

GENERAL TERMS AND CONDITIONS BYNCO BUYERS PRIVATE OFFER - SEPT 2020

Definitions

- 1.1 these General Terms and Conditions between BYNCO and Private Buyers (hereinafter: "**General Terms and Conditions of BYNCO Private Buyers**"), the following terms have the meaning given below, unless expressly stated otherwise:
- 1.1.1 **Offer:** any offer of a Car by Seller via the BYNCO environment, including such Information and other data as may reasonably be requested by BYNCO.
 - 1.1.2 **Car:** the vehicle which the Seller offers for sale via the BYNCO environment, and which the Seller can sell and deliver directly to the Buyer on the basis of a Purchase Agreement between the Buyer and the Seller.
 - 1.1.3 **BYNCO:** AutoBinck Online Trade B.V., trading under the name BYNCO.
 - 1.1.4 **BYNCO-environment:** the online environment (including, but not limited to www.bynco.com and any application designated by BYNCO) where BYNCO offers Sellers the opportunity to offer Cars, where the Sales Agreement between the Buyer and Seller can be concluded and where the Buyer and Seller are (in)directly in contact with each other.
 - 1.1.5 **Services:** all services offered by BYNCO to the Buyer as described in Article 4 of these General Terms and Conditions of BYNCO Private Purchasers.
 - 1.1.6 **IPR:** all rights of intellectual property and related rights, anywhere in the world, including patent rights, copyrights, neighbouring rights, trademark rights, design rights, database rights, one-line performance and rights to know-how.
 - 1.1.7 **Information:** relevant information regarding the Offer.
 - 1.1.8 **Inspection Body:** an independent expert to be appointed by BYNCO who will inspect the Car in accordance with the provisions of article 5 of these General Terms and Conditions of BYNCO Private Purchasers.
 - 1.1.9 **Purchase Agreement:** the agreement concluded directly between the Buyer and the Seller with regard to the sale, purchase and delivery of a Car via the BYNCO environment.
 - 1.1.10 **Purchase Price:** the full amount payable by the Buyer to the Seller for a Car under the Sales Agreement.
 - 1.1.11 **Buyer:** the natural person who, via the BYNCO environment, intends to enter into a Sales Agreement with the Seller.
 - 1.1.12 **Agreement:** all agreements between BYNCO and the Buyer for the use of a customer account via the BYNCO environment, including these General Terms and Conditions of BYNCO Private Purchasers.
 - 1.1.13 **Party/Parties:** BYNCO and/or Buyer.

- 1.1.14 **Portal:** the online, password-protected environment ("my bynco") in which Buyer manages his or her customer account and can communicate with BYNCO and Seller.
 - 1.1.15 **Reservation:** any reservation of a Car agreed between the Buyer and the Seller prior to any Purchase Agreement via the BYNCO environment.
 - 1.1.16 **Seller:** the natural or legal person (excluding professional car suppliers) who, via the BYNCO environment, offers a Car for sale to a private individual for the purpose of selling it to the Buyer and delivering it in ownership on the basis of a direct Sales Agreement between the Buyer and the Seller.
- 1.2 Where in these General Terms and Conditions BYNCO Private Purchasers, the terms "including", "such as", "inter alia", "including" or similar terms are used, does not mean they exclude the remainder.
- 1.3 In these General Terms and Conditions BYNCO Private Buyers, "in writing" will also include communications by e-mail, fax or other forms of electronic communication, if the person who performs the relevant communication to the content thereof is authorized.

2. Applicability

- 2.1 These General Terms and Conditions of BYNCO Private Purchasers apply to the relationship between BYNCO and the Purchaser in respect of the private offering and (purchase) of Cars via the BYNCO environment. The General Home Shopping Terms and Conditions are hereby expressly excluded.
- 2.2 Every Buyer who visits the BYNCO environment or makes a Reservation for a Car via the BYNCO environment accepts the applicability of these General Terms and Conditions of BYNCO Private Purchasers.
- 2.3 All rights and claims, as stipulated in these General Conditions BYNCO Private Purchasers for the benefit of BYNCO, are also stipulated for the benefit of intermediaries and other third parties engaged by BYNCO.
- 2.4 BYNCO has the right to change these General Terms and Conditions BYNCO Private Buyers from time to time.

3. Buyer

- 3.1 Buyer must meet at least the following requirements:
- 3.1.1 The Buyer must have a customer account with BYNCO within the BYNCO environment;
 - 3.1.2 The Buyer is at least 18 years of age;
 - 3.1.3 The Buyer can be contacted by e-mail.
- 3.2 The Buyer is himself/herself responsible for the use made of his/her user name and password within the BYNCO environment. BYNCO therefore advises the Buyer to use a unique password and to keep this password carefully secret and to change it regularly.
- 3.3 The Buyer is not entitled to allow others to make use of his customer account.
- 3.4 The Buyer is responsible for the accuracy of the data in his or her customer account.

4. Services

- 4.1 BYNCO's Services consist of offering as an intermediary a technological platform on which Sellers can place their Offer and Buyers can receive the Seller's Offer and reserve, view and buy cars directly from the Seller.
- 4.2 The Services and the BYNCO environment are under continuous development and not all components will be fully available at all times. The Services and the BYNCO environment are therefore offered "as is" and "as available" without warranty of any kind (express or implied). BYNCO does not warrant that (i) the BYNCO Environment will be safe or available at any particular time or location, (ii) any defects or errors will be corrected, (iii) the BYNCO Environment will be free of viruses or other harmful materials, or (iv) the results of use of the BYNCO Environment will meet users' expectations.
- 4.3 If the Buyer decides to take up the Offer via the BYNCO environment and purchase a Car from the Seller, the Buyer expressly does not purchase from and does not enter into an agreement with BYNCO, but directly with the Seller. The Buyer acknowledges that the Purchase Agreement is concluded between the Buyer and the Seller and that BYNCO is not and will not be a party to this Purchase Agreement. BYNCO does not accept any responsibility or liability in the formation, execution and/or settlement of the Sales Agreement (including the accuracy of the sale price).
- 4.4 Any questions relating to the Car, the Reservation procedure and the Sales Agreement will be dealt with as much as possible by BYNCO itself via the BYNCO environment or by telephone. Any complaints and disputes regarding the formation, execution and/or settlement of the Sales Agreement or the Car must be resolved between the Seller and the Buyer. Where possible, BYNCO will try to assist BYNCO Private Purchasers in this regard in accordance with these General Terms and Conditions.

5. Procedure Reservation

- 5.1 The Offer consists of an inspection report, photos, features and sales price of the Car. This selling price is always fixed and non-negotiable. This is only different if, between the time of inspection and the time of actual sale, the condition of the Car (e.g. scratches, dents, mileage) has changed with respect to the condition as described in the Inspection Report to such an extent that this change justifies an adjustment of the fixed sale price. This adjustment will be determined in consultation between the Buyer and Seller.
- 5.2 If the Buyer wishes to reserve a Car, the Buyer will pay an amount of EUR 250 (incl. VAT) for reservation costs, to be transferred to a third-party account designated by BYNCO. In the event of a successful sale and delivery of the Car, the Buyer may deduct this amount from the Purchase Price to be paid by the Buyer to the Seller. If the sale does not ultimately go ahead, the Buyer will be refunded the reservation costs directly by BYNCO, unless Article 5.4 below applies.
- 5.3 After a Purchase Agreement has been concluded, the Seller will determine the location of the registration desk. The Buyer and the Seller will arrange (the costs of) the registration of the Car between them. The Buyer is urgently advised to always make payment via online banking. In so far as applicable, the Buyer and Seller are themselves responsible and liable for compliance with the Unusual Transactions Disclosure Obligation Act and similar laws and regulations.
- 5.4 In the event that the Buyer does not appear (on time) at the agreed place or time, the Reservation Fee already paid cannot be reclaimed or settled by the Buyer, unless the Buyer has informed the Seller via

the BYNCO environment at least 24 hours in advance of the change or cancellation of the appointment.

6. Removal of Offer

6.1 Seller may at any time take the Offer from the BYNCO environment offline, remove it or have it removed. Bynco will make every effort to ensure that the Seller will (continue to) fully and correctly perform an already agreed Reservation or Sales Agreement, even after removal of any Offer.

7. Complaints, Disputes and Reviews

7.1 The Seller is solely responsible and liable for any shortcomings in (the delivery of) the Car and/or the Offer and for handling complaints regarding the Car and/or the Offer, and the Seller is solely responsible and liable for any changes in the condition of the Car between the time of inspection and the time of actual sale.

7.2 Under no circumstances shall BYNCO be obliged to receive or deal with any complaints or questions from Buyers on behalf of the Seller, or vice versa. If BYNCO receives complaints or questions, it may forward them to the relevant party. Notwithstanding the foregoing, the latter will, at BYNCO's first request, respond promptly and adequately and resolve any complaints or questions received by BYNCO as soon as reasonably possible.

7.3 In the event of disputes between the Seller and Buyers, BYNCO may act as mediator but is not obliged to do so. BYNCO has no responsibility whatsoever to resolve complaints or questions or accept any liability for disputes or refunds and may at all times and at its own discretion decide to refer disputes to the Seller and the Buyer in order to find a solution between them. As payment for the Car is made directly between the Seller and the Buyer, BYNCO shall never be responsible or liable for the refund of the Purchase Price paid by the Buyer to the Seller.

7.4 BYNCO may offer the Buyer the opportunity to assess the Offer, the Cars and the Seller's overall quality of service. BYNCO and Buyers may post reviews via the BYNCO environment. In doing so, BYNCO assumes no obligation to verify assessments and is not liable for the content of assessments or for any consequences or damage caused by them.

8. Duration, termination and consequences of termination of Agreement

8.1 The Agreement will take effect at the time that the Buyer activates a customer account within the BYNCO environment and will end at the time that this customer account is terminated.

8.2 Provisions that by their nature are intended to survive termination of the customer account, including in any event Articles 10, 11, 12, 14 and 15, will continue to apply between the Parties thereafter.

9. IPR

9.1 BYNCO and/or its licensors own all rights, claims and interests in (all parts of) the BYNCO environment, including all software, APIs, databases, designs, texts and images, and all IP rights thereon. Nothing in the Agreement will be deemed a transfer of any IP Rights to the Buyer.

9.2 BYNCO hereby grants the Buyer, as the Buyer accepts, a non-exclusive and non-transferable right to use the BYNCO environment, including all APIs, in order to place the Offer thereon, solely for the

duration of the Agreement and solely subject to the conditions set forth herein. The Buyer may not (i) modify, copy or create derivative works of the BYNCO Environment; (ii) license, sublicense, sell, resell, lease, transfer, assign, distribute or otherwise make the BYNCO Environment available to any third party; (iii) reverse engineer or decompile (a portion of) the BYNCO Environment, including but not limited to software used by BYNCO in providing the BYNCO Environment, except to the extent permitted by law; (iv) develop a commercial product or service based on access to the BYNCO Environment; or (v) copy any features, integrations, interfaces or graphics of the BYNCO Environment.

9.3 BYNCO owns all rights, claims, interests and powers in respect of all data collected through the BYNCO environment, or derived, aggregated and statistical data. BYNCO has the right to use such data for any purpose whatsoever, provided that the use does not violate Articles 11 (Personal Data) and 12 (Confidentiality) and in accordance with BYNCO's Privacy Policy.

10. Personal data

10.1 In order to enable inspection, Reservation and viewing of the Car through the BYNCO environment as well as the conclusion of a Purchase Agreement between the Buyer and the Seller, the Seller will have access to the Buyer's personal data. Insofar as BYNCO provides the Buyer's personal data to the Seller and vice versa, it does so on behalf of the Seller or the Buyer, respectively, who has given BYNCO permission or instruction to do so. The Seller and the Buyer are themselves responsible for the data processing they carry out in the context of (the performance of) a Reservation or Purchase Agreement. Where applicable, BYNCO, the Buyer and the Seller shall at all times comply with data protection legislation and regulations, including the General Data Protection Regulation.

11. Confidentiality

11.1 If and to the extent that information of one Party comes to the knowledge of the other Party during the execution of the Agreement and this information has been designated as confidential orally or in writing, or which the receiving Party should reasonably have understood should be designated as confidential, the receiving Party shall keep this information strictly confidential, shall only use it for the execution of the Agreement and shall limit access to this information to persons who need to know it for that purpose. The receiving Party shall ensure that such persons are bound by a confidentiality clause to keep such confidential information confidential.

11.2 Each Party agrees to protect the other Party's confidential information in the same way as it protects its own confidential information, but shall in no case do less than what can reasonably be expected of it.

11.3 The disclosure by the receiving Party of confidential information of the other Party shall not constitute a breach of this Article if such disclosure is required by law, provided that the receiving Party promptly notifies the other Party of such mandatory disclosure (to the extent permitted by law) and provides all reasonable cooperation to the other Party to oppose or otherwise prevent the disclosure or any further disclosure of the confidential information.

11.4 Confidential information shall not include information that was already publicly available at the time it came to the knowledge of the receiving Party or subsequently became publicly available through no fault of the receiving Party, or that the receiving Party received from a third party without the obligation of confidentiality or the obligation of such third party.

12. Guarantees

- 12.1 Each Purchase Agreement is entered into directly between the Buyer and the Seller. BYNCO is not a party to this, provides no guarantees and accepts no responsibility or liability in relation to (the content of) the Sales Agreement.
- 12.2 BYNCO does not provide any guarantees and accepts no responsibility or liability for the late or unclear appearance of Information or for manifest errors in the Offer, the Sales Agreement or the BYNCO environment, irrespective of from whom the Information originates or to whom the Information is provided.
- 12.3 BYNCO does not provide any guarantees and accepts no responsibility or liability with regard to inaccuracies in the Information or the inspection report provided by the Inspection Body, non-performance by the Seller or Buyer with regard to the Reservation or the Purchase Agreement, including any non-conformity of the Car, non-payment (on time) of the Purchase Price due by the Buyer to the Seller or any refund of the Purchase Price, or in relation to the name of the Car.
- 12.4 Each Party warrants that it will comply with all applicable laws and regulations and that the exercise of the rights granted to the other Party under the Agreement will not be unlawful or oblige the other Party to make any payment to a third party.
- 12.5 Buyer guarantees that it will not misuse the BYNCO Environment, will not hinder the use of the BYNCO Environment by third parties, will not circumvent or manipulate the proper functioning and invoicing process of the BYNCO Environment or BYNCO and will not determine the Purchase Price in a way that is unfair or unreasonable or contrary to (the principles of) these BYNCO General Terms and Conditions of BYNCO Private Purchasers.
- 12.6 Buyer accepts and agrees that (access to) the BYNCO environment is granted on an "as is" and "as available" basis with due observance of the provisions of Article 4.2 of these General Terms and Conditions of BYNCO Private Purchasers. BYNCO excludes express and tacit warranties and undertakings of any kind, including warranties and undertakings relating to the quality, security, legality, integrity and accuracy of the Services, warranties of merchantability, fitness for a particular purpose or non-infringement of third party rights. BYNCO reserves the right to modify or terminate the Services at any time, temporarily or permanently, with or without notice, and without paying any compensation to the Buyer. BYNCO may not be required by the Buyer to maintain any functionality of the Services.

13. Releases

- 13.1 Each of the Parties indemnifies the other Party and its affiliated companies, management, directors, employees, representatives and legal successors against any claims, damages and costs resulting from or related to an (alleged) breach by the indemnifying Party of any guarantee laid down in these General Terms and Conditions of BYNCO Private Purchasers.
- 13.2 Buyer indemnifies BYNCO and its affiliated companies, management, directors, employees, representatives and legal successors against any claims, damages and costs as a result of or related to an (alleged) breach by the Buyer of the Agreement or the Sales Agreement, or as a result of or related to any (alleged) tort towards a third party, including the Seller.
- 13.3 Immediately upon receipt of a claim from a third party, the indemnified Party shall notify the indemnifying Party in writing of the claim, provide it with all information reasonably necessary to assess the claim and allow the indemnifying Party to arrange for the defence and settlement of the

claim, at the indemnifying Party's expense. However, the indemnified Party shall have the right to participate in disputes at its own discretion and expense.

14. Liability

14.1 BYNCO's liability under these General Terms and Conditions of BYNCO Private Purchasers is limited per occurrence to direct damage up to the amount actually paid out by BYNCO's insurer for the damage in question.

14.2 Coherent events will be regarded as a single event.

14.3 Direct damage is exclusively understood to mean the reasonable costs incurred to determine the cause and scope of the damage, any reasonable costs incurred to have BYNCO's defective performance comply with the Agreement, insofar as these can be attributed to BYNCO, and reasonable costs incurred to prevent or limit the damage, insofar as the Buyer demonstrates that these costs have led to limitation of the direct damage.

14.4 BYNCO is not liable for indirect damage, such as, but not limited to, loss of profit, lost savings, reduced goodwill, damage due to business stagnation, damage as a result of claims by the Buyer's clients, mutilation or loss of data or for (other) consequential damage, irrespective of the nature of the act (breach of contract, tort or otherwise), even if BYNCO has been notified of the likelihood of such damage occurring.

14.5 The limitation of liability as referred to in this article does not apply if and insofar as the insurer does not pay any compensation to the Buyer for the loss in question on legitimate grounds attributable to BYNCO and not discounted in the insurance terms and conditions (such as non-payment of insurance premiums), or in the event of the bankruptcy of BYNCO, in which case BYNCO's total liability under the Agreement will be limited to a maximum amount of € 5,000 (in words: five thousand euros) per event.

14.6 The limitation of liability as referred to in this article does not apply in the event of claims by third parties for compensation as a result of death or injury or in the event of intent or gross negligence on the part of BYNCO.

14.7 BYNCO will take out adequate insurance with a bona fide insurer and will remain insured during the term of the Agreement for its liability vis-à-vis the Buyer under the Agreement.

15. Others

15.1 The Agreement and these General Terms and Conditions of BYNCO Private Buyers are governed exclusively by Dutch law. All disputes arising out of or in connection with this Agreement will be submitted exclusively to the competent court of the District Court of Utrecht, the Netherlands.

15.2 In the event of nullity or nullification of one or more provisions of this Agreement or the Conditions, the remaining provisions thereof shall remain in full force and effect. The parties will enter into consultation in order to replace the void or annulled provision with a provision that is valid and/or non-destructible and that is as close as possible to the purpose and purport of the void or annulled provision.

15.3 Waiver of right is only possible by means of an explicit and written statement.

15.4 The Buyer is not entitled to transfer the rights and obligations under this Agreement to a third party without BYNCO's prior written consent. BYNCO is entitled to attach conditions to this permission.

15.5 BYNCO is authorised to transfer all or part of the rights and obligations under this Agreement (i) to companies affiliated with BYNCO in a group, (ii) in the event of a transfer of its business and (iii) in the event of a merger.

15.6 Electronic communication sent by BYNCO will be deemed to have been received on the day of dispatch, unless the Buyer provides proof to the contrary. The applicability of the Vienna Sales Convention (CISG) is expressly excluded.