-purchased Stock and we accept the offer verbally or in writing, a Sale Contract for the relevant Vehicle will be formed and clause 4 will then apply.

3.3 Auction:

- (a) **Auction Online Bidding Facility and Auction Offers:** Our Auction Online service enables you to give us instructions to bid on a Vehicle offered for sale by a Japanese Auction House. Vehicles available at auction are displayed on the "Auction Online" pages of our Website. Alternatively, we may call or email you from time to time to advise you about Vehicles which may become available at auction either on the day of the auction or in advance. We note that we do not conduct Vehicle auctions ourselves. The facility offered on our Website and the provision of details about Vehicles available at auction are simply means by which you can instruct us to bid for a Vehicle.
- (b) **Vehicle Details:** For Vehicles available to be bid on using the Auction Online facility on our Website, the applicable auction number, lot number and auction date, and a "Checklist" containing basic details about the vehicle are displayed on the Website. For Vehicles available at auction which we call or email you the applicable auction number, lot number and auction date and checklist. If you wish to obtain any additional information about a Vehicle, you may request this from us by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.
- (c) **Availability:** The availability of Vehicles displayed on the "Auction Online" pages on our Website or otherwise advised to you is subject to the relevant Japanese auction houses proceeding to offer them for auction, and we have no control over this.
- (d) **Pre-Auction Inspection:** We will ordinarily inspect each Vehicle for which you give us bidding instructions, prior to bidding on it as outlined in clause 8 below. If for any reason we are unable to inspect the Vehicle, we will arrange for a third party to inspect it for us. If you tick the box on the Website "call to confirm vehicle condition and price before bidding" or request us to report the results of the inspection to you by stating this in the "purchase notes" box on the Website or otherwise contact us with a specific request for inspection information, we will provide inspection information to you.
- (e) **Bidding:** If you wish to instruct us to bid on a Vehicle at an auction, you must advise us of the maximum amount you are prepared to bid for the Vehicle. This can be done using the bid instruction facility on the "Auction Online" pages on our Website (if the vehicle is listed on our Auction Online Website pages) or by giving us instructions by phone or email. We are then authorised to bid on the Vehicle up to a maximum amount not exceeding the bid amount entered by you, plus ¥20,000. You may cancel a bid instruction once it has been given to us by telephone or email, but if our representative at the relevant auction has already placed a bid on the Vehicle before your cancellation is communicated to him/her, you will remain bound to purchase the Vehicle if the bid is successful.

- (f) **Competing Bids:** If we receive bid instructions on the same Vehicle from more than one person, we will deal with those instructions as follows:
 - (i) The person who placed their bid first will get priority to purchase the Vehicle up to the maximum bid amount stipulated by them.
 - (ii) After this, the person who placed their bid second will get priority up to the maximum bid amount stipulated by them (assuming their maximum bid amount was greater than that of the first person), and so on if there are several person who have placed bids.
- (g) **Sale Contract:** We will notify you of the result of the auction promptly after completion of the auction. If a Vehicle is purchased at auction as a result of us acting in accordance with your bidding instructions to us, a Sale Contract for the relevant vehicle will be formed and clause 4 will then apply.

3.4 **Stock Request:**

- (a) **Request:** You may request us to locate a specific Vehicle for you, using the “Stock Request” facility on the Website or by giving us instructions by telephone or email (including giving us an outlined “buy list” containing a list of Vehicles you wish to acquire). If you place such a request with us, the request constitutes authorisation by you for us to source a Vehicle which complies with your instructions, for sale to you. If we source such a Vehicle before your authorisation is withdrawn by telephone or email, you will be bound to purchase the Vehicle.
- (b) **Vehicle Inspection:** Each Vehicle sourced for you under a Stock Request is inspected by us as outlined in clause 8 below before being offered to you. If you authorise us to proceed to acquire a Vehicle to meet any Stock Request without reporting inspection details to you, we will only report inspection details to you where we consider that the inspection has revealed that the Vehicle has major mechanical or structural faults. In all other cases, we will call or email you with the inspection results and obtain your approval to proceed to acquire the Vehicle. (If you are making a Stock Request by using the Website, you will have the option to select which of the above alternatives will apply to each Vehicle). If you wish to obtain any additional information about a Vehicle, you may request this from us by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.
- (c) **Offer to Purchase:** If you wish to purchase a Vehicle offered to you as a result of a Stock Request, you make an offer to us by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.
- (d) **Sale Contract:** If we source a Vehicle for you in accordance with an authorisation given by you under clause 3.4(a), a Sale Contract for the relevant Vehicle will be formed at that point and clause 4 will then apply.

3.5 **Email or Phone Stock Offer:**

- (a) **Offer:** We may email or phone you from time to time to invite you to make an offer for Vehicles which may be available for purchase but which are not listed on the Website as Pre-purchased Stock.
- (b) **Vehicle Inspection:** The majority of Vehicles offered by email have been inspected by us as outlined in clause 8 below before being listed for sale on the Website. However, some of the Vehicles are listed on the basis that an inspection is pending and inspection information

will be listed as soon as the inspection is complete. If you wish to check whether a Vehicle has been inspected and/or to obtain any specific information about a Vehicle, you may request this from us by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.

- (c) **Offer to Purchase:** If you wish to purchase a Vehicle offered by email or phone, you may make an offer to purchase the Vehicle by telephone or email to a Buying Solutions account manager or by contacting our Auckland office.
- (d) **Sale Contract:** If you make an offer to purchase any Vehicle offered by email or phone and we accept the offer verbally or in writing, a Sale Contract for the relevant Vehicle will be formed and clause 4 will then apply.

3.6 **Instructions Binding:** For the avoidance of doubt, any instruction given to us by any of your directors, partners, shareholders or officers will be binding on you unless you give us a written direction to the contrary before the instruction is given.

4. **VEHICLE SALE CONTRACT - JAPANESE AGENT OBLIGATIONS - BUYING SOLUTIONS' OBLIGATIONS**

4.1 **Vendor of Vehicle/Sale Contract:** Where you enter into a Sale Contract to purchase a Vehicle using one of the methods referred to in clause 3 and the purchase price for the Vehicle is payable in Japanese yen, Buying Solutions arranges the purchase using a Japanese Agent to complete the purchase of the Vehicle (as advised to you under clause 4.3). The Sale Contract for the Vehicle is with this Japanese Agent and will be subject to the relevant Japanese Agent's terms and conditions.

4.2 **Claims:** We give a limited warranty in relation to each Vehicle as set out in clause 9.

4.3 **Buying Solutions' Obligations on formation of Sale Contract:** Where you enter into a Sale Contract to purchase a Vehicle, we will:

- (a) give you details of the Japanese Agent who is the vendor of the Vehicle (you can also ask us for details of the Japanese Agents with whom we do business at any time prior to this); and
- (b) provide your contact details and details of the delivery port of destination to, and otherwise liaise with, the Japanese Agent generally regarding the purchase of the Vehicle and completion of the purchase and delivery of the Vehicle to the port of destination.

4.4 **Japanese Agent Obligations on formation of Sale Contract:** Where you enter into a Sale Contract to purchase a Vehicle, the Japanese Agent will be responsible for the following:

- (a) arranging delivery of the Vehicle on a CIF basis (freight and insurance paid) to the port of destination (unless we have made other arrangements with you);
- (b) export and other clearance documentation to allow export of the Vehicle from Japan;
- (c) arranging the MAF/LTSA inspection in Japan and any MAF fumigation required in Japan or New Zealand;
- (d) arranging a full vehicle title search to check that title to the Vehicle is free and clear;
- (e) arranging an odometer inspection (details of what this involves are available from the Japanese Agent).

- 4.5 **Your obligations:** Where you enter into a Sale Contract to purchase a Vehicle, you will be responsible for the following (and these matters are not included in the amount payable for the Vehicle under clause 5 or our fee under clause 6):
- (a) customs clearance charges for entry of the Vehicle into New Zealand;
 - (b) GST payable on the Vehicle and any other amount on importation into New Zealand;
 - (c) port service charges (including MAF and any other regulatory body charges) in New Zealand;
 - (d) freight from the port of destination to your premises (or other delivery location);
 - (e) vehicle compliance in New Zealand;
 - (f) any other matter not listed in clause 4.4.
- 4.6 **Matters outside the scope of our obligations:** For each Vehicle for which you enter into a Sale Contract, we will complete our obligations under clause 4.3 for the fee specified in clause 6. However, where you ask us to undertake any additional matters, we may negotiate an additional fee or fees before doing so. No fee will be payable to us for any negotiations or offers to purchase Vehicles for which you do not enter into a Sale Contract.
- 4.7 **Commercials and Vehicles over 20m3:** Where a Vehicle is a commercial Vehicle or will take more than 20m3 of shipping space, it may be necessary for the Vehicle to be sold and shipped on an FOB rather than CIF basis. Where this is the case, we will notify you and advise you of the applicable changes to the basis of calculation of the Vehicle price, shipping terms, Japanese Agent obligations, your obligations and all other applicable departures from these terms and conditions in relation to the sale of that Vehicle.
- 4.8 **Agency:** You appoint us to act as your agent to carry out the tasks referred to in clause 3 (including binding you to a Sales Contract with a Japanese Agents) and this clause 4 and to otherwise do any act or thing necessary to be done on your behalf to give effect to any of these terms and conditions.

5. PAYMENT FOR VEHICLE

- 5.1 **CIF Vehicle Price:** The amount payable for each Vehicle is the CIF Vehicle Price, being:
- (a) for Pre-purchased Vehicles and Vehicles purchased from an Email Stock Offer – the price advertised or advised by us.
 - (b) for Auction Stock – the price advised by us following completion of the auction.
 - (c) for Vehicles purchased following a Stock Request - the price advised by us following sourcing of the Vehicle.
- 5.2 **Matters included in CIF Vehicle Price:** The components of the CIF Vehicle Price are:
- (a) the total Vehicle cost, being the purchase price of the Vehicle in Japan and any auction fees payable if the Vehicle was purchased at auction;
 - (b) the cost of Japanese Agent performing the obligations referred to in clause 4.4;
 - (c) the Japanese Agent's fees;

- (d) any additional fee charged by the Japanese Agent if the Vehicle is purchased outside the main port areas in Japan (as defined by the Japanese Agent).

A breakdown of the CIF price is available from us on request. We note that prices for Vehicles displayed on the Website are the vehicle cost referred to in clause 5.2(a) only, and do not include the other components of the CIF Vehicle Price.

5.3 Payment: The CIF Vehicle Price is payable directly to the Japanese Agent. The Japanese Agent will invoice you for the CIF Vehicle Price and advise you of the payment terms (which are at the discretion of the Japanese Agent). Typical payment terms are as follows:

- (a) In all cases, payment in full must be made before the Vehicle is landed in New Zealand;
- (b) Payment of a deposit in advance at the time you enter into the Sale Contract or in advance of shipment may be required in some cases (for example, where you are a new business);
- (c) Depending on your trading history, you may be required to pay all or a specified percentage of the CIF Vehicle Price at the time you enter into the Sale Contract or prior to shipment of the Vehicle;
- (d) If the CIF Vehicle Price exceeds ¥5,000,000, you may be required to pay a deposit of 50% of the CIF Vehicle Price before the Vehicle is shipped;
- (e) If the CIF Vehicle Price exceeds ¥7,000,000, you may be required to make payment of the CIF Vehicle Price in full within one week of the Sale Contract being entered into.

5.4 NZ\$ Conversion: You may request that we give you a New Zealand dollar price (CIF Vehicle Price) for a Vehicle for which the purchase price is otherwise denominated in Japanese yen. Where we give such a price then (unless we agreed in writing that the price would be a fixed New Zealand dollar price at the time we accepted your offer to purchase the Vehicle):

- (a) this will comprise an estimate only, and the figure may change due to exchange rate fluctuations. You will be required to pay the CIF Vehicle Price based on the actual exchange rate on the date(s) on which the payment is required.
- (b) the giving of a New Zealand dollar estimate of the CIF Vehicle Price will not alter the fact that these terms and conditions will be applicable to the sale (and our Terms and Conditions (Sales in New Zealand dollars) will not apply).

6. PAYMENT OF BUYING SOLUTIONS' FEE

6.1 Our Fee: We charge a standard general/administration fee for our Services for each Vehicle purchased by you (in addition to the CIF Vehicle Price). The fee will be advised to you in writing when you first deal with us and may be revised by us from time to time by notice to you and/or by posting on our Website or by otherwise notifying you in writing.

6.2 Payment: Payment of our fee in respect of each Vehicle must be made in full in one sum within 14 days of receipt of our invoice.

7. VEHICLE DESCRIPTIONS/DATA

7.1 Accuracy of Descriptions: We use our best endeavours to ensure that all Vehicle details contained in the Website or sent to you in writing by any other means (such as email or fax) or communicated to you by phone (including the results of any vehicle inspection carried out pursuant to clause 9) are accurate in all material respects. However, we cannot be certain about all details,

and in particular we are reliant on information provided to us by third parties such as Japanese auction houses and Japanese Agents. Accordingly, our liability for mis-descriptions is as described in clause 9.

8. **VEHICLE INSPECTIONS**

8.1 **When Inspections are carried out:** We carry out Vehicle inspections as specified in clause 3.

8.2 **Nature of Inspections:** For each Vehicle inspection, we carry out, or arrange to be carried out, a visual, non-invasive inspection to a level which we consider would be carried out by a reasonable motor vehicle dealer purchasing a used Japanese motor vehicle at auction, having regard to the manner and duration of inspection possible prior to such an auction (including there being no opportunity to drive the Vehicle or put it on a hoist). Where possible, the inspection comprises the following matters:

- (a) inspection of paint and panel condition;
- (b) inspection of underside to check for obvious rust;
- (c) inspection of general tyre condition;
- (d) inspection of general interior condition (without removing any trim, carpets, mats, or other items);
- (e) starting the Vehicle's engine to listen for any obvious defects or noises in the engine and transmission (at a standstill). This includes operating the clutch pedal in manual Vehicles;
- (f) other matters which you have expressly requested us in writing to inspect (and which we have agreed to inspect), and which are capable of visual inspection.

8.3 **Reporting of Inspection results:** The results of a Vehicle inspection are available to you on the basis set out in clause 3. Otherwise, we will report inspection results to you by phone or email only if (and to the extent) that we have identified a material defect in an aspect of the Vehicle which is covered by the inspection.

8.4 **Matters for which any assurance is specifically excluded:** Without limiting or affecting clause 8.2, you acknowledge that we are unable to properly check or inspect, and take no responsibility for, the following matters:

- (a) airconditioning systems;
- (b) clutches and automatic transmissions;
- (c) vehicle soft tops - operation;
- (d) stereos, televisions and navigational devices;
- (e) after-market accessories;
- (f) electrical components that cannot be tested at a pre-auction inspection;
- (g) checking Vehicle statements of compliance, TDN numbers and related documentation;
- (h) identifying factory faults or matters for which a vehicle has been known to require a recall.

9. WARRANTIES/OUR LIABILITY

9.1 **Vehicle Warranties:** We warrant in respect of each Vehicle, that the Vehicle will comply in all material respects with the Vehicle description and inspection results displayed on the Website (if applicable) or otherwise given by us to you by phone or email (if applicable) prior to a Sale Contract for the Vehicle being formed (**Warranty**).

9.2 **Claims:** If you wish to make a claim for breach of the Warranty, you must:

- (a) lodge the claim with us in writing within 7 days of the date of delivery of the Vehicle to your yard or delivery of the Vehicle into your control or the control or custody of any person nominated by you (whichever is the sooner). We will have no liability under clause 9.1 or otherwise for any claim lodged outside this time frame;
- (b) include with your claim:
 - (i) sufficient details to enable us to fully understand the claim (including digital photographs and any other information reasonably requested by us);
 - (ii) two separate quotes for the cost of any repairs which you claim are required to the Vehicle to bring it back to the condition it should have been in to meet the Warranty. (You may lodge your claim on the basis that the quotes are still pending);
 - (iii) a copy of the Vehicle delivery docket signed by you.

9.3 **Remedies:** On receipt of a valid Warranty claim, we will consider the claim having regard to the age and distance traveled of the Vehicle and other matters we consider relevant. If we accept your Warranty claim, we may (at our election) satisfy the claim by either:

- (a) giving you a credit against payment of our fee (or part) for the Vehicle or any other fees payable to us in respect of any other Vehicle purchased from or through us, or negotiate other monetary compensation with you; or
- (b) paying for, or contributing to, repair or reinstatement work on the Vehicle to ensure that it complies with the Warranty; or
- (c) purchasing the Vehicle back from you at the CIF Vehicle Price by paying you a NZ\$ equivalent amount, based on an exchange rate selected by us as at the date on which the Sale Contract for the Vehicle was formed.

9.4 **Exception to Warranty:** We will not accept any claim for breach of the Warranty unless/until you have paid for the Vehicle and Buying Solutions' fees in respect of the Vehicle, in full. In addition, we may at our discretion refuse any claim for breach of the Warranty (and will have no liability to you under clause 9.1) for the following matters:

- (a) to the extent that the Warranty claim arises due to any of the following matters:
 - (i) any of the matters referred to in clause 8.4; or
 - (ii) any matter which was specifically drawn to your attention prior to your offer to purchase the Vehicle being accepted by us; or
 - (iii) any panel and paint defects which will cost under NZ\$500 to repair; or
 - (iv) matters which could not be detected unless the Vehicle was driven; or

- (v) items which have no compliance standard marks (e.g. tyres, lights or glass); or
 - (vi) damage to the Vehicle or theft of components or parts of the Vehicle, occurring during transit/shipping of the Vehicle; or
 - (vii) mechanical defect or damage, or structural defect or damage, in any Vehicle for which the CIF Vehicle Price is ¥5,000,000 or more; or
 - (viii) damage or defects in electrical components; or
 - (ix) the addition of new parts or completion of repairs to the Vehicle arranged by us on your behalf in accordance with your instructions, prior to delivery of the Vehicle to you.
- (b) any Warranty claim made in relation to any Vehicle which:
- (i) is 10 or more years old and/or has travelled 100,000 kilometres or more (as indicated on the odometer); or
 - (ii) is graded as auction grade 3 or below (as shown on the auction sheet for the Vehicle provided by the applicable auction house or the Pre-purchased Stock checklist on the Website (if applicable)); or
 - (iii) has undergone modifications from its factory configuration.

9.5 **Vehicle Compliance:** As noted in clause 4.5, it is your responsibility to put a Vehicle through vehicle compliance in New Zealand, and we do not give any guarantee that the Vehicle will comply (either with or without modification or other work or other steps being taken). In particular, we do not give any assurance or warranty that Vehicles of the following type will pass the compliance tests (and we will not be responsible for any costs incurred by you in taking steps to enable such Vehicles to comply):

- (a) Low volume certificate Vehicles;
- (b) Left-hand drive Vehicles;
- (c) Old and classic Vehicles (being vehicles which are 20 years old or more (calculated from the date of manufacture));
- (d) Vehicles which require a statement of compliance;
- (e) Vehicles graded as auction grade 3 or lower (as shown on the auction sheet for the Vehicle provided by the applicable auction house) which require a repair certification;
- (f) Vehicles which require a repair certification for work which was brought to your attention before you made an offer to purchase;
- (g) Vehicles with a tyre size of greater than 18 inches;
- (h) Vehicles for which a TDN (Type Designation Number) is not shown on the Vehicle documentation from Japan (e.g. de-registration certificate or export certificate).

9.6 **Exclusion of other Warranties:** With the exception of the warranty given in clause 9.1, no warranty, guarantee, condition or representation in respect of or in relation to any Vehicle or our Services will bind us or be implied against us by statute or otherwise unless:

- (a) it is given by us in writing and expressed to be a binding warranty and is signed on our behalf; or
- (b) it is a warranty implied by statute and cannot be contracted out of.

9.7 **Limitation of Liability:** Notwithstanding any other provision of these terms and conditions, our liability to you in relation to the supply of any particular Vehicle and our Services in respect of that Vehicle (including, without limitation the carrying out of a Vehicle inspection and provision of inspection information to you) is limited to amount of the fee payable to us in respect of that Vehicle pursuant to clause 6.1. We have no further liability or responsibility for any direct, indirect or consequential injury, loss or damage of any kind (including loss or revenue or profits) however arising (whether in contract, tort, at equity or otherwise).

9.8 **Consumer Guarantees Act:** Where the supply of the Services and/or any Vehicle would otherwise be subject to the Consumer Guarantees Act 1993, you agree that you are acquiring the Services and/or Vehicle for business purposes and that the Act does not apply to the supply of to you.

10. **DEFAULT BY YOU**

10.1 If you:

- (a) fail to make any payment due under these terms and conditions on the due date; or
- (b) breach any other of these terms and conditions; or
- (c) become insolvent or bankrupt (or, in our view are likely to become so in the near future),

then we may exercise all or any of the following rights (without limiting or affecting any other rights or remedies we may have):

- (d) if you have failed to make any payment due on the due date, charge you default interest on the overdue amount from the date due until it is paid. The interest rate will be a registered bank overdraft interest rate in New Zealand nominated by us from time to time plus 4%;
- (e) cancel any/all orders or contracts for the supply of Vehicles or Services made by you;
- (f) demand payment of all amounts payable for Services which have already been supplied but not paid for (even though the date for payment may not have otherwise arrived);
- (g) withhold delivery of any Services ordered by you but not yet supplied;
- (h) recover from you all costs and expenses (including debt collection and legal costs on a solicitor/client basis) incurred by us in enforcing or attempting to enforce our rights under these terms and conditions.

11. **USE OF WEBSITE**

11.1 **Member Number and Password:** We will give you a user name and password to give you access to the Website to utilise our Services. It is your responsibility to keep these secure so that no other person can use them. You will be responsible for all obligations arising out of use of your user name and password.

11.2 **Website Policies/Rules:** You must comply with any website policies, rules or other instructions advised by us on the Website or otherwise in writing to you from time to time.

- 11.3 **System Integrity:** We will use all reasonable efforts to ensure the general availability of the Website and to prevent the corruption or loss of data supplied by you held by us and the transmission of viruses. However, we take no responsibility for and have no liability in relation to unavailability of the Website, corruption or loss of data or transmission of viruses or losses relating to these events. In particular, we take no responsibility or liability for any events which are outside our reasonable control including communications and hardware failures.

12. GENERAL

- 12.1 **Variation of Terms:** We may vary these terms and conditions at any time by notification on the Website or by written notice to you. If you use the Website or our Services after the earlier of the date of notification on the Website and notice to you (if given separately), you will be deemed to have accepted the variation.
- 12.2 **Force Majuere:** We will not be in breach of these terms and conditions because of any failure to supply Services which is directly or indirectly due to any cause beyond our reasonable control.
- 12.3 **Waiver:** No waiver by us or any term or condition will constitute a waiver of any other term or condition, and we will not be deemed to have waived any term or condition unless we give the waiver in writing.
- 12.4 **Governing Law:** These terms and conditions are governed by and will be construed in accordance with New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
- 12.5 **No Set-off:** You must make payment of all amounts owing to us without set-off or deduction of any kind.

13. DEFINITIONS

- 13.1 In these terms and conditions:

Auction Online means the “Today’s Auction Online” facility operated on the Website.

Auction Stock means Vehicles listed on the “Auction Online” pages on the Website, or otherwise notified by us as being available at auction.

CIF Vehicle Price has the meaning given to it in clause 5.1.

Japanese Agent a business in Japan which sells used motor vehicles and provides ancillary services in relation to used motor vehicles such as arranging freight and related matters.

Pre-Purchased Stock means Vehicles listed on the “Pre-Purchased Stock” page on the Website from time to time.

Sale Contract means a contract for the sale and purchase of a Vehicle, entered into by you and a Japanese Agent as a result of using our Services.

Services means the services provided by us to source Vehicles for you and otherwise carry out our obligations under these terms and conditions in relation to any Vehicle purchased by you, as outlined in these terms and conditions.

Vehicle means a motor vehicle available for purchase by you, or purchased by you (as the context requires) using one of the Vehicle purchase methods outlined in clause 3.

Website means our website operated at www.buyingsolutions.co.nz