

Terms and conditions of sale for used vehicles

A. General

1. AUTO1.com GmbH, Bergmannstr. 72, 10961 Berlin operates the website www.auto1.com, on which AUTO1 Group GmbH, Bergmannstr. 72, 10961 Berlin (registered at the Local Court (*Amtsgericht*) of Charlottenburg with commercial register no. HRB 143662B, hereinafter "**AUTO1**") operates a trading platform for used vehicles (hereinafter the "**Trading Platform**"). Via the Trading Platform, such used vehicles are sold exclusively to car dealers.
2. Only parties that are registered on the Trading Platform as dealers (hereinafter "**Dealers**") may purchase vehicles offered via the Trading Platform. The terms and conditions of use of the Trading Platform ("General Terms and Conditions governing the use of the services that are accessible via the website www.auto1.com") shall apply to the use of the Trading Platform.
3. The owner and seller of the vehicles offered via the Trading Platform is AUTO1 European Cars B.V., Overschiestraat 57, 1062 HN Amsterdam, The Netherlands (companies' register no. 856915361), or AUTO1 Italia Commercio s.r.l., Piazzale Luigi Cadorna 2 Milano, Italy (registered on the business register of the Italian Chambers of Commerce in Milan with no. 09487630965) (each of these companies individually hereinafter a "**Seller**" and together, the "**Sellers**"). Both AUTO1.com GmbH and the Sellers are entities of the corporate group of AUTO1 (hereinafter collectively the "**AUTO1 Group**").
4. In addition to operating the Trading Platform, AUTO1 performs all additional services related to the purchase agreement, such as processing purchases, handling vehicles and vehicle documents and, where necessary, organising the transport of, or transporting itself, vehicles (such handling of vehicles, handling of vehicle documents and transport hereinafter the "**Vehicle-Related Services**").
5. On the Trading Platform, an eligible Dealer may, with respect to a specific vehicle purchase, elect to apply for a payment deferral (*Stundung*) in respect of the purchase price by clicking on the "buy now, pay later" button (hereinafter the "**Application for Deferral**"), provided that the respective Seller has granted this option to the Dealer. In case such Application for Deferral is accepted, the relevant Seller and AUTO1 will defer (*stunden*) their payment claims against the relevant Dealer with respect to such vehicle purchase in accordance with these Terms and Conditions and separately sell and assign the so deferred payment claims to AUTO1 FT NL B.V. ("**AUTO1 FT**").
6. These Terms and Conditions of Sale govern the contractual relationship between, in each case, the Dealer and the respective Seller, AUTO1 and AUTO1 FT (in respect of Section B Clause VIII(1)(b) and Clause XIII(1)(b) and (c) only). The Sellers, AUTO1, AUTO1 FT and the Dealer expressly agree that all contractual relationships of the Sellers, AUTO1 and AUTO1 FT with the Dealer are exclusively governed by these Terms and Conditions of Sale, regardless of any other general terms and conditions of the Dealer. Neither the Sellers, AUTO1 nor AUTO1 FT accept any other terms and conditions – including, in particular, conflicting terms and conditions, or terms and conditions that deviate from these Terms and Conditions of Sale – irrespective of

whether or not individual provisions contained therein are contained in these Terms and Conditions of Sale. The acceptance of any other terms and conditions shall require the express written consent of the respective Seller, AUTO1 or AUTO1 FT, as the case may be.

7. The Dealer accepts these Terms and Conditions of Sale as legally binding upon its initial registration on the Trading Platform. The Sellers, AUTO1 and AUTO1 FT respectively reserve the right to modify these Terms and Conditions of Sale in relation future sales at any time and without giving reasons.
8. These Terms and Conditions of Sale have been uploaded in printable format on the Trading Platform. The current version of these Terms and Conditions of Sale (as amended from time to time) can be retrieved and saved at any time from the homepage of www.auto1.com.

B. Terms and conditions of the Sellers

I. Entering into an agreement

1. The Trading Platform is divided into the following categories: "Instant Purchase", "24h Auction", and "Customer Auction". The listing and description of vehicles shall not constitute an offer to enter into a purchase agreement but rather merely a call for the Dealer to make such an offer (known as an *invitatio ad offerendum*).
2. The Dealer may call up the individual vehicles in the respective categories and, where interested, make an offer in accordance with the provisions of the respective category by stating a purchase price for the vehicle in question. Doing so shall constitute a binding offer on the part of the Dealer to enter into a purchase agreement with the respective Seller. The Dealer shall be bound by such offer during each bid-submission period and for a period of 7 days thereafter (hereinafter "**Commitment Period**"). Should the end of the Commitment Period fall on a Sunday or public holiday, the next working day shall be deemed to be the last day of the Commitment Period.
3. If the dealer does not receive notice of the conclusion of the purchase agreement within the Commitment Period, its offer shall cease to be binding upon the expiry of the Commitment Period.
4. The purchase agreement between the Seller and the Dealer shall be concluded by the respective Seller accepting the Dealer's offer. Subject to paragraph 5, the Dealer will be notified of the fact that a purchase agreement has been concluded by way of a purchase confirmation sent by email during the Commitment Period. Upon receipt (*Zugang*) by the Dealer of the purchase confirmation, the consequences attached to the conclusion of the agreement (as set out below) shall take effect.
5. It may be the case that the relevant vehicle documents have not been handed over by the pre-seller or a financing bank within the Commitment Period and, as such, the vehicle is not yet finally available to the respective Seller. Provided that the advertised vehicle is shown within the "My upcoming purchases" section of the Dealer's profile on the Trading Platform within the Commitment Period, the relevant Commitment Period will automatically be extended to a total of 30 days

and paragraph 2 sentences 3 and 4, paragraph 3 and paragraph 4 shall be read accordingly.

6. Rights and obligations under the purchase agreement shall be subject to the Terms and Conditions of Sale as applicable at the point in time of the conclusion of the purchase agreement.

II. Utilisation of services

1. The Sellers may make electronic services (tools) available for the purposes of the swift processing and performance of individual purchase agreements (where necessary, by involving a third party). The Dealer shall be under an obligation to exclusively use these services for payment, collection, transportation, complaints and other matters.
2. In this context, Dealers shall be obliged to keep their data up to date (for example, to adjust the system to reflect any change in address without undue delay).

III. Payment

1. The Dealer shall be under an obligation to pay the full purchase price for the vehicle without deduction. Details of the relevant purchase price are set out in the respective purchase confirmation.
2. In the event that the Dealer did not apply for a payment deferral (*Stundung*) in accordance with Section B, Clause IV(1) ("*Deferral*") of these Terms and Conditions of Sale, or its application for a deferral has been rejected by the respective Seller, the purchase price shall be due immediately. The purchase price shall be paid immediately after the purchase agreement has been entered into and the purchase confirmation has been sent to the Dealer. Payment shall be effected by way of bank transfer to the account specified in the purchase confirmation. The Dealer shall also have the right to pay the purchase price for the vehicle to AUTO1, with such payment having discharging effect (*schuldbefreiende Wirkung*) vis-à-vis the relevant Seller. The Dealer shall be considered to enter into default (*Verzug*) pursuant to Section 286 German Civil Code (*Bürgerliches Gesetzbuch – BGB*) (hereinafter "**BGB**") after three working days (*Werktage*) from it having received the payment demands included in the invoices.
3. If the Dealer is in arrears with its payment obligations under a purchase agreement, it shall make a one-off payment to the Seller of 5% of the purchase price or EUR 250.00 (whichever sum is higher) as a contractual penalty. This shall not apply if the Dealer is not responsible for the delay in payment. In the event that the amount of the contractual penalty is deemed inadequate by the Seller, the parties agree that a competent court shall in its sole discretion determine such amount due under this Section D, Clause IV(5).
4. The Dealer shall not be permitted to offset nor to exercise any retention rights against any of the Seller's claims unless such claims have been expressly accepted by the relevant Seller or have been established in court in a final and binding manner (*rechtskräftig*). In particular, the Dealer shall not be entitled to refuse payment on the grounds that it has, or allegedly has, other actual or alleged claims

against the respective Seller under other agreements (including other purchase agreements).

5. If the dealer is in default of payment (*Zahlungsverzug*), the respective Seller may withdraw from the purchase agreement. After withdrawal has been declared – such withdrawal may also be declared by sending a cancellation document (*Stornobeleg*) to the Dealer – the respective Seller will release the vehicles for resale. The Dealer shall be obliged to pay to the respective Seller a lump sum of 5% of the purchase price or EUR 250.00 (net) (whichever sum is higher) per vehicle in respect of the damage incurred due to the withdrawal and resale, unless the Dealer proves that no or only lower costs were actually incurred in this regard. Any diminished proceeds realised during resale shall also be asserted as damages against the Dealer. In the event that a contractual penalty has fallen due under paragraph 3 of this Section before the relevant Seller's withdrawal, the respective amounts due as damages under this paragraph 5 and such contractual penalty shall be netted. If the Dealer does not pay the amount claimed within five working days, the respective Seller will immediately initiate legal proceedings for debt recovery (*Mahnverfahren*) against the Dealer. The respective Seller expressly reserves the right to assert further damages claims arising from the default of payment.
6. Section 288 paragraph 5 BGB shall apply.

IV. Deferral

1. From the point in time at which the purchase agreement is entered into by a Seller and the Dealer, the Dealer will have the option to make an Application for Deferral, provided that the respective Seller has granted this option to the Dealer. In this case the Dealer will receive an email from or on behalf of the respective Seller, informing them about the conditions of the deferral (e.g. the deferral fee, deferral period and, where relevant, the conditions of an extended deferral) (hereinafter the "**Deferral Conditions**"). By submitting the Application for Deferral, the Dealer accepts the so disclosed Deferral Conditions. The Dealer shall be notified as to whether the requested deferral is granted or rejected by the respective Seller via the Trading Platform (hereinafter the "**Deferral Confirmation**").
2. If an Application for Deferral is submitted and such deferral is granted by the respective Seller, such Seller shall also notify the Dealer in the Deferral Confirmation of the due date of the purchase price (including partial payments (*Abschlagszahlungen*), in the case of an extended deferral) and any other fees. The payment of the purchase price (including partial payments (*Abschlagszahlungen*), in the case of an extended deferral) and any other fees shall be made without undue delay (*unverzüglich*) when due by way of bank transfer to the account specified in the purchase confirmation. However, if it wishes to do so, the Dealer shall remain entitled to pay the purchase price and the other fees at any time prior to the expiry of the deferral period together with any accrued but unpaid deferral fee until the date of such amounts being discharged in full. Immediately upon lapse of the deferral period (*mit Ablauf der Stundungsdauer*), the Dealer shall be deemed to be in default (*Verzug*) within the meaning of Section 286 BGB.
3. Any deferral agreed between the Dealer and the respective Seller shall be subject to the following respective conditions subsequent (*auflösenden Bedingungen*):

- a. the vehicle is destroyed, totally damaged (*total beschädigt*) or otherwise lost;
 - b. in the case of a check carried out by the respective Seller in accordance with Section B, Clause VIII(2)(c), Clause IX(2)(c), Clause XI(2)(c), Clause XII(2)(c) or Clause XIII(2)(c), the vehicle sold is not on the business property or at the place of destination chosen with the respective Seller's consent. This shall not apply if the Dealer can credibly demonstrate that the vehicle sold is temporarily used for a test drive or any other necessary drive;
 - c. the Dealer breaches an obligation that is material for the purpose of securing the vehicle or, in spite of a formal warning, commits a severe breach of any other contractual obligation towards the respective Seller;
 - d. the Dealer loses a public law approval or licence required for its business operations, or the loss of such approval or licence is imminent;
 - e. the Dealer ceases or sells its business operations, takes steps to cease or sell its business operations or announces the cessation or sale of its business operations; or
 - f. the respective Seller can – for any other serious reasons, in good faith and taking into account accepted standards – not be reasonably expected to continue the deferral, for example due to a material deterioration in the Dealer's financial situation or significant outstanding payments owed by the Dealer to the respective Seller or another entity of the AUTO1 Group.
4. If the Dealer or a Seller becomes aware of the occurrence of one of the aforementioned conditions subsequent (*auflösenden Bedingungen*), it shall notify the respective other party of such occurrence in writing without undue delay (*unverzüglich*) and, in any case, within 3 working days.
 5. Section B, Clause III(3) to (6) shall apply accordingly, provided that the relevant Dealer shall pay in addition to the purchase price and the other fees any accrued but unpaid deferral fee until the date of such amounts being discharged in full.

V. Collection

1. Irrespective of whether the purchase price is due immediately in accordance with Section B, Clause III(2) or payment deferral (*Stundung*) has been agreed in accordance with Section B, Clause IV, any risks associated with the vehicle purchased shall pass to the Dealer upon the purchase agreement being entered into. It shall be the Dealer's own responsibility to collect the sold vehicle at the respective location of the vehicle. The respective Seller reserves the right to move the vehicle (within the scope of the internal logistics and until it is collected by the Dealer) to the logistics centre that is closest to the current location of the vehicle. Upon conclusion of the agreement and after the Dealer has registered to collect the vehicle, the respective Seller will provide the Dealer with notice of all information necessary for such collection, which will include, in particular, the location, business hours and earliest collection date (hereinafter the "**Collection Notice**"). The registration for collection must be notified to the Seller at least 24 hours in advance of the collection. A collection without registration is not possible.

2. The Dealer shall collect the purchased vehicle from the location specified in the Collection Notice within three working days of the date stated in the Collection Notice as the earliest possible collection date.
3. If the Dealer fails to meet this obligation, the respective Seller will charge a storage fee of EUR 15.00 (plus VAT) per day and per vehicle. The Dealer shall pay this storage fee to the respective Seller unless the Dealer proves that no or only substantially lower costs were actually incurred by the respective Seller in this regard. The respective Seller reserves the right not to release the vehicle to the Dealer until the storage fee incurred has been paid in full.
4. The respective Seller shall grant the Dealer access to the business premises or the relevant storage location as is necessary for the collection of the sold vehicle.
5. When collecting the vehicle, the Dealer shall be obliged to inspect the vehicle for the correct vehicle identification number (hereinafter "**VIN**") and damage as well as for any missing accessories. Should there be any damage or missing accessories, the Dealer shall record this on the documentary proof of handover of the vehicle. The general terms and conditions of the respective logistic centre shall apply. Notwithstanding this, the Dealer shall be under an obligation to notify the respective Seller of any such defects or missing accessory in accordance with Section B, Clause XV of these Terms and Conditions of Sale.
6. If the Dealer fails to meet its obligation to inspect the VIN and collects a different vehicle from the one specified in the purchase agreement, the Dealer shall be under the obligation to pay to the respective Seller a contractual penalty of EUR 200.00 (net). In addition, the Dealer shall indemnify AUTO1 and the respective Seller against all further damages caused by the collection of the wrong vehicle as well as future damages (for example, the costs of the return transport of the vehicle to the collection location and all claims for compensation made by the correct purchaser against the respective Seller) or perform the relevant services (for example, the return transport) itself and at its own expense.
7. Force majeure or disruptions of operations that occur at the respective Seller's premises or at the logistic centre (for example, owing to riots, strikes, etc.) which temporarily prevent the Seller, through no fault of its own, from making the vehicle available or delivering it, shall extend the relevant delivery and/or performance time by the duration of the impediment plus a reasonable lead time of one week.

VI. Transport

1. Through a corresponding selection in its profile on the Trading Platform, the Dealer may instruct AUTO1 to initiate the transport of the vehicle purchased by such Dealer to the delivery address specified by it. The commissioning for the transport via the Trading Platform or otherwise by the Dealer constitutes a binding offer to AUTO1 to place the transport order. AUTO1 notifies the Dealer of the acceptance of such order, usually by sending the commissioning confirmation ("**Transport Request Confirmation**"). AUTO1 shall be entitled to commission external service providers to carry out the transport. The "German Freight Forwarders' Terms and Conditions" (English language version of the Allgemeinen Deutschen Spediteurbedingungen 2017 (ADSp 2017)), accessible [here](#), shall apply with the

exception of the provisions of No. 30 of the ADSp 2017. The acceptance of the transport order by AUTO1 and/or the shipment of the purchased vehicle to the delivery address specified by the Dealer shall have no effect on the place of performance and fulfilment (*Leistungs- und Erfolgsort*); the Dealer remains obliged to collect the relevant vehicle (*Holschuld*).

2. The Dealer shall be under an obligation to inspect the vehicle immediately upon delivery and to note down any visible damage and missing accessories on the consignment note (*Frachtbrief*) or the CMR consignment note (*CRM-Frachtbrief*). Regardless of this, the Dealer shall be under an obligation to notify the respective Seller of any such defects in accordance with Section B, Clause XV of these Terms and Conditions of Sale.

VII. Transfer of title in case of immediate payment of the purchase price

If the purchase price is due immediately in accordance with Section B, Clause III(2), the respective Seller undertakes, subject to the condition precedent (*aufschiebende Bedingung*) of complete fulfilment of the obligations under the purchase agreement on the part of the Dealer, to transfer title to the vehicle to the Dealer along with accessories, where applicable, as well as the registration documents pertaining to the vehicle.

VIII. Transfer of title in case of payment deferral – Rules applicable to German dealers

1. Retention of title (*Eigentumsvorbehalt*) in case of payment deferral (*Stundung*).

- a. In the event that the Dealer is an entrepreneur established in the Federal Republic of Germany (according to Section 14 BGB, "entrepreneur" means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession) and a payment deferral (*Stundung*) has been agreed in accordance with Section B, Clause IV(1) and (2), the respective Seller and the Dealer hereby agree (and if the vehicle concerned is not located in Germany at the time of the sale, subject to the condition precedent (*aufschiebende Bedingung*) that the vehicle in question has reached the territory of the Federal Republic of Germany) to the following:

The respective Seller undertakes to transfer to the Dealer, following the complete fulfilment of the obligations under the purchase agreement on the part of the Dealer, title to the vehicle along with accessories, where applicable, as well as the registration documents pertaining to the vehicle. Until all obligations under the purchase agreement between the relevant Seller and Dealer have been fully met and the Auction Fee and the Fees have been fully paid by the Dealer, title to the sold vehicle as well as all associated rights shall remain with the respective Seller and the Dealer shall not be entitled to on-sell and/or transfer title to the vehicle.

- b. **In addition thereto, the Dealer and AUTO1 FT hereby agree that, upon assignment by the Seller and AUTO1 to AUTO1 FT of their payment claims against the relevant Dealer under the relevant purchase agreement, the retention of title agreed under paragraph a shall be hereby re-confirmed.**
The Seller, AUTO1 or AUTO1 FT will inform the Dealer by way of a separate notification without undue delay (*unverzüglich*) once the Seller and AUTO1 have assigned their payment claims against the relevant Dealer under the relevant purchase agreement to AUTO1 FT.
 - c. Upon handing over of the respective vehicle to the Dealer on the premises of such Dealer, the relevant Seller and the Dealer shall confirm the agreement of the retention of title under this paragraph 1 for clarification purposes.
2. **Custody obligations.** For the duration of the retention of title arrangement, the Dealer shall have the following obligations:
- a. The Dealer shall notify the respective Seller of the Dealer's business property or properties where the vehicles sold in accordance with Section B, Clause I are kept (hereinafter the "**Business Property**" or each a "**Business Property**") and shall, at the request of such Seller or such Seller's authorised representatives, provide proof of the current location of the vehicle sold.
 - b. The Dealer shall handle the vehicle sold with due care. The Dealer shall, in particular, only leave the vehicle on its Business Property for exhibition purposes. To the extent permitted by applicable law (in particular, traffic law), it is permitted to use the vehicle for demonstration purposes and test drives limited to an aggregate distance of 40 kilometres per 30 days. The Dealer shall be under an obligation to inform any third parties that take possession of the vehicle sold in writing about the respective Seller's retention of title without undue delay (*unverzüglich*). Keeping the vehicle sold outside the Business Property shall require the prior written consent of the respective Seller. The Dealer shall, at the request of such Seller or such Seller's authorised representatives, provide proof of the current condition of the vehicle sold.
 - c. The Dealer hereby expressly permits the respective Seller and such Seller's authorised representatives to regularly check during normal business hours whether the vehicle sold is in proper condition. In addition, the Dealer shall also consent to an immediate check in case of imminent danger (*Gefahr im Verzug*). For this purpose, the respective Seller shall be entitled to inspect (i) the vehicle sold, (ii) any vehicle documents in the possession of the Dealer and (iii) any business records concerning the vehicle sold, and to enter the Business Property during normal business hours.
 - d. The Dealer shall be under an obligation to sufficiently insure the vehicle sold and to maintain such insurance coverage for the entire duration of the retention of title arrangement. The insurance coverage maintained by the Dealer must, in particular, include theft, damage, fire, burglary and vandalism.
 - e. The Dealer shall notify the respective Seller in writing of any damage caused to the vehicle sold and of the theft or loss of such vehicle, in each case without

undue delay (*unverzüglich*). The same shall apply to the impairment of further collateral provided to the respective Seller in accordance with Section B, Clause XIV by third parties' measures such as attachment (*Pfändung*), seizure (*Beschlagnahme*) or taking away (*Wegnahme*). The Dealer shall indemnify the respective Seller against any costs required to preserve the respective Seller's rights under these Terms and Conditions of Sale, in particular costs incurred for undoing the effects of unjustified interventions by third parties such as the costs of any actions brought by the respective Seller as a third party claiming rights to property in order to prevent the execution of a judgment ordering the foreclosure of such property (*Drittwiderrspruchsklagen*) or costs incurred for getting hold of the vehicle sold. The Dealer shall do everything it can do and can reasonably be expected to do to prevent third parties from taking unauthorised measures with respect to the vehicle sold and to get hold of the vehicle sold if the vehicle sold has been lost.

- f. Subject to applicable mandatory law, the Dealer shall provide the respective Seller with all documents required to defend the respective Seller's legal position against third parties as the owner that has retained title to the vehicle.
 - g. The Dealer shall bear any risks, liability, taxes and duties associated with (i) the ownership of, possession of, liability for and operation of the vehicle sold and (ii) state interventions, and shall indemnify the respective Seller against any such risks, liability, taxes and duties.
3. **Documents.** Until all obligations under the purchase agreement between the relevant Seller and Dealer have been fully discharged and the Auction Fee and the Fees have been fully paid by the Dealer, the respective Seller shall have the right to retain the vehicle documents to the respective Dealer, in particular, registration certificate part II (*Fahrzeugbrief*). The respective Seller may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers.

IX. Transfer of title in case of payment deferral – Rules applicable to French dealers

1. **Retention of title:** In the event that the Dealer is established in France and a payment deferral has been agreed in accordance with Section B, Clause IV(1) and (2), the respective Seller and the Dealer hereby agree (and if the vehicle concerned is not located in France at the time of the sale, subject to the condition precedent that the vehicle in question has reached the territory of France) to the following:

The respective Seller shall retain title to the vehicle, and the Dealer shall not be entitled to on-sell and/or transfer title to the vehicle, until payment in full by the Dealer of the relevant purchase price, Auction Fee and Fees and the complete fulfilment of its other obligations under the purchase agreement, notwithstanding the transfer of risk upon delivery of the said vehicle pursuant to the provision below. The retention of title shall be reiterated on the delivery note remitted by the respective Seller to the Dealer upon delivery of the said vehicle. In the event of non-payment of the relevant amounts on their relevant due dates or non-fulfilment by the Dealer of its other obligations under the purchase agreement, the respective

Seller shall have the right, without any prior formality, to take back physical possession of the vehicle at the expense and risk of the defaulting Dealer.

All risks associated with the vehicle purchased by the Dealer shall be transferred to the Dealer upon the purchase agreement being entered into, including any risks, liability, taxes and duties associated with the transportation, custody and operation of the vehicle sold and the Dealer shall indemnify the respective Seller against any such risks, liability, taxes and duties.

Until all obligations under the purchase agreement have been fully discharged and the Auction Fee and the Fees have been fully paid by the Dealer, the respective Seller shall have the right to retain the vehicle administrative documents (in particular, the registration certificate). The respective Seller may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers.

2. **Custody obligations:** Until full title to the vehicle is transferred to the Dealer pursuant to paragraph 1 above, the Dealer shall have the following obligations:
 - a. The Dealer shall notify the respective Seller of the Dealer's business property or properties where the vehicles sold in accordance with Section B, Clause I are kept (hereinafter the "**Business Property**" or each a "**Business Property**") and shall, at the request of such Seller or such Seller's authorised representatives, provide proof of the current location of the vehicle sold.
 - b. The Dealer shall handle the vehicle sold with due care. The Dealer shall, in particular, only leave the vehicle on its Business Property for exhibition purposes. To the extent permitted by applicable law (in particular, traffic law), it is permitted to use the vehicle for demonstration purposes and test drives limited to an aggregate distance of 40 kilometres per 30 days. The Dealer shall be under an obligation to inform any third parties that take possession of the vehicle sold in writing about the respective Seller's retention of title without undue delay. Keeping the vehicle sold outside the Business Property shall require the prior written consent of the respective Seller. The Dealer shall, at the request of such Seller or such Seller's authorised representatives, provide proof of the current condition of the vehicle sold.
 - c. The Dealer hereby expressly permits the respective Seller and such Seller's authorised representatives to regularly check during normal business hours whether the vehicle sold is in proper condition. In addition, the Dealer shall also consent to an immediate check in case of imminent danger. For this purpose, the respective Seller and such Seller's authorised representatives shall be entitled to inspect (i) the vehicle sold, (ii) any vehicle documents in the possession of the Dealer and (iii) any business records concerning the vehicle sold, and to enter the Business Property during normal business hours.
 - d. The Dealer shall be under an obligation to sufficiently insure the vehicle sold and to maintain such insurance coverage for the entire duration of the retention of title arrangement. The insurance coverage maintained by the

Dealer must, in particular, include theft, damage (to the vehicle and to third parties), fire, burglary and vandalism.

- e. The Dealer shall notify the respective Seller in writing (i) of any damage caused by the vehicle sold to a third party or a third party's property, (ii) of any damage to the vehicle sold, (iii) of the theft or loss of such vehicle and (iv) of any third parties' measures taken over the vehicle sold such as seizure (*saisie*), in each case without undue delay. The same shall apply to the impairment of further collateral provided to the respective Seller in accordance with Section B, Clause XIV by third parties' measures such as seizure (*saisie*). The Dealer shall indemnify the respective Seller against any costs required to preserve the respective Seller's rights under these Terms and Conditions of Sale, in particular costs incurred for undoing the effects of unjustified interventions by third parties such as the costs of any actions brought by the respective Seller as a third party claiming rights to property in order to prevent the execution of a judgment ordering the foreclosure of such property or costs incurred for getting hold of the vehicle sold. The Dealer shall do everything it can do and can reasonably be expected to do to prevent third parties from taking unauthorised measures with respect to the vehicle sold and to get hold of the vehicle sold if the vehicle sold has been lost.
- f. Subject to applicable mandatory law, the Dealer shall provide the respective Seller with all documents required to defend the respective Seller's legal position against third parties as the owner that has retained title to the vehicle.

X. Transfer of title in case of payment deferral – Rules applicable to Austrian dealers

1. Retention of title (*Eigentumsvorbehalt*) in case of payment deferral (*Stundung*).

- a. In the event that the Dealer is an entrepreneur established in the Federal Republic of Austria (according to Section 1 Austrian Commercial Code and Section 1 Austrian Consumer Protection Act, "entrepreneur" means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession) and a payment deferral (*Stundung*) has been agreed in accordance with Section B, Clause IV(1) and (2), the respective Seller and the Dealer hereby agree (and if the vehicle concerned is not located in the Federal Republic of Austria at the time of the sale, subject to the condition precedent (*aufschiebende Bedingung*) that the vehicle in question has reached the territory of the Federal Republic of Austria) to the following:

The respective Seller shall retain title to the vehicle, and the Dealer shall not be entitled to on-sell and/or transfer title to the vehicle, until payment in full by the Dealer of the relevant purchase price, deferral fees for the deferral of the purchase price and, to the extent legally permissible, the complete fulfilment of its other obligations under the purchase agreement, notwithstanding the transfer of risk upon delivery of the said vehicle pursuant to the provision below. The retention of title shall be reiterated on the delivery note remitted by the respective Seller to the Dealer upon delivery of the said vehicle.

Until all obligations under the purchase agreement have been fully discharged and the Auction Fee and the Fees have been fully paid by the Dealer, the Dealer does not have the right to obtain the vehicle administrative documents (in particular, the type-approval certificate, *Typenschein*) and the respective Seller shall retain such documents. The respective Seller may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers.

Upon handing over of the respective vehicle to the Dealer on the premises of such Dealer, the relevant Seller and the Dealer shall confirm the agreement of the retention of title under this paragraph 1 for clarification purposes.

- b. The Dealer and AUTO1 FT hereby agree that, once the Seller and AUTO1 have assigned their payment claims against the relevant Dealer to AUTO1 FT, the relevant Dealer shall only be entitled to sell and/or transfer the relevant vehicle to any other third person following the complete fulfilment on the part of the Dealer of its obligations under the purchase agreement relating to the relevant vehicle (including the payment of any Auction Fee, Fees and deferral fees). Until all these obligations have been fully discharged and the Auction Fee and the Fees have been fully paid by the Dealer, the Dealer does not have the right to obtain the vehicle administrative documents (in particular, the type-approval certificate, *Typenschein*) and AUTO1 FT shall retain such documents. AUTO1 FT may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers
 - c. The Seller, AUTO1 or AUTO1 FT will inform the Dealer by way of a separate notification without undue delay (*unverzüglich*) once the Seller and AUTO1 have assigned their payment claims against the relevant Dealer under the relevant purchase agreement to AUTO1 FT.
2. **Custody obligations.** As long as the Dealer does not completely fulfil its obligations under the purchase agreement relating to the relevant vehicle (including the payment of any Auction Fee, Fees and deferral fees), the Dealer shall have the following obligations:
- a. The Dealer shall notify the respective Seller of the Dealer's business property or properties where the vehicles sold in accordance with Section B, Clause I are kept (hereinafter the "**Business Property**" or each a "**Business Property**") and shall, at the request of such Seller or such Seller's authorised representatives, provide proof of the current location of the vehicle sold.
 - b. The Dealer shall handle the vehicle sold with due care. The Dealer shall, in particular, only leave the vehicle on its Business Property for exhibition purposes. To the extent permitted by applicable law (in particular, traffic law), it is permitted to use the vehicle for demonstration purposes and test drives limited to an aggregate distance of 40 kilometres per 30 days. The Dealer shall be under an obligation to inform any third parties that take possession of the vehicle sold in writing about

the respective Seller's retention of title without undue delay (*unverzüglich*). Keeping the vehicle sold outside the Business Property shall require the prior written consent of the respective Seller. The Dealer shall, at the request of such Seller or such Seller's authorised representatives, provide proof of the current condition of the vehicle sold.

- c. The Dealer hereby expressly permits the respective Seller and such Seller's authorised representatives to regularly check during normal business hours whether the vehicle sold is in proper condition. In addition, the Dealer shall also consent to an immediate check in case of imminent danger (*Gefahr im Verzug*). For this purpose, the respective Seller shall be entitled to inspect (i) the vehicle sold, (ii) any vehicle documents in the possession of the Dealer and (iii) any business records concerning the vehicle sold, and to enter the Business Property during normal business hours.
 - d. The Dealer shall be under an obligation to sufficiently insure the vehicle sold and to maintain such insurance coverage for the entire duration of the retention of title arrangement. The insurance coverage maintained by the Dealer must, in particular, include theft, damage, fire, burglary and vandalism.
 - e. The Dealer shall notify the respective Seller in writing of any damage caused to the vehicle sold and of the theft or loss of such vehicle, in each case without undue delay (*unverzüglich*). The same shall apply to the impairment of further collateral provided to the respective Seller in accordance with Section B, Clause XIV by third parties' measures such as attachment (*Pfändung*), seizure (*Beschlagnahme*) or taking away (*Wegnahme*). The Dealer shall indemnify the respective Seller against any costs required to preserve the respective Seller's rights under these Terms and Conditions of Sale, in particular costs incurred for undoing the effects of unjustified interventions by third parties such as the costs of any actions brought by the respective Seller as a third party claiming rights to property in order to prevent the execution of a judgment ordering the foreclosure of such property or costs incurred for getting hold of the vehicle sold. The Dealer shall do everything it can do and can reasonably be expected to do to prevent third parties from taking unauthorised measures with respect to the vehicle sold and to get hold of the vehicle sold if the vehicle sold has been lost.
 - f. Subject to applicable mandatory law (in particular § 367 ABGB), the Dealer shall provide the respective Seller with all documents required to defend the respective Seller's legal position against third parties as the owner that has retained title to the vehicle.
 - g. The Dealer shall bear any risks, liability, taxes and duties associated with (i) the ownership of, possession of, liability for and operation of the vehicle sold and (ii) state interventions, and shall indemnify the respective Seller against any such risks, liability, taxes and duties.
3. **Documents.** Until all obligations under the purchase agreement relating to the relevant vehicle (including the payment of any Auction Fee, Fees and deferral fees) between the relevant Seller and Dealer have been fully discharged and the Auction Fee and the Fees have been fully paid by the Dealer, the Dealer does not have the right to obtain the vehicle administrative documents (in particular, the type-approval certificate, *Typenschein*) and the respective Seller shall retain such documents. The respective

Seller may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers.

XI. Further collateral to be provided to the Seller

1. In order to secure all present, future and contingent claims of the respective Seller and AUTO1 against the Dealer (including any fees, costs and expenses) under the purchase agreement and for payment of the Auction Fee and the Fees, the Dealer shall assign the following claims to the respective Seller – in advance, where applicable:
 - a. all present and future claims against end customers for payment of the purchase price under vehicle sales agreed or to be agreed, provided that the respective purchase agreement relates to a vehicle sold by the respective Seller on the basis of these Terms and Conditions of Sale;
 - b. all present and future claims of the Dealer arising from the sold vehicle being damaged, destroyed, lost, stolen or otherwise going astray (*Abhandenkommen*) against (i) any party causing damage and/or such party's third-party liability insurer (*Haftpflichtversicherer*) and against (ii) any other insurers, including insurers of the Dealer and/or other third parties;
 - c. all other claims of the Dealer against third parties in connection with the vehicle sold, in particular claims for the return of the vehicle sold under contracts of carriage entered into by the respective Seller or the respective Seller's authorised representatives, carriers or shipping agents for the purpose of shipping the vehicle sold to the Dealer, claims against third parties for the return of vehicle documents/certificates, including any shipping documents, and claims of the Dealer against third parties arising from the rental or leasing of the vehicle sold; and
 - d. any surplus resulting from the enforcement of collateral in accordance with this paragraph.
2. The respective Seller hereby accepts all assignments made in accordance with this paragraph.

XII. Defects (*Mängel*)

1. Any claims for defects shall be excluded in relation to the sale of vehicles to Dealers. There shall be no claims for defects in quality, in particular, if the defect or damage is attributable to normal wear and tear. This exclusion shall also apply to defects which occur between conclusion of the purchase agreement and handover of the vehicle to the Dealer.
2. Vehicle data which are listed in the vehicle description under "Vehicle data according to identification number (VIN)" (*Fahrzeugdaten laut Identifikationsnummer*) will be made available to the respective Seller by third party suppliers (DAT). Any liability for the correctness of these data is excluded. In particular, these data do not constitute an agreement about the quality of the goods (*Beschaffenheitsvereinbarung*).

3. The exclusions in paragraphs 1 and 2 shall not apply in case of fraudulent intent (*Arglist*) and in relation to damages claims that are based on a grossly negligent or intentional breach of obligations on the part of the respective Seller or persons employed by the Seller in the performance of its obligations (*Erfüllungsgehilfen*) or persons obliged to carry out the instructions given by the respective Seller (*Verrichtungsgehilfen*), as well as in case of an injury to life, body or health.
4. If, in special exceptional cases, the purchase agreement is rescinded (*rückabgewickelt*) and if the respective Seller takes the vehicle back from the Dealer in the course of this rescission (*Rückabwicklung*), the Dealer will be charged compensation for use, if during the period since it was sold to the Dealer, the vehicle was used for more than 100 km (approx. 62 miles). The respective Seller is entitled to offset the compensation for use against the purchase price to be repaid as part of the rescission. The Dealer shall be deemed to have agreed to such set-off.
5. The Dealer refrains from charging any storage or other processing fees.
6. Any rescission of the transaction shall be effected in accordance with this paragraph (6). The Dealer shall be under an obligation to send a current photograph of the mileage counter of the relevant vehicle to the respective Seller, to return all vehicle documents obtained by it, any spare keys and all accessories and to move the vehicle to the nearest site of the respective Seller or any other site specified by the respective Seller. As of the date it is informed of the rescission, the Dealer shall be required to meet this obligation within 3 working days (*Werktage*) in the case of national shipment/transport or within 5 working days in the case of international shipment/transport. If the Dealer fails to meet this obligation within the applicable timeframe, the respective Seller will charge a fee of EUR 15.00 (net) per day plus VAT, unless the Dealer proves that no or only lower costs were actually incurred by the respective Seller in this regard. Following receipt of all vehicle documents, any spare keys, accessories and the vehicle, the respective Seller shall repay to the Dealer the purchase price, less, where applicable, the compensation for use and a fee, as separately notified.

XIII. Complaint

1. The Dealer must inspect the sold vehicle and all accessories without undue delay (*unverzüglich*) after taking possession and, if a defect becomes apparent, must record any defect on the consignment note or the documentary proof of handover of the vehicle and notify the respective Seller of such defect without undue delay, i.e. within one working day after taking possession, via the electronic services made available on the Trading Platform (hereinafter the "**Complaints Tool**"). Any later notifications of a defect as well as any notifications of a defect issued in any other manner (for example, face-to-face or over the telephone) will not be taken into account. If the Dealer fails to issue such notification, the vehicle and any accessories shall be deemed to have been approved by the Dealer unless the defect is of such a manner that it would not be noticeable during a reasonable inspection. The Dealer is not entitled to claim in respect of any obvious defect that was present at the time of delivery or collection and which has not at that time been recorded on the consignment note or the proof of handover of the vehicle.

2. If such a defect which was not noticeable when the vehicle was taken into the Dealer's possession becomes apparent at a later point in time, the Dealer must notify the respective Seller accordingly within one working day of its discovery. If the Dealer fails to do so, the vehicle shall be deemed to have been approved by the Dealer notwithstanding such defect. This shall not apply to the extent that the respective Seller or the persons employed by the respective Seller in the performance of its obligations and/or the persons obliged to carry out the instructions given by the respective Seller have fraudulently concealed the defect.
3. The Dealer shall provide the relevant evidence for the defect via the Complaints Tool within 7 days of the Seller requesting such evidence. If the Dealer does not comply with this obligation, the vehicle and any accessories shall be deemed to have been approved by the Dealer.
4. The respective Seller will examine the claimed defects and notify the Dealer in writing about the outcome of the complaint.
5. Incompleteness of the accessories shall qualify as a defect. In such a case, paragraphs 1 to 4 shall apply *mutatis mutandis*.

C. Terms and conditions of AUTO1

1. In respect of every purchase agreement entered into via the Trading Platform, the Dealer shall pay an auction fee for the use of the Trading Platform to AUTO1 (in these terms and conditions, the "**Auction Fee**"). The amount of the Auction Fee depends on the purchase price for the vehicle and shall be listed in the [price list](#).
2. In addition, the Dealer shall be required to bear the costs of the Vehicle-Related Services (in these terms and conditions, the "**Fees**") requested by it and provided by AUTO1. The amount of the Fees shall be specified in the [price list](#).
3. The relevant Fees and the Auction Fee shall be specified in the purchase confirmation and shall be invoiced to the Dealer separately by AUTO1.
4. Section B, Clause III shall apply *mutatis mutandis* to the payment of the Fees and the Auction Fee. These are due immediately after the conclusion of the purchase agreement, provided that the payment of such amounts shall be deferred by AUTO1 if the purchase price claim is deferred pursuant to Section B, Clause IV. Section B, Clause IV applies *mutatis mutandis* in such cases.
5. In the event of a transport order pursuant to Section B, Clause VI, AUTO1 will invoice the corresponding transport costs to the Dealer. The relevant transport costs shall be notified by AUTO1 to the relevant Dealer beforehand. If the purchase price is due immediately in accordance with Section B, Clause III(2), the Dealer shall be considered to enter into default (*Verzug*) pursuant to Section 286 BGB after three days from it having received the Transport Request Confirmation. If the Dealer fails to pay these, the respective Seller shall have an unlimited retention right in relation to the vehicle until all payment obligations have been met in full. For the duration of the default (*Verzug*), Section B, Clause III(3) applies *mutatis mutandis*. If a payment deferral has been agreed in accordance with Section B, Clause IV(1) and (2), AUTO1 shall also defer payment of the transport costs. Section B, Clause IV applies *mutatis mutandis* in such cases.

D. Joint terms and conditions

I. Transferability

The transfer of any rights and/or obligations of the Dealer under any contractual relationship with a Seller or AUTO1 shall require the prior written consent of the respective Seller or AUTO1, respectively.

II. Liability

Without prejudice to Section B, Clause XV, the Sellers and AUTO1 shall only be liable for damages caused by a breach of obligations due to its gross negligence (*grobe Fahrlässigkeit*) or willful misconduct (*Vorsatz*). This shall not apply in case of damages resulting from the injury to life, body or health as well as from the breach of obligations which are considered essential for the fulfilment of mutual rights and obligations arising from the respective contracts, and whose breach is hence suitable to undermine the basic values of the underlying contract.

III. Data protection and provision of information

1. We refer to the data protection statement. The forwarding of the data to the European subsidiaries of AUTO1 shall be permissible. If Dealers withdraw their registration for the Trading Platform, they shall have a right to the deletion of the stored data unless an entity of AUTO1 Group still requires the data for purposes of contract implementation.
2. The Sellers and AUTO1 shall be entitled to collect, store and process personal data and to use it for their own purposes. In doing so, the Sellers and AUTO1 will in particular comply with the applicable data protection laws and the provisions of the German Telemedia Act (*Telemediengesetz – TMG*).
3. The Sellers and AUTO1 shall be entitled to pass personal data of the Dealer and/or the persons employed by the Dealer in the performance of its obligations on to law enforcement agencies, regulatory authorities, other authorities or authorised third parties on the basis of a request for information in connection with investigation proceedings or with a suspicion regarding a criminal offense, an unlawful act or other acts which may result in legal liability on the part of a Seller, AUTO1, the Dealer or any other authorised third party.

IV. Miscellaneous

1. The contracting parties and the subject of the purchase agreement shall be recorded, for the purposes of documentation, in the form of a purchase confirmation. Handwritten modifications or supplements of the purchase confirmation shall be invalid. A Seller or AUTO1 may make changes to the websites, sets of rules as well as these Terms and Conditions of Sale at any time.
2. If any of these Terms and Conditions of Sale is or becomes invalid, void or – for any reason whatsoever – unenforceable, such provision shall be deemed to be

severable and shall not affect the validity and enforceability of all remaining provisions.

3. The business relationship shall be subject to the version of the Terms and Conditions of Sale applicable at the time at which the respective individual purchase agreement is entered into.
4. All agreements, legal relationships and business relationships that are subject to these Terms and Conditions of Sale as well as the associated and resulting claims (except for the agreements, legal relationships, business relationships and claims according to Section B, Clauses IX to XIII) shall be governed by German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). All agreements, legal relationships, business relationships and claims according to Section B, Clause IX shall be governed by French law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). All agreements, legal relationships, business relationships and claims according to Section B, Clause X shall be governed by Polish law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). All agreements, legal relationships, business relationships and claims according to Section B, Clause XI shall be governed by Czech law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). All agreements, legal relationships, business relationships and claims according to Section B, Clause XII shall be governed by Finnish law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). All agreements, legal relationships, business relationships and claims according to Section B, Clause XIII shall be governed by Austrian law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
5. The exclusive place of jurisdiction for all current and future claims arising from the business relationship between the parties shall be the district court of Tempelhof-Kreuzberg, Berlin, or the superior court of this court, should the material competence lie with the latter. The Sellers and AUTO1 shall be entitled to also sue the respective contractual partner at the latter's general place of jurisdiction.

Annex

Examples of defects in quality covered by the exclusion of warranty pursuant to Section B, Clause XV are:

- vehicles that have been marked as vehicles that were involved in an accident (this shall also include economic total losses (*wirtschaftliche Totalschäden*))
- vehicles with a mileage in excess of 150,000 km (approx. 93,200 miles)
- vehicles older than 10 years, with normal wear and tear
- visible defects and damage, such as, in particular:
 - small paint scratches
 - small dents
 - missing antennas
 - scratches to the aluminum rims
 - soiled interior (including smells)
 - flat/damaged tires
 - small damage caused by the impact of stones on the windscreen (including outside of the field of vision)
 - missing operating manual, radio code cards for the vehicle
 - missing navigation CDs, DVDs, hard drives or modules or memory card for navigation devices
 - missing luggage-compartment cover or parcel shelf
 - missing spare tire, breakdown kit, Tirefit kit or vehicle tool kit
 - missing remote controls (e.g. for engine-independent heating, radio or similar)
 - missing component keys (tow bar, trailer hitch, roof rack, etc.)
- blown light bulbs, LED, Xenon/Xenon bulbs
- technical defects to wearing parts, such as, in particular:
 - exhaust system (e.g. particle filter, muffler, catalytic converter)
 - Airco Fluid (air-conditioning-system fluid)
 - shock absorbers
 - broken springs
 - transverse control arms, axial control arms and bushings
 - wheel bearings
 - strut bearings
 - seeping-out of fluids (e.g. motor oil, coolant, transmission oil, etc.)
 - wiper blades
 - seals
 - battery
- for vehicles that have been marked "SPECIAL OFFER - Highest bid wins"

(Version as at September 2019)