

General Terms & Conditions – European Data Cooperative GmbH

I. Introduction

- The European Data Cooperative GmbH (“EDC GmbH”) serves as the operator of a single, pan-European IT platform (the “IT Platform”) on which a database (the “EDC Database”) containing a collection of data regarding the activity, performance and economic impact of private equity and venture capital on a pan-European scale (the “Data”) will be stored.
- The purpose of the IT Platform and the EDC Database is to serve as single data entry point to members, and if applicable, non-members of all member-based, non-profit trade associations representing and promoting the European private equity and venture capital industry (individually also referred to as "Association" and collectively referred to as "Associations") who are active in the private equity and venture capital industry in the market of a respective Association (members/non-members are referred to as “Contributors”).
- An Association will be regarded as being in charge of a Contributor if it collects and audits Data for the respective Contributor. The status of being in charge of a Contributor is achieved by an Association either through its membership conditions applicable to the Contributor or the explicit approval of the Contributor if no membership conditions apply. It is possible that more than one Association is in charge of a Contributor.
- The EDC GmbH is jointly owned and operated by Associations in Europe. **Shareholder agreements have so far been formalised with:** AFIC, France (Association Française des Investisseurs pour la Croissance); AIFI, Italy (Italian Private Equity and Venture Capital Association); ASCRI, Spain (La Asociación Española de Capital, Crecimiento e Inversión); BVA, Belgium (Belgian Venture Capital & Private Equity Association) ; BVCA, UK (The British Private Equity and Venture Capital Association); BVK, Germany (German Private Equity and Venture Capital Association), CVCA, Czech Republic (Czech Private Equity and Venture Capital Association); DVCA, Denmark (Danish Venture Capital and Private Equity Association); FVCA, Finland (Finnish Venture Capital Association); NVP, Netherlands (Nederlandse Vereniging van Participatiemaatschappijen); PSIK, Poland (Polish Private Equity Association); SECA, Switzerland (Swiss Private Equity & Corporate Finance Association); SEEPEA, Romania and Bulgaria (South Eastern Europe's Private Equity Association); SVCA, Sweden (Swedish Private Equity & Venture Capital Association); Invest Europe, Europe (Invest Europe is the new name of the European Private Equity and Venture Capital Association (EVCA)) **[Status June 2016]**. These Associations being shareholders of the EDC GmbH and certain other European Associations have entered into a collaboration on processing statistical information on venture capital and private equity in Europe (the “Cooperation Agreement”). You find further information on EDC GmbH’s governance, the Articles of Association and the Cooperation Agreement available on EDC GmbH’s website.
- Using a unified methodology national statistics allow meaningful pan-European comparisons to ensure the highest integrity of statistics on private equity and venture capital to best inform fund managers, institutional investors, policy makers, regulators and academic research.
- To ensure these benefits, these General Terms & Conditions (the “GTC”) shall govern the submission of new Data as well as of Data previously provided by the Contributor to the Association in charge for the Contributor with respect to its respective national database (concerns, as the case may be, national databases previously operated by the Associations AFIC, AIFI, ASCRI, BVCA) and/or to Invest Europe with respect to the database 'PEREP Analytics' (“Historical Data”) to the EDC GmbH as follows:

II. General Terms & Conditions

1. Rights to the Data

- a. The Contributor shall remain at all times the owner of their respective new Data and Historical Data submitted via the EDC Database. The EDC GmbH, however, owns all rights to the EDC Database, including the rights to the collections of any Data contained therein and submitted by the Contributors, the rights to the structure of the EDC Database, the index and the query system of the EDC Database (including the content and layout of questionnaires used for conducting surveys), and the rights to the computer program used to operate the EDC Database (together the "EDC Database Rights").
- b. Subject to the confidentiality restrictions selected by the Contributor (the "Confidentiality Restrictions"), the Contributor hereby grants to the EDC GmbH a non-exclusive, perpetual, irrevocable, worldwide, transferable, and royalty-free licence to reproduce, distribute, make publicly available and adapt the new Data submitted for the purpose of storing the Data in the EDC Database, which is sublicensable to any IT providers employed to host the EDC Database, and for the purpose of using these Data for analytical and statistical purposes in any way and manner that the EDC GmbH deems appropriate, which is sublicensable to the Associations being a party to the Cooperation Agreement.
- c. Subject to the Confidentiality Restrictions selected by the Contributor, the Contributor grants to the Association in charge of the Contributor a non-exclusive, perpetual, irrevocable, worldwide, transferable, and royalty-free license to reproduce, distribute, make publicly available and adapt the Historical Data provided by the Contributor for the purpose of hosting them in the EDC Database, which is sublicensable to EDC GmbH and any IT providers employed to host the EDC Database, and for the purpose of using these Historical Data for analytical and statistical purposes in any way and manner that the Association deems appropriate, which is sublicensable to the EDC GmbH and the Associations being a party to the Cooperation Agreement.
- d. Neither EDC GmbH nor the Association in charge of the Contributor shall make public or disclose to third parties deal-by-deal data, except in case of partnerships between EDC GmbH or an Association with a third party for the purpose of auditing Data and provided that the third party has been bound to confidentiality obligations at least as stringent as those applying under these GTC for the EDC GmbH or the Association. The confidentiality of Contributor's data is carefully managed as follows. The current access rights status of a Contributor can always be reviewed on the welcome page of the account of each Contributor. For changes the respective contacts at the Associations in charge for a Contributor are available. Access to Data is managed in three levels as selected by the Contributor.
 - i. No access – represents the default setting to Contributor's Data unless explicit full access is granted to selected Associations (see (ii) below) or conditions for anonymised access apply (see (iii) below). At least the EDC GmbH and Associations in charge of the Contributor, however, will have to have full access to collect and audit the Data.
 - ii. Full access – represents the most extensive access that a Contributor can grant to the EDC GmbH and an Association allowing the EDC GmbH and the Association to access the Contributor's deal-by-deal data (i.e. such as portfolio companies names and name of the private equity firm). The EDC GmbH and an Association can only get full access to a Contributor's deal-by-deal data if the Contributor explicitly approves or is required to provide Data as part of the Association membership conditions. The respective applicable membership conditions are available on the website of EDC GmbH [we are planning to host Association-specific terms & conditions as a separate document on the website of the database].

- iii. Anonymised access – represents restricted access, which only allows the EDC GmbH and the Associations being a party to the Cooperation Agreement to retrieve relevant Data in a format that enables to produce statistics on their respective market (country (in case of an Association) or European region (in case of EDC GmbH)) without the possibility to identify either the Contributor or its portfolio companies. To protect the Contributor's confidentiality deal-by-deal data is automatically anonymised in the EDC Database (including portfolio companies names, fund names and the name of the respective private equity or venture capital firm).
- e. Granted access remains in place until the Contributor changes the status with effect for the future only.
- f. Confidentiality shall not apply to Data that (i) is part of the public domain or becomes generally available to the public other than as a result of a breach of these GTC by the EDC GmbH or the Association in charge of the Contributor, (ii) becomes available to or is obtained from any third party by the EDC GmbH or the Association in charge of the Contributor without the third party breaching any confidentiality obligation of any kind, (iii) was already known to the EDC GmbH or the Association in charge of the Contributor prior to submitting the Data to the EDC Database, or (iv) is subject of aggregated analysis together with other Data by the EDC GmbH or an Association.
- g. Unless communicated otherwise to the EDC GmbH, the data submitted by an office / subsidiary of a Contributor will be accessible to each of the Contributor's offices / subsidiaries.
- h. The submission of Data to the EDC Database is not remunerated, although the EDC GmbH and the cooperating Associations may from time to time, as they deem appropriate, award specific incentives.

2. Liability

- a. A party shall only be liable for damages in case of wilful intent or gross negligence.
- b. Except for the cases of having maliciously concealed defects or wilful intent, the aggregate liability of either party under these GTC shall be limited to 5,000 EUR.
- c. Except for the cases of having maliciously concealed defects or wilful intent, neither party shall be liable towards the other party for any indirect or consequential loss or damage arising from or related to these GTC, including but not limited to loss of profits, business or anticipated savings, or losses from wasted management time.
- d. With the exception of the indemnification set forth under section 4 below, the above limitations of liability shall apply to all claims for damages, irrespective of their legal basis and shall also apply in case of claims for damages of a party against the respective other party's employees or agents.

3. Warranties

The Contributor warrants to the EDC GmbH and the Association in charge of the Contributor that (i) the Data used in accordance with these GTC does not infringe any intellectual property rights or any other rights of any person and (ii) the Contributor has the right and power to grant the licence as provided for in these GTC.

4. Indemnification

The Contributor shall indemnify and hold the EDC GmbH and the Association in charge of the Contributor harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and professional fees) arising out of any legal action taken against the EDC GmbH and/or the Association in charge of the

Contributor claiming culpable infringement of intellectual property rights or other third party rights. The limitation of liability shall not apply to this indemnification obligation. This indemnity shall not apply to any specific licensed Data if the EDC GmbH or the Association in charge of the Contributor have amended that Data in any way not permitted by these GTC and this has solely caused the infringement.

5. Data Protection Information

- a. The EDC GmbH and the Association in charge of the Contributor are committed to protecting the privacy of Contributor's data. Any personal data is processed in strict accordance with the applicable data protection laws, including the German Federal Data Protection Act (Bundesdatenschutzgesetz).
- b. The EDC GmbH collects the personal data of the Contributors for the purpose of operating the EDC Database, in particular to identify points of contact within Contributors for the purpose of collecting and auditing data in regular intervals.
- c. The EDC GmbH shall provide forms allowing users to submit information to the EDC GmbH, request information, ask specific questions, or offer feedback about the EDC GmbH.
- d. The EDC GmbH may communicate the personal data of Contributors to the Association in charge of the Contributor for the abovementioned purposes.
- e. Data subjects concerned have a right to access and rectify their personal data that is processed by the EDC GmbH. They furthermore have a right to oppose to the processing of personal data by the EDC GmbH for any direct marketing purposes by contacting the respective contacts at the Associations in charge for a Contributor without costs arising by virtue thereof, other than transmission costs pursuant to the basic rates.

6. Miscellaneous

- a. These GTC govern the submission of Data by the Contributors to the EDC GmbH and the Association in charge of the Contributor. Specific terms and conditions that are governed by relations and legal agreements between the Association in charge of the Contributor and their respective members are outside the scope of these GTC. However, these GTC need to be adhered to as part of additional contractual agreements and shall take priority in case of any conflicts with such relations and legal agreements between the relevant Association in charge of the Contributor and their members.
- b. The GTC and the right and liabilities of the parties hereunder shall be governed by and construed in all respects in accordance with the substantive laws of the Federal Republic of Germany excluding its conflict of law rules.
- c. Any dispute shall be submitted exclusively to the courts of Munich, Germany, except in case of dispute between a Contributor and the Association in charge of the Contributor. In such case, the dispute shall be submitted to the courts of the country in which the Association in charge of the Contributor has been established.
- d. The English version shall be authoritative.

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