

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 (the "**Deferral Programme**"). 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 D, Clauses I(4), IV(1)(b), VI(1)(b) and (c) and VII(1) 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 nor AUTO1 or 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. The Dealer shall be obliged to keep his data, in particular his VAT-ID, up to date on his account on the Trading Platform.

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. 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 (net) (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 B, Clause III(3).
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. If the Dealer requests AUTO1 to correct his data on his account on the Trading Platform or reissue an invoice which was based on the Dealer's data uploaded to the Trading Platform at the time of purchase because such data is incorrect or not uploaded at all, the correction of the data or reissue of the invoice shall take place free of charge within 21 days of the issue of the purchase confirmation. After expiration of 21 days, a fee will be charged whose amount shall be specified in the price list.
7. Section 288 paragraph 5 BGB shall apply.

IV. Collection

1. 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 VIII.
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.

V. 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 VIII.

VI. Transfer of title

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.

VII. 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 (*Beschaffensvereinbarung*).
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. Subject to paragraph 3, any claims for defects of the Dealer shall become statute-barred within one year after the beginning of the statutory limitation period.
6. The Dealer refrains from charging any storage or other processing fees.
7. Any rescission of the transaction shall be effected in accordance with this paragraph (7). 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.

VIII. 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 "**Defect Notification**". The electronic services alone hereinafter the "**Complaints Tool**"). Each Defect Notification may contain several defects, if these exist. Any later Defect Notification 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 Defect 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. The respective Seller is entitled to deduct a total net amount of 250,00 EUR (hereinafter the "**Deduction**") of the total damage amount of every Defect Notification submitted by the Dealer, if the total amount exceeds the Deduction, and the Seller decides to compensate the Dealer. This also applies *mutatis mutandis* if the respective Seller and the Dealer agree on a rescission of the purchase agreement if the purchase price plus the Fees according to section C paragraph 2 exceed the Deduction.

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 (1), (2), (4), (6), and (7) 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.
5. In the event of a transport order pursuant to Section B, Clause V, 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*.

D. Special Terms and Conditions Applicable to the Deferral Programme

I. Granting of Deferral (*Stundung*); Additional Fees in connection with the Deferral Programme

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 submit an Application for Deferral by clicking on the "buy now, pay later" button, provided that the respective Seller has granted this option to the Dealer with respect to the relevant vehicle. If the respective Seller has granted this option to the Dealer generally, the Dealer will receive an email or a letter from or on behalf of the respective Seller, informing it about the conditions of the deferral (e.g. the deferral fee rate, the deferral period, whether an extension option has been granted and the relevant conditions applicable thereto (including partial payment (*Abschlagsszahlungen*)) (hereinafter the "**Deferral Conditions**"). By submitting the Application for Deferral, the Dealer accepts the so disclosed Deferral Conditions. The Dealer shall be notified of the granting of the requested deferral by the respective Seller by email (hereinafter the "**Deferral Confirmation**").
2. In case of a deferral agreed between the relevant Seller and the Dealer, the payment of the Auction Fee and the Fees owed to AUTO1 is deferred accordingly.

3. The deferral fee is
 - a. calculated and accrued on a daily basis for the entire deferral period as follows: Deferral fee rate x (sum of all payment obligations of the Dealer under the relevant purchase agreement) x (actual number of days in the relevant calculation period divided by 360); and
 - b. invoiced on a monthly basis.
4. AUTO1 FT may charge additional fees for additional services provided by it in connection with the Dealer's participation in the deferral programme as listed in the AUTO1 FT price list ("**Programme Fees**") and AUTO1 FT will separately invoice these additional fees to the Dealer.

II. Payment; Consequences of Payment Delay; No set-off

In deviation from Section B, Clause III, the following shall apply:

1. By submitting an Application for Deferral, the Dealer expressly accepts and agrees that, subsequent to the acceptance of such Application for Deferral, the purchase price, the Auction Fee and the Fees shall be owed and payment thereof shall exclusively be made in EUR.
2. If an Application for Deferral is submitted, the relevant Seller and/or AUTO1 shall also notify the Dealer in the Deferral Confirmation of the due date of the purchase price (including partial payments (*Abschlagszahlungen*)) and any other fees. The payment of the purchase price (including partial payments (*Abschlagszahlungen*)), the Auction Fee, the Fees, deferral fees and any Programme Fees shall be made without undue delay (*unverzüglich*) when due to the account specified in the Deferral Confirmation. However, if it wishes to do so, the Dealer shall remain entitled to pay the purchase price, the Auction Fee and the 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.
3. In case the Dealer makes a payment without specifying to which invoice such payment shall be allocated (*keine Tilgungsbestimmung*), such payment will be allocated by the relevant Seller and AUTO1 in the following order:
 - (i) first, on a *pro rata* and *pari passu* basis, towards any due and unpaid costs and/or out-of-pocket expenses that are reimbursable by the Dealer;
 - (ii) second, on a *pro rata* and *pari passu* basis, towards any due and unpaid deferral fees and Programme Fees, and
 - (iii) third, on a *pro rata* and *pari passu* basis, towards the purchase price (including any partial payment (*Abschlagszahlung*)), the Auction Fee and the Fees.

In case the Dealer has due and unpaid amounts under more than one purchase agreement, the same order as above shall apply, provided that the payments at each position (i) to (iii) shall be made on a *pro rata* and *pari passu* basis to all relevant purchase agreements under which the Dealer has due and unpaid amounts.

4. 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 with respect to the purchase price, the Auction Fee and the Fees. In respect of the deferral fees and any Programme Fees, the Dealer shall be considered to enter into default (*Verzug*) pursuant to Section 286 BGB if the relevant payment has not been received after three working days (*Werktage*) from the respective due date as set out in the relevant invoice provided via the Trading Platform.
5. If the Dealer is in arrears with its obligation to pay any amount of the purchase price, under a purchase agreement with respect to which a deferral has been granted and in respect of which the Dealer has not yet fully discharged all of its payment obligations, it shall make a payment to the Seller of 5% of the purchase price or EUR 250.00 (net) (whichever sum is higher). 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 II(5).
6. If the Dealer is in arrears with any of its obligations to pay the sum of the Auction Fee and/or the Fees under a purchase agreement with respect to which a deferral has been granted and in respect of which the Dealer has not yet fully discharged all of its payment obligations, it shall make a payment to AUTO1 of 5% of the sum of the Auction Fee and the Fees or EUR 100 (net) (whichever sum is higher). 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 AUTO1, the parties agree that a competent court shall in its sole discretion determine such amount due under this Section D, Clause II(6).
7. If the Dealer is in arrears with its obligation to pay any partial payment (*Abschlagszahlung*), any deferral fees and/or any Programme Fees, it shall pay default interest (*Verzugszinsen*) of a percentage calculated as the notified deferral fee rate plus 5 percentage points p.a. ("**Default Interest Rate**").

The default payment is

- a. calculated and accrued on a daily basis for the entire duration of the payment delay as follows:
Default Interest Rate x (aggregate amount of any due but unpaid partial payments (*Abschlagszahlung*) under a purchase agreement, any due but unpaid deferral fees under a purchase agreement and/or any due but unpaid Programme Fees with respect to which the Dealer is in arrears) x (actual number of days in the relevant calculation period divided by 360); and
 - b. invoiced on a monthly basis.
8. If the Dealer is in arrears with its obligation to pay the purchase price (including any partial payments (*Abschlagsszahlungen*)), the Auction Fee, any Fees, any deferral fees or any Programme Fees as referred to in Section D, Clause II(5), (6) and (7), the Dealer shall reimburse the relevant Seller, AUTO1 and/or AUTO1 FT, as relevant, for any costs and/or out-of-pocket expenses incurred in connection with the collection of the relevant amounts owed to the relevant Seller, AUTO1 and/or AUTO1 FT, as relevant, provided that (i) such costs or expenses were requisite (*erforderlich*) and appropriate (*zweckmäßig*) and that (ii) any amounts received by

the Seller, AUTO1 and/or AUTO1 FT pursuant to Section D, Clause II(5), (6) and (7) shall be deducted therefrom.

9. **If the Dealer is in default of payment (*Zahlungsverzug*) in an amount of at least EUR 100.00 in respect of any of its payment obligations under any purchase agreement with respect to which a deferral has been granted and existing between the Dealer and the respective Seller at such time (cross-default), the respective Seller may at its discretion either (i) withdraw from any or all of the purchase agreements under which the Dealer has not yet fully discharged all of its payment obligations and/or (ii) cancel the deferral arrangement granted with respect to any or all of such purchase agreements, in each case by notifying the Dealer accordingly.**

10. **If the relevant Seller notifies the Dealer of a withdrawal the following shall apply:**

After a withdrawal has been declared – such withdrawal may also be declared by sending a cancellation document (*Stornobeleg*) to the Dealer – the Dealer shall

- a. immediately return the relevant vehicle to or to the order of the Seller at its own costs. If the Dealer does not return the vehicle to or to the order of the relevant Seller within [five] working days, the Dealer hereby grants such Seller or any person acting on its behalf the right to repossess the relevant vehicle at the premises of the Dealer and agrees to reimburse the relevant Seller for any costs incurred by such Seller in connection with the repossession, provided that such costs were requisite (*erforderlich*) and appropriate (*zweckmäßig*); and
- b. 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 paragraphs 5 to 7 of this Section before the relevant Seller's withdrawal, the respective amounts due as damages under this paragraph 10 and such contractual penalties shall be taken into account. If the Dealer does not pay the amount claimed within five working days, the respective Seller will immediately initiate legal proceedings for debt recovery against the Dealer.

11. **If the relevant Seller notifies the Dealer of a cancellation of the deferral arrangement the following shall apply:**

After a cancellation of the deferral arrangement has been declared, the purchase price, the Auction Fee, the Fees and any accrued but unpaid deferral fee until the date of this cancellation shall become payable immediately. In addition, the Dealer shall pay any invoiced (in case of one-off fees) or accrued (in case of ongoing fees) but unpaid Programme Fees immediately. If the Dealer does not pay such amounts within five working days, the respective Seller and/or AUTO1 may immediately (i) withdraw from the relevant or from all of such purchase agreements, in which case Section D, Clause II(9) shall apply, and/or (ii) initiate legal proceedings for debt recovery against the Dealer.

12. If the relevant Seller initiates legal proceedings in accordance with Section D, Clause II(10)(b) and (11), the Dealer shall reimburse the relevant Seller for any costs and/or out-of-pocket expenses incurred in connection with such legal proceedings, provided that such costs or expenses were requisite (*erforderlich*) and appropriate (*zweckmäßig*).
13. The respective Seller and AUTO1 expressly reserve the right to assert further damages claims arising from the default of payment.
14. 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 (*unbestritten*) 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).

III. Condition Subsequent (*auflösende Bedingung*)

1. Any deferral agreed between the Dealer and the respective Seller and AUTO1 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 D, Clause IV(2)(c), Clause V(2)(c) or Clause VI(2)(c), any vehicle sold by any Seller to the Dealer that is not yet fully paid 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 relevant vehicle 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 (including the obligation to maintain sufficient insurance coverage as referred to in Section D, Clause IV(2)(d), Clause V(2)(d), Clause VI(2)(d) or Clause VII(2)(d)), 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 (*wesentliche Vermögensverschlechterung*) 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.

2. 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 10 calendar days.
3. Upon the occurrence of one of the aforementioned conditions subsequent (*auflösende Bedingungen*), the purchase price, the Auction Fee, the Fees and any accrued but unpaid deferral fee until the occurrence of one of the aforementioned conditions subsequent (*auflösende Bedingungen*) shall become payable immediately. In addition, the Dealer shall pay any invoiced (in case of one-off fees) or accrued (in case of ongoing fees) but unpaid Programme Fees immediately. If the Dealer does not pay such amounts within five working days from becoming aware of such occurrence, the respective Seller and/or AUTO1 will immediately initiate legal proceedings for debt recovery against the Dealer.
4. Section D, Clauses II(4) to (9) shall apply accordingly.

IV. Transfer of title – Rules applicable to German Dealers

In deviation from Section B, Clause VI, the following shall apply with respect to Dealers whose business premises are located in Germany:

1. ***Extended retention of title (erweiterter 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 D, Clause I(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 on the part of the Dealer of its obligations under the purchase agreement relating to the relevant vehicle (for the avoidance of doubt, including the obligation to pay the Auction Fee and any Fees and deferral fees), 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 relating to the relevant vehicle (for the avoidance of doubt, including the obligation to pay the Auction Fee and any Fees and deferral fees), have been fully met, 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 relevant 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 and extended (*erweitert*) such that the relevant Dealer shall only become the owner and be entitled to on-sell and/or transfer title to the relevant vehicle following the complete fulfilment on the part of the Dealer of its obligations under the purchase agreement relating to the relevant vehicle and any Programme Fees owed by such Dealer to AUTO1 FT relating to the relevant vehicle which are outstanding at such point in time as set out in the invoices from the relevant Seller and AUTO1 relating to the relevant vehicle. The relevant Seller, AUTO1 or AUTO1 FT will inform the Dealer by way of a separate notification without undue delay (*unverzüglich*) once such 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 and with the Dealer's acceptance of such hand over, the Dealer re-confirms and acknowledges the retention of title agreed under this paragraph 1.

2.Custody obligations. For the duration of the (extended) 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 50 kilometres per 30 days and no more than 300 kilometres in aggregate for the duration of the deferral period. 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 D, Clause VIII 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 (*Drittwiderspruchsklagen*) 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. All risks associated with the vehicle purchased by the Dealer shall be transferred to the Dealer upon the purchase agreement being entered into. The Dealer shall in particular bear any risks, liability, taxes and duties associated with (i) the transportation, 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 have been fully discharged and the Auction Fee, the Fees, the deferral fees and the Programme Fees have been fully paid by the Dealer, the Dealer does not have the right to obtain the vehicle administrative documents (in particular, registration certificate part II (*Fahrzeugbrief*)) and the respective Seller or AUTO1 FT, as relevant, shall retain such documents. The respective Seller or AUTO1 FT, as relevant, may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers.

V. Transfer of title – Rules applicable to French Dealers

In deviation from Section B, Clause VI, the following shall apply with respect to Dealers whose business premises are located in France:

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 D, Clause I(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. Upon handing over of the respective vehicle to the Dealer on the premises of such Dealer and with the Dealer's acceptance of such hand over, the Dealer re-confirms and acknowledges the retention of title agreed under this paragraph 1. Section D, Clause II(9), (10) and (11) shall apply *mutatis mutandis* in case of a non-fulfilment by the Dealer of its obligations under the purchase agreement (other than payment obligations).

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 50 kilometres per 30 days and no more than 300 kilometres in aggregate for the duration of the deferral period.. 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 D, Clause VIII 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. All risks associated with the vehicle purchased by the Dealer shall be transferred to the Dealer upon the purchase agreement being entered into. The Dealer shall in particular bear any risks, liability, taxes and duties associated with (i) the transportation, 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 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.
 4. 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.

VI. Transfer of title – Rules applicable to Austrian Dealers

In deviation from Section B, Clause VI, the following shall apply with respect to Dealers whose business premises are located in Austria:

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 D, Clause I(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. Section D, Clause II(9), (10) and (11) shall apply *mutatis mutandis* in case of a non-fulfilment by the Dealer of its obligations under the purchase agreement (other than payment obligations).

Upon handing over of the respective vehicle to the Dealer on the premises of such Dealer and with the Dealer's acceptance of such hand over, the Dealer re-confirms and acknowledges the retention of title agreed under this paragraph 1.

- 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 on-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 and any Programme Fees owed by such Dealer to AUTO1 FT relating to the relevant vehicle. Until all these obligations have been fully discharged and the Auction Fee, the Fees, the deferral fees and the Programme 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 fulfil its complete obligations as set out 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 50 kilometres per 30 days and no more than 300 kilometres in aggregate for the duration of the deferral period.. 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 D, Clause VIII 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. All risks associated with the vehicle purchased by the Dealer shall be transferred to the Dealer upon the purchase agreement being entered into. The Dealer shall in particular bear any risks, liability, taxes and duties associated with (i) the transportation, 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 have been fully discharged and the Auction Fee, the Fees, the deferral fees and the Programme 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 or AUTO1 FT, as relevant, shall retain such documents. The respective Seller or AUTO1 FT, as relevant, may entrust other AUTO1 Group companies with the safekeeping of the vehicle documents, who, in turn, may delegate such safekeeping to other service providers.

VII. Transfer of title – Rules applicable to Spanish Dealers

In deviation from Section B, Clause VI, the following shall apply with respect to Dealers whose business premises are located in Spain:

1. **Retention of title in case of payment deferral**

In the event that the Dealer is established in Spain and a payment deferral has been agreed in accordance with Section D, Clause I(1) and (2), the respective Seller and the Dealer hereby agree to the following:

Subject to the last subsection of this paragraph a., 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, the Auction Fee and the Fees and the complete fulfilment of its other obligations under the relevant purchase agreement, including the deferral fees, notwithstanding the transfer of risk to the Dealer upon delivery of said vehicle to the Dealer (as provided below). Upon handing over of the respective vehicle to the Dealer on the premises of such Dealer and with the Dealer's acceptance of such hand over, the Dealer re-confirms and acknowledges the retention of title agreed herein. 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 and the Dealer shall cooperate to that effect. Until payment in full by the Dealer of the relevant purchase price, the Auction Fee and the Fees and the complete fulfilment of its other obligations under the relevant purchase agreement including the deferral fees, the Dealer shall take, at its own cost, all relevant publicity measures in respect of the relevant vehicles to ensure that it is sufficiently disclosed to third parties that title to said vehicles remains with the relevant Seller.

Pursuant to the third paragraph of article 10.1 of the Spanish Civil Code (Código Civil), those vehicles which at the time of execution of the relevant purchase agreement are not physically located in Spain will be deemed to be so for the purposes of this Clause VII, so that the transfer of title and retention of title provisions relating to those vehicles are also governed by Spanish law. However, with respect to vehicles which at the time of execution of the relevant purchase agreement are physically located in Germany, the retention of title provision shall only be effective when the vehicles cross the Spanish border.

Without prejudice to the above, 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 and the Dealer has been notified in this regard, the relevant Dealer shall only be entitled to on-sell and/or transfer the relevant vehicle to any other third person after (i) payment in full by the Dealer of the relevant purchase price, the Auction Fee and the Fees and the complete fulfilment of its other obligations under the relevant purchase agreement, including the deferral fees and (ii) payment in full by the Dealer of any Programme Fees owed by such Dealer to AUTO1 FT relating to the relevant vehicle. Until (i) and (ii) of this paragraph 1. have been fully complied with, the Dealer does not have the right to obtain the vehicle administrative documents (in particular, the circulation permit (*permiso de circulación*)) 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.

2. **Custody obligations:** Until full title to the vehicle is transferred to the Dealer pursuant to Section D, Clause VII(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 50 kilometres per 30 days and no more

than 300 kilometres in aggregate for the duration of the deferral period. 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 (*embargo*), 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 D, Clause VIII by third parties' measures such as seizure (*embargo*). 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 against 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.

- 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.

E. 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 VII, 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.
4. The Sellers and AUTO1 may pass on to AUTO1 FT any information obtained from the Dealer and/or third parties in connection with its activities on the Trading Platform that may be relevant for such Dealer's creditworthiness.

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. On the website www.auto1.com these Terms and Conditions are made available in several languages. With respect to Dealers whose business premises are located in Germany or in Austria, the German language version shall prevail. With respect to Dealers whose business premises are located in any other country, the English language version shall prevail.
5. 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 D, Clauses V, VI and VII) 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 D, Clause V 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 D, Clause VI shall be governed by Austrian 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 D, Clause VII shall be governed by Spanish law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
6. 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 for cases in which the exclusion of warranty pursuant to Section B, Clause VII (1) particularly applies:

- vehicles that have been marked as vehicles that were involved in an accident (this shall also include economic total losses (*wirtschaftliche Totalschäden*))
- engine or transmission for vehicles with a mileage in excess of 150,000 km (approx. 93,200 miles)
- engine or transmission for vehicles older than 10 years, with normal wear and tear
- Total net amount of damage is equal or below 250,00 EUR
- visible defects and damage, such as, in particular:
 - small paint scratches
 - small dents
 - 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)
- 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
 - electrical engine components (Generator, Starter etc.)
 - air conditioning compressor
 - dual mass flywheel
 - broken clutch
 - air flow metre
 - damaged brakes or handbrake
 - broken EGR valve (exhaust gas recirculation)
 - malfunctioning injectors
 - damaged DPF
 - broken radio
 - high-voltage batteries for electro and hybrid vehicles
- missing accessories:
 - antennas
 - 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
- spare tires, breakdown kits, tirefit kit or vehicle tool kit
- remote controls (e.g. for engine-independent heating, radio or similar)
- component keys (tow bar, trailer hitch, roof rack etc.)

(Version as at January 2020)