

# Dealgate Ltd and www.dealgate.com

## General Terms & Conditions (version 1 September 2013)

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### 2 Abbreviations and Definitions

Abbreviation / Term	Definition
COMPANY or Dealgate Ltd	Dealgate Ltd, a Swiss limited liability company with registered domicile in 8700-Kuesnacht, Switzerland. Dealgate Ltd is the sole owner and provider of the WEBSITE.
DEALGATE	The WEBSITE and the COMPANY
M&A	Mergers & Acquisitions
SALES PARTNER	DEALGATE transfers the marketing & sales activities of SERVICES to third party entities in selected countries.
SERVICES	DEALGATE offers on its internet platform services and information concerning M&A. DEALGATE particularly offers USERS the opportunity to publish and view information about M&A opportunities. DEALGATE further offers the possibility for advertisements related to the aforementioned services.
SERVICE AGREEMENT	The agreement between the COMPANY and the USER regarding the detailed scope of services agreed between the parties. The present TERMS form an integral part of the SERVICE AGREEMENT.
TERMS	This General Terms & Conditions as set forth
USER	DEALGATE's counterpart with the SERVICE AGREEMENT; the visitors on the WEBSITE; the clients of DEALGATE whether registered or not
USERS	The sum of the individual users of the WEBSITE
WEBSITE	www.dealgate.com and all other websites including "dealgate" or "deal-gate" as domain which are performed by the COMPANY

### 3 Applicability and Legal Information

DEALGATE offers subscription-based SERVICES which provide an online community for professional USERS in the field of M&A. By accessing this WEBSITE the USER declares that he understands and acknowledges the following TERMS. Together with the SERVICE AGREEMENT, they form the legal relationship between the USER and DEALGATE immediately upon accessing information which is made accessible on the WEBSITE.

The USER is kindly requested to read the following TERMS carefully. DEALGATE reserves the right to modify these TERMS at any time as it deems necessary or appropriate at its sole discretion.

Updated versions of the TERMS will appear on the WEBSITE and are effective immediately. The USER will be informed about a new version of the TERMS and needs to accept them before continuing the use of the WEBSITE.

**If you do not agree with the following TERMS, do not access the WEBSITE.**

### 4 Dealgate Services

#### 4.1 Membership

DEALGATE membership is only granted to USERS who meet certain pre-determined criteria. DEALGATE can alter these criteria at any time.

It is in the sole discretion of DEALGATE to accept or deny a membership application. DEALGATE is not obliged to justify any denial of membership.

#### 4.2 Access to the service offer

The technical access to the entire SERVICES offer of DEALGATE is via the Internet. The USER chooses the provider service and the browser software from third parties.

Most of the SERVICES on the WEBSITE are only accessible after the USER has registered or logged in beforehand. The user identification or registration is carried out via a user ID and password selected personally by the USER.

The USER agrees that opportunities and advertisement he places are not freely accessible to third parties, which are not members with DEALGATE.

DEALGATE allows selected partners to place adverts on the WEBSITE. DEALGATE points out to advertisers that all USERS have access to adverts which are being displayed and to the data transmitted to them by USERS.

### 5 Obligations of the USER

The USER is responsible for the content of his opportunities and for all further data which he

communicates. He guarantees specifically that this data is lawful, accurate and up-to-date.

The USER is obliged to keep his identification codes secret and safeguard them against any misuse by unauthorised persons.

The USER is liable to DEALGATE, its corporate bodies, employees and auxiliary persons for all damages which arise from the use of the online services, regardless of any fault. If DEALGATE, its corporate bodies, employees or auxiliary persons become subject to legal action by third parties or government authorities resulting from the USER's utilisation of the SERVICES, the USER shall exempt DEALGATE, its corporate bodies, employees or auxiliary persons of any claims by third parties and assume any resulting legal and extra-judicial costs. Following any third-party notice, the USER is obligated to join as a party to the action.

The USER acknowledges that the use of the WEBSITE outside of Switzerland in certain circumstances could violate the rules and regulations of foreign law. It is the USER's responsibility to obtain the applicable information. In this regard, DEALGATE accepts no liability.

If the USER utilises the DEALGATE platform outside Switzerland, he acknowledges in particular that he may possibly be in violation of import and export restrictions concerning encryption algorithms when he uses the WEBSITE outside Switzerland.

### 6 Restrictions of Use

The USER's account is personal to him and may only be used by the USER. The content on the WEBSITE and the SERVICES provided is for the personal use of the USER. He shall not allow others to access the SERVICES under or through his account.

The USER may not use any network monitoring or discovery software to determine the WEBSITE architecture, or extract information about usage, individual identities or USERS. The USER may not use any robot, spider, other automatic software or device, or manual process to monitor or copy the SERVICES or the content of the WEBSITE.

The USER may not use the SERVICES to transmit any false, misleading, fraudulent or illegal communications. The USER may not copy, modify, reproduce, republish, distribute, display, or transmit any portion of the SERVICES, except to the extent permitted above.

The USER may not use the SERVICES to conduct business outside of the stated purpose. Prohibited business transactions include, but are not limited to, the sale of personal effects or consumer goods or the dissemination of content which is pornographic, a violation of another's intellectual property rights, defamatory, illegal or hateful, or computer viruses. Such conduct, if reported to DEALGATE may lead to the immediate suspension of the USER from the SERVICES.

The USER agrees not to modify, copy, reproduce, republish, upload, post, transmit, or distribute any portion of the WEBSITE content. This includes, without limitation, the transmission of any opportunity-related information or third members/USERS contact details to any person who is not a member/USER of DEALGATE.

The USER shall not circumvent, modify, decompile, reverse engineer, disable, override or otherwise interfere with security-related features of the WEBSITE or features that prevent or restrict use or copying of any content or enforce limitations on use of the WEBSITE or its content therein.

The USER agrees not to use or launch any automated system, including, but not limited to, robots, spiders, or offline readers, that access the WEBSITE in a manner that sends more request messages to the WEBSITE in a given period of time than a human can reasonably produce in the same amount of time.

The USER further agrees not to transmit material or data that contains malicious code, viruses, time-bombs, cancel-bots, worms, trojan horses, spyware, or other potentially harmful programs.

The USER agrees not to use the communication systems provided by the WEBSITE (e.g. comments, or e-mail) for any commercial solicitation purposes, unless such use is expressly authorized by DEALGATE.

Furthermore, the USER agrees not to make sexually explicit or sexually, racially, culturally, ethnically offensive, harmful, harassing, intimidating, threatening, hateful, discriminatory or abusive statements while using the WEBSITE and also not to impersonate anyone else while using and accessing the WEBSITE.

The USER agrees to comply with all applicable local, national, and international laws and regulations in his use of the WEBSITE.

DEALGATE reserves the right to terminate the access to the WEBSITE and remove any material it deems, at its sole discretion, is in violation of these TERMS.

## **7 Fees and Payment Conditions**

The fees for the SERVICES are agreed upon in the respective SERVICE AGREEMENT between the COMPANY and the USER or result from the current fee schedule as published on the WEBSITE.

Unless expressly agreed otherwise, all agreed fees are exclusive of VAT and any other taxes or duties.

DEALGATE fees are payable in advance. They must be settled before the SERVICES begins.

The USER agrees to pay DEALGATE invoices within ten (10) days of the invoice date. Any objections to the relevant invoice must be justified and made in writing within the same period; otherwise the invoice is deemed to have been approved. Subject to any other written agreement, counter-

claims of the USER may not be set off against the claims of DEALGATE.

In case of delayed payment, the USER is subject to default interest of 8% p.a. from the due date, which will be charged without a reminder notice.

After the expiry of the ten (10)-day payment period, DEALGATE is authorised to terminate the SERVICES without further notice. If payment is not settled even after a reminder notice, the SERVICE AGREEMENT may be dissolved without notice. During the period in which the SERVICES has been blocked, fees are still payable in full.

## **8 Changes, Interruptions, Termination of online Services**

DEALGATE reserves the right to update its SERVICES with technical innovations or to change them on the basis of other circumstances. Such changes can be put into effect by DEALGATE at any time.

The SERVICES are in principle available 24 hours per day, seven days a week. DEALGATE can, however, not guarantee a minimum availability. DEALGATE reserves the right to terminate the SERVICES in part or in full.

In particular, in the case of suspicion that the USER uses the SERVICES in an illegal or immoral manner or in a way that is not in conformity with the SERVICE AGREEMENT and the present TERMS, DEALGATE can delete the corresponding content and account without prior notification and without giving any reasons.

Especially in the case of changes, interruptions, termination of SERVICES and the deletion of content due to misuse of the SERVICES, the USER has no claim to withdraw from the agreement and/or reduction or claims of refunds or compensation for damages.

## **9 Risks**

The USER acknowledges in particular the following risks in relation with the SERVICES and visit of the WEBSITE:

- Insufficient system knowledge and lack of security precautions can facilitate unauthorised access (e.g. insufficient protection for data stored on the hard disk). There is the ever-present risk of computer viruses spreading to the computer where there is contact with the outside world, whether via computer networks (e.g. Internet) or diskettes. The use of anti-virus programs can reduce the risk and the USER is recommended to take this action. It is the responsibility of the USER to obtain precise information on the necessary safety precautions.
- It is important for the USER to only utilise software from trustworthy sources.
- It is possible for a third party to gain access to the USER's computer, unnoticed, when the Internet is being used.

- No guarantee can be given of the Internet's operational availability. In particular, it is possible for transmission errors, technical deficiencies, break downs, illegal intervention into network installations, network overload and intentional blockage of the electronic access by third parties, interruptions or other shortcomings on the part of the network operator may occur.

## 10 Privacy Policy

DEALGATE treats the USER's personal data in accordance with the provisions of the Federal Data Protection Act. Our privacy policy as set out herein will govern the USER's privacy rights in using the WEBSITE.

DEALGATE collects, stores and processes personal data only as long as necessary and handles it with great care. Personal data collected, stored and processed by DEALGATE is derived from information that USERS enter or upload onto the DEALGATE platform and includes in particular login, personal and contact details, member profiles as well as information regarding opportunities.

DEALGATE uses the USER's personal data and information for the following purposes: creation and maintenance of USER profiles, provision of payable SERVICES, provision of marketing information, processing of orders and rendering of SERVICES as well as production of reports and statistics.

Personal data collected, stored or processed is as a rule used only to carry out the SERVICES known to the USER. If the personal data is used in any other way, such as to bring the USER's attention to further products and services, the USER can exclude the use of his personal data for any purposes other than the originally desired SERVICES. No personal data is provided to third parties, with the exception of local SALES PARTNER at USER's domicile country.

Circumstances may arise where DEALGATE is required to disclose the USER's personal data and information to third parties for purposes other than to support the customer relationship with DEALGATE, such as in connection with a corporate divestiture or dissolution, or if disclosure is required by law or is pertinent to judicial or governmental investigations or proceedings.

DEALGATE has selected a privacy option for the USERS based upon the subscription type. But every USER has the option to make certain information public or not public by using the privacy settings in "MyAccount". Please note that, while information that a USER has decided to set as "not public" will not appear in his public profile.

DEALGATE will send its members information about SERVICES or DEALGATE itself. If a USER does not want to receive such mailings, he can opt out of receiving further marketing from DEALGATE at any time.

## 11 Data Security & Confidentiality

Great importance is attached to data security at DEALGATE. DEALGATE takes the necessary technical precautions to ensure that the USER's personal data is transferred and stored securely. DEALGATE uses secure servers in order to increase the data security and, where necessary, standard encryption technologies. In view of the encryption used, it is basically not possible for any unauthorised person to view the confidential USER data. Nevertheless, absolute security with regard to confidentiality, integrity, authenticity or availability can not be guaranteed neither on the part of DEALGATE nor on the part of the USER even with all the state-of-the-art security precautions.

When a USER accesses personal data, and during its processing, the affected USER is responsible for compliance with data security. The storage of data on data carriers is to be done such that there is restricted access to it, printouts are to be handled confidentially, and unneeded personal data are to be deleted immediately.

DEALGATE supplies USERS with information and content for their own professional use. By accessing DEALGATE the USER expressly agrees not to copy, publish or provide access to the elements and information offered, in any form whatsoever, particularly on the World Wide Web.

## 12 Technology

With a view to improving the SERVICES, DEALGATE observes the web surfing behaviour of USERS as far as the use to the WEBSITE is concerned. To observe web surfing behaviour, DEALGATE uses Google Analytics, a web analytics service provided by Google, Inc. No data are collected in this process that allows inference of individual USERS. No one is directly identifiable based on these data.

To recognise USERS within the WEBSITE, cookies are used. Cookies are text files stored on the USER's computer that allow the USER to be recognised and make possible an analysis of the use of the WEBSITE. Information generated by the cookie about the use of the WEBSITE (including the IP addresses of USERS) is transmitted to central servers and stored there. These cookies are completely anonymous and contain no personal data and information about the USER. The USER may refuse the use of cookies by changing the settings on his browser. DEALGATE points out, however, that in this case, the USER will be unable to use a large part of the features of the WEBSITE.

DEALGATE also uses log files to analyse USERS' web surfing behaviour. Customer profiling occurs only for registered USERS.

Hosting of the DEALGATE platform is provided by Metanet AG in Zurich.

### **13 Data Maintenance**

The registered USER can at any time update his profile via the WEBSITE, delete it or even unsubscribe from DEALGATE. Updates are implemented at the latest within two working days.

The USER's information can be processed by the respective USER alone. DEALGATE simply reserves the right to delete accounts with obviously false entries as well as the resetting of passwords at the USER's specific request.

Every USER has the right to request information about which of his personal data is being processed. Every USER can request corrections and the deletion of his personal data.

### **14 Intellectual Property Rights**

"Dealgate" and the corresponding logos are registered trademarks of Dealgate Ltd. Membership with DEALGATE does not constitute a license or right to utilize the picture, the registered trademark or the logo of Dealgate.

All elements and contents of the WEBSITE associated with the SERVICES, including, but not limited to, all likeness, text, graphics, logos, button icons, images, audio and video clips, software, subscriber lists, forms and layout are the exclusive and comprehensive property of Dealgate Ltd, unless otherwise specified.

Dealgate Ltd is not the owner of all trademarks mentioned in the information, documents and data contained on its WEBSITE. In this regard, all other trademarks are the property of the respective owners.

Dealgate Ltd reserves all rights (in particular copyrights and trademark rights) in respect of all elements on DEALGATE and will utilize all and any options in full in order to assert these rights.

The USER agrees that he will make no unauthorized use of any trademark, patent, copyright or other intellectual property on the WEBSITE associated with the SERVICES and will discontinue immediately if so instructed by DEALGATE. Any unauthorized reproduction, modification, distribution, transmission, republication, display or performance of the content and software on WEBSITE associated with the SERVICES, or of any products or services sold by DEALGATE, is strictly prohibited. The USER may copy information from the SERVICES only as may be strictly necessary for his own use to view, save, print, or transmit it.

No portion of the SERVICES may be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose that is not expressly permitted by DEALGATE.

By submitting content, information or other material to DEALGATE, the USER grants DEALGATE a perpetual, worldwide, royalty-free, irrevocable, non-exclusive right to

publish such material on DEALGATE in furtherance of the TERMS and the actions and transactions contemplated hereby.

The USER agrees that he will not and will not allow others to decompile, disassemble, reverse-engineer, copy, use, merge, disclose, sell or transfer the underlying source code or structure or sequence of DEALGATE's technology or delete or alter author attributes or copyright, trademark or patent notices.

### **15 Disclaimer**

The information published on the WEBSITE does not constitute either a request to submit an offer nor an offer nor a recommendation to buy or sell an enterprise or to enter into any other transactions on the part of DEALGATE. Any and all subsequent business transactions with regard to offers made on the WEBSITE are concluded exclusively between the affected USERS.

The information published on the WEBSITE does not represent material which is designed as an aid to making decisions on legal, financial, tax or other advisor-related questions nor should decisions be taken on the basis of this information. It is the USER's sole responsibility to conduct due diligence on any business for sale or third party advertisers on the WEBSITE and the USER should consult a qualified expert before taking decisions.

Although DEALGATE has taken every effort to ensure that the information on the WEBSITE is accurate on the date of publication, neither DEALGATE nor its contract partners give an explicit or implied assurance or guarantee (including to third parties) in respect of the accuracy, reliability or completeness of the information. Valuations, statements of opinion and analyses represent the view of a USER and do not necessarily represent the opinion of DEALGATE. DEALGATE does not conduct any investigation or due diligence on the information provided by USERS on profiles, postings, or third party advertisements on the WEBSITE.

### **16 Liability Exclusion**

DEALGATE assumes no responsibility whatsoever for the adverts, offers and content on the WEBSITE or for the conduct of the USERS and any liability on the part of DEALGATE (including for negligence), its corporate bodies, employees and auxiliary persons is hereby excluded to the greatest extent permitted by applicable law.

Liability in particular is excluded for the availability, accuracy and completeness of the information, opinions, offers or advice on DEALGATE and the USER understands and agrees that under no circumstance will DEALGATE be responsible nor liable in any way and to any degree for any claims, costs, losses, expenses or damages howsoever arising whether direct, indirect or consequential in respect of any omissions or consequences of actions taken by

USERS based on any information, opinions or advice contained within the WEBSITE.

DEALGATE accepts no responsibility and gives no guarantee for the functions on the WEBSITE, the SERVICES not being interrupted or that the WEBSITE or the SERVICES contain no errors, that errors will be rectified or that DEALGATE software or other material which is accessible via its WEBSITE or the respective server is virus free or contains no damaging elements. Accordingly, any liability of DEALGATE (including for negligence) for losses or consequential losses arising from accessing the elements of DEALGATE or use thereof (or arising from the inability to access or utilize same) or for any damage to end-USER equipment belonging to the USER as well as his data and software is hereby excluded. The WEBSITE may contain links to third party web-sites that are not owned or controlled by DEALGATE. DEALGATE does not have control over, and does not assume any responsibility for, the content, privacy policies, or practices of any third party web-sites. DEALGATE will not and cannot censor or edit the content of any third party web-site. By using the WEBSITE, the USER expressly relieves DEALGATE from any and all liability arising from his own use of any third party web-site. Accordingly, DEALGATE encourages the USER to be aware when he leaves the WEBSITE and to read the terms and conditions and privacy policy of each other web-site that the USER visits.

## **17 Final Provisions**

### **17.1 Termination of the SERVICE AGREEMENT**

DEALGATE may terminate the membership at any time for any reason that it deems appropriate at its sole discretion. In the event that DEALGATE terminates the membership without cause, DEALGATE will refund to the USER a pro-rata share of the fees that he has pre-paid for the unexpired portion of his then-current term. The USER will not be entitled to a refund of any fees in case DEALGATE terminates the membership due to the USER's misuse of the SERVICES or any other misconduct on the part of the USER.

The USER may terminate his use of the SERVICES at any time and terminate his membership by providing written notice to DEALGATE. If the USER cancels his membership in the SERVICES, he will not be entitled to any refund of the subscription fee. This SERVICE AGREEMENT will remain in effect even after the membership is cancelled.

### **17.2 Provision of Statutory Regulations - Partial Invalidity**

Should a provision of the SERVICE AGREEMENT or the present TERMS be or become invalid, this will not affect the validity of the remaining provisions. In this event, the parties to the contract agree to find a provision which most closely reflects the commercially intended purpose.

### **17.3 Changes to the TERMS**

These TERMS were last updated on 21 June 2011.

Dealgate reserves the right to change these TERMS at any time for future business transactions. The version currently published on the HOMEPAGE is in force between the USER and DEALGATE.

DEALGATE reserves the right to amend current policy practices at any time and will publish such changes on its WEBSITE immediately.

### **17.4 Entire Agreement**

The SERVICE AGREEMENT together with the present TERMS sets forth the entire understanding and agreement between the parties with respect to the SERVICES.

### **17.5 No Assignment**

The USER may not assign the SERVICE AGREEMENT as a whole, and may not assign, transfer or sublicense his right to access the WEBSITE.

### **17.6 No Waiver**

A failure to act with respect to a breach by the USER or others does not waive DEALGATE's right to act with respect to subsequent or similar breaches.

### **17.7 Applicable Law and Jurisdiction**

The place of jurisdiction is the domicile of Dealgate Ltd. Nonetheless, Dealgate Ltd is also entitled to assert its rights in the domicile of the USER. Swiss substantive law is applicable.

If you would like to contact us for any reason, please write us at the following address: [customercare@dealgate.com](mailto:customercare@dealgate.com)

Kuesnacht, 1 September 2013