

## **VEHICLE SUPPLY AGREEMENT (“VSA”) (NEW ZEALAND MARKET)**

This Agreement is made between **ATNZ 2000 LIMITED** (“ATNZ”) acting as agent for IBC Japan Ltd and **KEPPLER** with registered address at 43 Massey Street, Frankton, Hamilton 3204, New Zealand (“Dealer”) for the supply of used motor vehicles by IBC.

### **IT IS AGREED AS FOLLOWS.**

#### **1. Scope**

This Agreement shall apply to all purchases of vehicles ordered by the Dealer from the date of this Agreement for a period of 12 months (“Initial Term”) and shall be renewed automatically for another twelve months (“Renewal Term”). This agreement can be terminated by mutual agreement of both parties unless either party give written notice of termination at least 90 days before the end of the Initial Term or Renewal Term or by IBC under Clause 17 Dealer’s Default.

ATNZ may appoint an agent to receive payments from the Dealer payable to ATNZ under this agreement and will notify the Dealer from time to time in writing of any such appointment.

#### **2. Volume Commitment**

The Dealer agrees that in consideration of ATNZ offering the price and payment terms under this Agreement the Dealer will purchase exclusively from ATNZ to achieve a monthly volume target of at least **[20] units with an average car cost of 750,000 JPY**. ATNZ will review the actual volume and average car cost of vehicles purchased quarterly by the Dealer and reserves the right to adjust the rates accordingly.

#### **3. Purchase Price**

The Purchase Price payable to ATNZ shall be calculated as follows:

**Purchase Price** = Vehicle Cost + Distant Transport + Agents Fee + Ocean Freight + GST (if applicable), where:

- (a) Car cost = Vehicle Cost + Distant Transport + Auction Fees
- (b) Distant Transport = Transportation costs to pick up a vehicle from Auction and deliver it to one of ATNZ’s 3 Port facilities (Kobe, Nagoya, Kisarazu).
- (c) Agents Fee = Charges payable to ATNZ for services rendered in relation to procuring and delivering vehicles to the Dealer into Port of Discharge. Agent Fee is charged following progressive rates with car cost as follows:

<b>CAR COST</b>	<b>AGENT FEE ("AF") Terms</b>
0 to 999,999	¥70,000
1,000,000 to 1,249,999	¥80,000
1,250,000 to 1,499,999	¥90,000
1,500,000 to 1,749,999	¥100,000
1,750,000 to 1,999,999	¥110,000
Every 250,000 higher	An additional 10,000 will be added

(d) Ocean Freight and Services = Cost of delivery by vessel to be charged at the rates below in respect of units less than 25.00/m3.

(i) For units on terms: **NZ\$1,650/unit**

(e) GST = Goods and services tax plus any other applicable taxes, duties and charges.

(f) Total Purchase Price shall be paid in NZD, with JPY to be converted into NZD at the ATNZ buy rate, which is the market rate less 1 point for the forward cover.

#### 4. Other purchase price terms

(a) Agent Fees to apply to iDirect purchases only, vehicles from stock to be purchased at the negotiated/agreed price.

(b) Overbids of up to JPY20,000 will be paid by the Dealer, or the vehicle will be cancelled and ATNZ will take back into stock.

(c) BAF/EBS: ATNZ's Carrier at its own discretion may choose to increase its OFS rates and or apply BAF and or Bio-Security surcharges without notice. ATNZ will do its utmost to prevent this from occurring however in the event of negotiations failing the consignee will be notified and any rate increases, or surcharges applied will be invoiced accordingly under BAF.

(d) MPI/HT (Heat Treatment): the Dealer shall pay heat treatment charge required in certain season of the year **at NZD250/unit**.

(e) A 360 Frame Surround Imaging and E3M services to be invoiced at the rate of **JPY15,000/unit**.

(f) Maxcare Services available on request.

#### 5. Payment Terms and Conditions

(a) Payment terms for the vehicles purchased shall be as follows:

1. No deposit with payment on sale.

- (b) The Dealer's account with ATNZ shall be subject to an overall credit limit of **NZ\$500,000**. ATNZ reserve the right to review this credit limit every quarter and make necessary adjustment depending on the Dealer's actual sales performance in the period.
- (c) Vehicles confirmed by the Dealer will be shipped on a first-in-first-out (FIFO) basis and the Dealer will receive shipping notice accordingly. If the Dealer requests for any vehicles to be withheld from shipping, the Dealer will be charged a storage cost of **JPY500/day for storage facility in Japan** from the date of the first assigned shipment until the date of the actual shipment.
- (d) On release, car cost, interest charges and admin fee to be invoiced and paid in full before PPSR is removed.

**6. Credit Limit Ratio**

Once credit limit has reached the following tiers, the POA:TERMS ratio to apply. Accounts Department will send a weekly notice of your credit limit standing.

<b>TIER</b>	<b>Credit Limit Range</b>	<b>POA: TERMS</b>
TIER 1	Credit Limit < 50%	0:1
TIER 2	Credit Limit > 50%	1:1
TIER 3	Credit Limit > 60%	2:1
TIER 4	Credit Limit > 75%	3:1
TIER 5	Credit Limit > 100%	0:0

**7. MR2A Release**

- (a) Vehicle deregistration certificates will be released to TSDA at the approved compliance center.
- (b) MR2As will be held by TSDA until advised by ATNZ to either release or print. MR2As that have past 60 days shall be surrendered to ATNZ.
- (c) The Dealer shall not get its compliance shop to print any MR2As which shall be managed through TSDA representative in cooperation with ATNZ.

- (d) Electronic MR2A will be released to the Dealer on confirmation of funds being deposited into ATNZ's nominated bank account for final payment of Purchase Price and any penalty for delayed payment as agreed herein. Upon request by the Dealer MR2A could be released (at ATNZ's discretion) before such final payment but only on a condition that the final payment to be made by the Dealer **WITHIN 48 HOURS** failing which the Dealer shall be liable for all direct and consequential damages caused to ATNZ and ATNZ will not approve for such request again for other vehicles purchased.

## **8. Insurances**

The Dealer shall, as long as any money remains outstanding in respect of any vehicle supplied by ATNZ to the Dealer, insure and keep insured with a reputable insurer such vehicle against all risks it is prudent (in accordance with best commercial practice) to insure against for the full replacement value (or if replacement value is not available, then for the full insurable value of the property). All moneys received by virtue of any such policy shall be applied, at the option of ATNZ, either in or towards making good the loss or damage with respect to which such moneys shall have been paid, or in or towards payment of all or any of the moneys owed to ATNZ, notwithstanding that the time or times for payment may not have arrived. The Dealer and the Guarantor shall duly and punctually pay all premiums and sums of money necessary to keep on foot those insurances. ATNZ shall be named as the direct beneficiary of such insurance policy.

## **9. Cancellation of Purchase**

- (a) Any request by the Dealer to cancel an order (a "Purchase") will be managed on a case by case basis and ATNZ has the sole and absolute discretion to decide whether or not to agree to cancel a Purchase. Further, ATNZ reserves the right to cancel a Purchase on reasonable grounds, including but not limited to, when the cost to repair become excessive against the profit margin of the vehicle.
- (b) If the Dealer cancels vehicles purchased from iDirect Auctions the vehicle will be cancelled and re-auctioned. Any losses incurred by ATNZ will be invoiced to the Dealer if the cancelation is not accepted by ATNZ.
- (c) The Dealer will pay ATNZ a cancellation fee of JPY70,000/unit for vehicles cancelled without cause (either from stock or auctions) if not accepted by ATNZ.

## **10. Delivery**

Unless the parties have agreed otherwise in writing, vehicles will be delivered to the approved compliance centre using i4 checkpoint (or at a centre agreed in writing by the parties) after the vehicles have been cleared for import ("Delivery"). Further,

- (a) ATNZ may charge Dealer storage and transportation expenses if Dealer fails or refuses to take or accept delivery or indicates to ATNZ that Dealer will fail to do so;
- (b) ATNZ reserves the right to deliver the vehicles by installments;

- (c) Risk in all vehicles passes to Dealer upon Delivery of the vehicles;
- (d) Dealer shall not sell, dispose or part with possession of the vehicles or do anything else inconsistent with ATNZ's ownership of the vehicles, from Delivery until title in them passes to Dealer except that ATNZ authorises Dealer to sell the vehicles in the ordinary course of Dealer's business. This authority is revoked when Dealer is in Default of the terms herein.

## 11. Credits and Claims

- (a) All vehicles purchased have been or will go through a Vehicle Check Inspection (VCI) upon arrival into ATNZ's inspection facility and a vehicle checklist will be available showing the condition of the vehicle.
- (b) The Dealer assumes all risks for defects shown on the checklist of its vehicles shipped as well as those which should have been identified on the vehicle checklist. In this regard, ATNZ reserves the right to repair the vehicle or cancel the same from Dealer account if necessary.
- (c) ATNZ's claim policy is governed as stated by its policy found within its website.
- (d) All vehicle claims will be managed through ATNZ's local appointed Market Manager.
- (e) Vehicles not going through VCI shall not be subject to claim to ATNZ.
- (f) Claim policy to apply only if use i4CP as TSDA.

## 12. Buy Trips.

This will be governed by the ATNZ Buy Trip policy stated in the ATNZ Website.

## 13. Security

- (a) The Dealer acknowledges that:
  - i. All vehicles supplied by ATNZ to the Dealer are the sole and exclusive property of ATNZ and shall remain so until the vehicle has been paid for in full and the Dealer has performed all its other obligations under this Agreement. This paragraph creates a security interest on vehicles ATNZ supplies to the Dealer;
  - ii. The Dealer grants a security interest in all vehicles previously supplied by ATNZ to the Dealer (if any) and all the vehicles that are supplied by ATNZ to the Dealer in the future to secure the performance of the Dealer's obligations to ATNZ;
  - iii. If at any time the Dealer breaches the terms of this Agreement or ATNZ believes there is any risk to vehicles which ATNZ has retained title to, ATNZ can, at its discretion, enforce its security interests and arrange for the pick-up and return of any vehicles that ATNZ has a security interest in, and ATNZ can invoice the Dealer for the cost of such pick-up and return or attempting to do so. The Dealer gives ATNZ and its agents irrevocable authority to enter any and all premises occupied by the Dealer or any Third party on which the vehicles are situated, at any time, to remove and repossess the

vehicles, including the right to open (by force if necessary) any gate or lock required to gain access. ATNZ will not be liable to the Dealer for any losses the Dealer incurs as the result of ATNZ exercising any of ATNZ's rights under this section. This Agreement constitutes an irrevocable instruction from the Dealer to any Third party to allow ATNZ access to the vehicles;

- iv. The Dealer waives all its rights under sections 114(1)(a), 116, 120(2), 121, 125, 126, 127, 129, 131 and 134 of the Personal Property Securities Act 1999 ("PPSA"). The Dealer agrees to waive its right to receive a verification statement in accordance with section 148 of the PPSA; and
- (b) The Dealer shall give ATNZ prior written notice of any proposed change of its name or address or if there will be or are any changes to any of the data required to register a financing statement under the PPSA in respect of this Agreement.
- (c) The Dealer must do all things that ATNZ requires to ensure that ATNZ has a perfected purchase money security interest in each vehicle and its proceeds to the extent of the amounts payable by the Dealer to ATNZ in respect of the vehicle. The Dealer must not grant or agree to grant any security interest in or over any of the vehicles to any person, or otherwise encumber the vehicles in any way, except for the security interest hereby granted to ATNZ.
- (d) PPSR (personal property security registration) shall be under ATNZ's name and be released by ATNZ only upon full payment by the Dealer.

#### **14. Personal Guarantee**

- (a) In consideration of ATNZ agreeing to supply vehicles to the Dealer, the Dealer's signatory to this Agreement (the "Guarantor") agrees to provide a personal guarantee to ATNZ to unconditionally guarantee the due and punctual payment by the Dealer of all moneys payable by the Dealer under this Agreement as well as the cost and expenses incurred by ATNZ in collecting any outstanding debt including any legal fees for the services of a lawyer, and the performance by the Dealer of its obligations to ATNZ under this Agreement.
- (b) The Guarantor agrees:
  - (i) to be deemed as principal debtor for all accounts held by the Dealer with ATNZ;
  - (ii) that this guarantee shall be a continuing guarantee and shall not be discharged by any settlement or payment of account and that this guarantee is both joint and several;
  - (iii) that the Guarantor's liability under this guarantee shall not be discharged, abrogated, prejudiced or affected by:
    - (iv) the granting of time, credit or the indulgence or other concession to the Dealer;
    - (v) any alteration, modification, variation or addition to any agreement in respect of the supply of vehicles; or

- (vi) any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, the Guarantor's obligations under this guarantee or any powers or remedies conferred upon ATNZ by this guarantee or by law.
- (c) The Guarantor confirms that he, she or they have been advised by ATNZ that he, she or they should seek legal advice before signing this guarantee.

## **15. Limitation of Liability**

- (a) Except as expressly otherwise provided by clauses under Warranties, ATNZ shall not be liable for any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by Dealer or another person and whether in contract, or tort (including negligence), or otherwise and whether such loss or damage arises directly or indirectly from vehicles or services provided by ATNZ to Dealer.
- (b) To the extent that ATNZ is liable for any reason for any loss suffered or liability incurred by Dealer arising from any breach of this Agreement or for any other reason, such liability is limited to the amount of the price of the vehicle concerned. Subject to the paragraph headed "Credits and Claims" in these Terms, if vehicles are returned by Dealer, or if Dealer makes a claim in writing to ATNZ in relation to the vehicles or associated services provided, ATNZ may, in its sole discretion, repair or replace the vehicles or re-perform the services, or refund the price of those vehicles to and Dealer, provided that:
  - (i) the vehicles must be returned or the claim must be made in writing to ATNZ within fourteen (14) days of arrival;
  - (ii) Dealer must supply the date and number of any invoice relating to the vehicles; and
  - (iii) ATNZ must be given a reasonable opportunity to inspect the vehicles.

## **16. Privacy of Information**

Dealer authorises ATNZ:

- (a) to collect, retain and use information about Dealer from any person for the purpose of assessing Dealer's credit worthiness;
- (b) to disclose information about Dealer:
  - i) to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to Dealer's obligations to ATNZ; and
  - ii) to such persons as may be necessary or desirable to enable ATNZ to exercise any power or enforce or attempt to enforce any of ATNZ's rights, remedies and powers under this Agreement.

## **17. Dealers Default**

- (a) Dealer will be in Default if:

- (i) the Dealer fails to pay any amount due in accordance with these Terms;
  - (ii) The Dealer commits a major/material breach of any other provisions under this Agreement;
  - (iii) Dealer becomes insolvent, is wound up, has a receiver appointed, enters into any composition or arrangement with Dealer's creditors, does any act which would render Dealer liable to be placed in liquidation or have a receiver appointed over Dealer's property, commit an act of bankruptcy, cease to be of full legal capacity, or dies;
  - (iv) Vehicles that ATNZ has retained title to are at risk due to fault or contributory negligence of Dealer; or
  - (v) an event or a series of events (whether related or not) occurs which, in ATNZ's opinion, may cause a material adverse change in Dealer's ability to meet Dealer's obligations to ATNZ.
- (b) If Dealer is in Default then ATNZ may, at ATNZ's option, in addition to any other of ATNZ's rights under this Agreement, do any one or more of the following:
- (i) require Dealer to remedy the default in the manner and within the period that ATNZ informs Dealer;
  - (ii) require Dealer to pay to ATNZ all amounts Dealer owes ATNZ immediately;
  - (iii) suspend or terminate Dealer 's account with ATNZ;
  - (iv) enforce security interests created by these Agreement;
  - (v) terminate this Agreement without notice at any time. If Dealer's account is terminated, Dealer must immediately pay ATNZ any amount Dealer owes ATNZ;
  - (vi) Exercise any rights that ATNZ has under these Terms or that are available to ATNZ at law.

## 18. Miscellaneous Provisions

- (a) Notices.** Any notice may be given by phone, in person, posted, or sent by facsimile or email to Dealer or where Dealer is a company, to any directors of Dealer.
- (b) Confidentiality.** Dealer shall at all times treat as confidential all non-public information and material received from ATNZ and shall not publish, release, or disclose the same without ATNZ's prior written consent. For clarity, confidential information includes prices.
- (c) Costs.** Dealer must pay ATNZ's costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of ATNZ's rights, remedies and powers under this Agreement.
- (d) Credit Information.** Dealer consents to ATNZ, or any financier or credit-rating agency, making enquiries of and obtaining any information about Dealer's financial standing and credit worthiness.

- (e) **Jurisdiction.** These Terms are governed by the laws of New Zealand. Each party agrees to submit to the non-exclusive jurisdiction of the courts of Japan with respect to any claim or matter arising out of or in connection with this agreement.
- (f) **Force Majeure.** If ATNZ has given Dealer a time for delivery of the vehicles (or any part of them), such time is approximate only and is not deemed to be of the essence. ATNZ shall not be liable for delay or failure to perform its obligations under these Terms if the cause of delay or failure is beyond its control.
- (g) **Other terms:** All other terms as stated in the terms of trade in the ATNZ website which the Dealer has accepted upon signing up with ATNZ, provided that if any of the terms is not consistent with this Agreement then the terms of this Agreement shall prevail.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives on \_\_\_\_\_2022.

**ATNZ 2000 Limited**

**KEPPLER**

**Glenn Keatley**  
National Sales Manager

**John Keppler**  
Director

# Deed of Guarantee

**From:** [REDACTED] (“Guarantor”)

**To:** ATNZ 2000 Limited (“ATNZ”)

in respect of all of the obligations owing from time to time by [REDACTED] (“Dealer”) to ATNZ pursuant to the Vehicle Supply Agreement (“VSA”) dated on or about the date as this Deed of Guarantee.

1. In consideration of ATNZ agreeing to supply vehicles to the Dealer at the request of the Guarantor, the Guarantor unconditionally and irrevocably guarantees to ATNZ the due and punctual payment by the Dealer of all moneys payable by the Dealer under the VSA as well as the cost and expenses incurred by ATNZ in collecting any outstanding debt including any legal fees for the services of a lawyer, and the performance by the Dealer of its obligations to ATNZ under the VSA.
2. The Guarantor agrees:
  - a. to be deemed as principal debtor for all accounts held by the Dealer with ATNZ;
  - b. that this guarantee shall be a continuing guarantee and shall not be discharged by any settlement or payment of account and that this guarantee is both joint and several;
  - c. that the Guarantor’s liability under this guarantee shall not be discharged, abrogated, prejudiced or affected by:
    - i. the granting of time, credit or the indulgence or other concession to the Dealer;
    - ii. any alteration, modification, variation or addition to any agreement in respect of the supply of vehicles; or
    - iii. any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, the Guarantor’s obligations under this guarantee or any powers or remedies conferred upon ATNZ by this guarantee or by law.
3. By signing this Deed the Guarantor confirms that he has been advised by ATNZ to seek legal advice before signing this guarantee and he has either taken, or decided not to take, such advice.

**EXECUTED** as a deed

**SIGNED** by [REDACTED] as Guarantor

in the presence of:

Witness’ signature:

Witness’ name:

Occupation:

Address: