



IMDS Terms of Use V 3.0 (HP)

(0) The IMDS Purpose

IMDS (International Material Data System) was developed and is operated by EDS Operations Services GmbH (subsequently called "EDS") on behalf of various international car manufacturers with the purpose to enable the gathering of environmentally relevant information on parts and materials along the automotive supply chain by using the internet as the most cost efficient enabler for this process.

On November 1, 2009, the business operations of EDS were transferred to Hewlett-Packard GmbH (subsequently called "HP").

(1) Subject of the IMDS Terms of Use

The IMDS Terms of Use (subsequently called "Terms of Use") rule the conditions between any legal entity accessing IMDS and having been properly registered by HP (hereinafter generally referred to as "USER") – and HP for using the IMDS.

A USER may use IMDS in two ways: The data providing USER (subsequently called "Data-Providing USER") is a USER transferring data into IMDS or forwarding received data within IMDS. The data receiving USER (subsequently called "Data-Receiving USER") is a USER who receives data out of IMDS. These Terms of Use apply to both kinds of USERS and rule the access to IMDS and the way the Data-Providing and the Data-Receiving USER interact with each other.

For the avoidance of doubt, these Terms of Use do not create contractual rights or obligations between Data-Providing and Data-Receiving Users.

(2) Scope of Usage of IMDS

The IMDS can be used by all USERS under the condition of the acceptance of the terms, conditions, and notices contained in these Terms of Use without any modification. By pressing the "Yes"-button at the end of these Terms of Use, the USER agrees to these Terms of Use Version 3.0. As to any future versions of the Terms of Use, Article 12 shall apply. HP grants the USER a non-transferable, non-exclusive and non-perpetual right to use IMDS and any related software, database access and interfaces according to the conditions as described in these Terms of Use.

"Usage of IMDS" with regards to these Terms of Use means any kind of interaction with the IMDS and includes, besides connecting to the IMDS and using its functionalities (i.e. data entry, data transmission, data maintenance, browsing material data sheet (hereinafter referred to as "MDS"), every usage of the IMDS web sites (e.g. browsing material lists), any functionally required installation of related software and the provision of any kind of IMDS documentation or support by HP independent of the communication medium (online, paper, voice, electronic, etc.).

A de-compilation of the program code is prohibited. The USER is not entitled to assign the rights and obligations granted by HP, whether in total or in parts, to third parties or to allow usage rights to third parties and/or to grant any sub-licence or right to use to any third party.

(3) USER Account

Upon application and registration as set out below, HP will provide each USER with one or more USER accounts. These accounts are password protected and can only be accessed by the USER.

To open an account for access to IMDS, the USER must complete the registration process by providing IMDS with current, complete and accurate information as prompted by the applicable registration process. The USER then will receive a User-ID and password.

The USER is exclusively responsible for maintaining the confidentiality of her/his User-ID and password. Furthermore, the USER is entirely responsible for any and all activities that occur under the USER's account, except activities of any third party outside the USER's sphere and not attributable to her/him. The USER agrees to notify HP immediately of any unauthorized use of USER's account or any other breach of security. Unless provided for otherwise below, HP will not be liable for any loss that the USER may incur as a result of someone else using USER's password or account, either with or without USER's knowledge.

HP will, within the limitations as set out below, be liable if the unauthorised use is due to HP's intentional or negligent conduct.

In the event of negligence or wilful misconduct of the USER, the USER may be held liable for losses incurred by HP due to someone else using her/his account or password. For the avoidance of doubt, the USER will not be liable for any loss of data caused by any third party outside the USER's sphere and not attributable to her/him. The USER ensures that within her/his organisation the USER shall not give her/his User ID or/and PW to any other person. .

(4) Client Manager / END-USERS of IMDS

Each USER of IMDS shall appoint a responsible Administrator (hereinafter referred to as "Client Manager"). The Client Manager shall identify herself/himself during the registration process as the responsible Administrator for the USER and will receive the USER's ID and password referred to under (3) above.

The Client Manager shall be responsible for the administration (registration and cancellation) of employees selected by the USER to access the USER's account on behalf of the USER (hereinafter referred to as "END-USER"). The Client Manager has the possibility to grant different rights of usage to each of the END-USERS. The Client Manager may appoint himself/herself as an END-USER as well. Each END-USER will receive his/her own End-User-ID and password by the Client Manager.

The Client Manager shall be the single point of contact for HP concerning each and all problems, questions or other items in connection with the access and usage of IMDS by the USER and her/his END-USERS.

The USER shall ensure, that the Client Manager is highly qualified in the use of the IMDS, is aware of these Terms of Use and is responsible to ensure that the END-USERS are familiar with and behave according to these Terms of Use. USER may appoint a replacement Client Manager at any time. The USER shall ensure that a change of the Client Manager shall be properly recorded promptly in IMDS.

(5) Data Input and Data Maintenance

The Data-Providing USER enters data into IMDS that may be used by the Data-Receiving USER to create the MDS.

Any data provided into IMDS is based on each Data-Providing USER's best reasonable knowledge, including the Data-Providing USER's research and experiences. The data corresponds to each Data-Providing USER's present level of knowledge. HP is responsible for the system functionality, but has no responsibility for the data content entered by a USER. For those data HP uploaded or may upload into IMDS and made or makes available to the USERS on behalf of any third party (such as e.g. Data Research Companies or the IMDS Material Council) the responsibility of HP is limited to technical

data integrity. In any case HP shall provide traceability of data origin through the identification of the Data-Providing USER and the data input / modification date.

HP will take adequate measures to ensure that the data provided into IMDS can only be completed, changed, deleted or in any other way be modified by the respective Data-Providing USER.

(6) Scope of Usage of Data

HP represents to USER that access to data provided into IMDS is restricted to USERS which have successfully been registered by HP. HP further represents that the use of and access to IMDS by the USERS shall only be possible if the USER has agreed to these Terms of Use and has not been suspended in accordance with Article 13.

(a) USER-Related Data

Data provided within the registration process (hereinafter referred to as "USER-Related Data" e.g. company name, address) may be made available to all USERS by HP for the sole purpose of addressing and releasing data (e.g. by means of recipient selection lists, etc.) and other required administrative purposes. USER-Related Data may only be used by the other USERS for the purpose as mentioned herein.

(b) USER provided data

The following applies to data entered into IMDS by a Data-Providing USER.

The Data-Providing USER remains owner of all data entered by Data-Providing USER. The Data-Receiving USER may use the data provided into IMDS for the sole purpose of creating material and substance documentations in the automotive industry. This includes statistical evaluations of material composition of components and complete vehicles, future evaluations on recyclability, or any other activities covered by substance regulations (including worldwide ELV¹ directives and relevant REACH SVHC² listed in the candidate list), RRR³ and similar regulations.

Material data provided by a Data-Providing USER must not be used for cost and market research studies. In particular, the data shall not be used to generate or serve as a technical data sheet for products or materials or safety data sheet for substances and preparations. It shall not be used to describe or evaluate the quality of the corresponding goods or services (see (5)). Any further use and purpose needs to be approved by representatives of Data-Providing and Data-Receiving USER in advance.

HP takes the appropriate technical measures to ensure that data sent by the Data-Providing USER is only accessible, visible or otherwise available to a designated Data-Receiving USER.

The Data-Providing USER has the possibility to mark the data submitted into IMDS as "confidential" or as "data for internal use". These data will only be accessible, visible and available to Data-Receiving END-USERS who are specifically designated by the respective Data-Providing USER to receive the data and will not be included in any download for any Data-Receiving USER. Before "confidential data" or "data for internal

¹ European Union's End-of-Life Vehicles Directive 2000/53/EC

² Substance of Very High Concern in the sense of European Union's Regulation 1907/2006/EC concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

³ European Union's Directive 2005/293/EC for Type Approval of cars regarding Reuse/Recovery and Reuse/Recycling targets

use” are made available to Data-Receiving END-USERS the Data-Providing USER and the Data-Receiving USER may agree mutually upon the usage of these data.

Neither the Data-Receiving USER, nor HP shall in any way be permitted to sell, (sub-)licence, transfer or otherwise commercially exploit the data provided into IMDS. The Data-Receiving USER is obliged, not to disclose any kind of data and information received or downloaded from IMDS to any other USER or third party or to give any other USER or third party access to such information. This explicitly includes general data, such as material lists or basic material information or similar data in IMDS. The Data-Receiving USER however, remains entitled to forward the received data to another USER if and to the extent such USER has a need to know such data with regard to the corresponding goods and services supplied by the first Data-Receiving USER to the latter.

(c) HP Access to Accounts and Usage of Data

HP will treat any data in IMDS as strictly confidential and will not access the USER accounts or data. Exception to this is system statistics calculation such as e.g. number of MDSs in IMDS, number of USERS online, etc. This information will be communicated as anonymous extracts of the system to the IMDS Steering Committee. Furthermore HP's internal access to data is subject to prior written consent (e.g. via e-Mail) of the Data-Providing USER and is restricted to specially selected persons that may need access under supervision of security personnel for system maintenance purposes.

Without prejudice of the aforementioned rules of confidentiality, HP is entitled to review any data provided into IMDS in order to check whether these data have been provided in compliance with these Terms of Use; HP may only review such data if there are indications that a USER does not comply with the Terms of Use.

(7) No Unlawful or Prohibited Use

As a condition of use of the IMDS, the USER will not use the IMDS in any manner that could damage or disable the IMDS or interfere with any other USER's use of IMDS.

(a) Gaining access

The USER may not attempt to gain unauthorized access to any IMDS data, other USER accounts, computer systems or networks connected to IMDS, through hacking, password mining or any other means. The USER may not obtain or attempt to obtain by any means any materials or information not intentionally made available to her/him by the Data-Providing USER.

(b) Gathering data

Within the scope of the Terms of Use, the USER is permitted to access the IMDS data exclusively by using the IMDS online screens in a web browser or by using the IMDS-a2 software. USER is allowed to make this data temporarily visible by using such screens and to make this data permanently visible by way of printout. An automatic retrieval of this data using scripts, browser plug-in, robots, crawlers or similar tools and a further automatic processing of this data is not permitted.

Only a USER holding a valid Advanced Interface license (<http://services.mdsystem.com>) shall be entitled to use its own or other data processing systems in order to retrieve the IMDS data and to prepare such data for the relevant recipients.

(c) Publication and Transfer of Data

The USER shall not be entitled to make the IMDS data available to the public or to transfer the IMDS data to any third party outside the automotive industry for such third party's commercial interest.

The USER shall to best effort attempt to persuade his customers and sub-suppliers to receive and provide data by IMDS for reasons of quality and efficiency.

(d) Training/Workshops

The IMDS shall be used for the creation and exchange of data between supply chain partners only. Therefore, the usage of the IMDS productive server system is explicitly prohibited for commercial trainings and commercial workshops. Exceptions from this rule have to be agreed upon with HP beforehand.

The usage of the IMDS productive server system for company internal workshops is accepted as long as the company is part of the automotive supply chain and under the condition that no additional USER IDs or no additional data which will not be used for the exchange with other business partners in the supply chain will be created.

(8) Cost of Using IMDS

The basic use of IMDS and its services through the internet link as defined under <http://www.mdsystem.com>, menu 'System' on the IMDS Public Pages, including the USER application and registration, is free of charge. HP reserves the right to offer additional services and functions related to IMDS which are not part of the basic use of IMDS. These services and functions may require a specific charge and need to be defined in a separate agreement between the USER of such services and HP, and are not part of these Terms of Use.

The appropriate application of IMDS may require additional investment by the USER (such as e.g. internet connection, USER hardware...). Any such additional or associated costs shall be the responsibility of the USER.

(9) System and Service Availability

Except in the event of wilful misconduct, HP has no liability under these Terms of Use that any IMDS service will be uninterrupted, timely or error-free. In the event of gross negligence, the liability of HP will be restricted to such damages which may typically occur in comparative circumstances. Nevertheless, HP will take adequate technical measures to provide resources and to limit the consequences of major failures. Separate agreements defining different service levels for other services than the services rendered hereby between the USER and HP are not affected by this restriction.

(10) Hours of Operation

The IMDS system is scheduled to be available Monday to Friday 24 hours per day (CET) subject to the following limitations. The HP service centres are scheduled to be available as defined under the internet link <http://www.mdsystem.com>, menu 'Contact' on the IMDS Public Pages. However, HP reserves the right to temporarily shut down the system for maintenance reasons. Any maintenance action within hours of operation, except for such maintenance actions that do not influence the use of the IMDS, shall be announced on the IMDS pages reasonably in advance.

(11) System Security

IMDS was developed under the consideration of the highest appropriate technical information security principles available on the market. For the purpose of improving security, HP is obliged and reserves all rights to further update the system's security in line with appropriate standards of information technology.

**(12) Modification of IMDS Terms of Use**

In case system related security issues or other severe reasons, such as limited accessibility or limited performance, should arise, HP may, in order to prevent abusive use of and/or to protect the proper functionality and availability of IMDS, modify the Terms of Use for this purpose. Prior to implementing such modifications HP will consult with the major User organizations, disclose to them the reasons for such changes and discuss the necessity of changes to the Terms of Use. In the event of such a modification of the Terms of Use HP will notify the USER either by mail or e-Mail at least thirty (30) calendar days before the modified Terms of Use will be effective. If such modified Terms of Use are not accepted by the USER in writing or via online acceptance both parties shall have the right to terminate with thirty (30) days notice according to Article 13, second paragraph. In the extraordinary case of an imminent risk to the functionality and availability of the system requiring immediate action HP will be released from its obligation of a prior consultation of the User organizations.

(13) Termination / Access Restriction

The USER's access to IMDS and its right to use IMDS may be terminated by HP only in case of a material breach of these Terms of Use by the USER if the USER has not been able to remedy the breach within thirty (30) calendar days after receipt of a respective written notice. In case of a material breach of these Terms of Use by the USER the access of the respective USER or END-USER to IMDS may be suspended with immediate effect until the USER/ END-USER has remedied such breach within this thirty (30) days period.

The USER may terminate the use of IMDS at any time without giving any reason by written notice to HP. The USER's right to terminate for material breach remains unaffected.

The USER agrees that HP may establish reasonable limits concerning the use of any IMDS storage space in the account. HP shall be entitled to deactivate accounts that have not been accessed by the USER for more than 6 months, by giving at least thirty (30) calendar days prior written notice, and provided that the USER has not objected to the deactivation within twenty (20) calendar days from the receipt of such notice. On deactivation of a USER account, HP will destroy any information i.e. data related to this account after previous notification of the USER thereof (at least one week before destruction). The USER may ask HP to provide a copy of the data in his account before destroying. Any costs associated to providing such copy is to be carried by the USER. Upon termination the USER shall immediately stop the use of IMDS. Notwithstanding the aforementioned, HP is entitled to keep one copy of all data and information of the USER after termination for the sole purpose of tendering evidence, which is to be stored in the legal department of HP. Such data and information shall be kept confidential by HP in accordance with Article 6(b).

For the avoidance of doubt, in case USER requests to use its deactivated accounts at a later stage, it will notify HP, and HP will activate such accounts within three (3) working days.

**(14) Copyright**

The USER may neither modify, alter, adapt or merge the IMDS software nor copy parts or the whole of it except as functionally required to use IMDS, nor use the name IMDS in conjunction with any other service or system without prior written approval of HP.

(15) Force Majeure

No party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, labour disturbances which present an unreasonable safety risk or prohibit access, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; or any other cause beyond its reasonable control, provided such party (hereinafter referred to as the "Affected Party") is without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the affected party through the use of alternate sources, work around plans or other means.

In such event, the affected party shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and the affected party continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. In such case the affected party shall without undue delay notify the other party/-ies (i.e. HP and/ or USER(S)) and describe at a reasonable level of detail the circumstances causing such delay.

(16) Limitation of Liability

Neither party will be liable for any damages based on IMDS data or for any damage, i.e. in relation to sending, storing and receiving data in IMDS, unless the damage is caused by gross negligence or wilful misconduct.

The above limitation of liability shall not apply to the extent that mandatory liability is borne, in cases of injuries to life, limb and health, cases of typically foreseeable damages and in case of breach of a material obligation of the contract.

(17) Indemnification

17.1 The Data-Receiving USER acknowledges and agrees that the input of data entered by the Data-Providing USER and the accuracy and adequacy thereof, is under the exclusive control of the Data-Providing USER.

17.2 Subject to the limitations of liability as set forth in Article 16 above, HP shall indemnify and hold the Data-Providing USERS harmless from any and all third party damage claims arising out of or relating to the fact that HP does not, or does not place these Terms of Use completely, or does place these Terms of Use in any other way incorrectly into IMDS.

(18) Disclaimer for Electronic Data Transfer

Due to the use of electronic data transfer, neither HP nor the Data-Providing USER do warrant or represent that the data received by the Data-Receiving USER is accurate, complete, correctly sequenced, without typographical errors, reliable or timely, or that the data will be free of errors, destructive elements and/or viruses.



(19) Links to Third Party Sites

The IMDS sites may contain links to third party web sites ("Linked Sites"). The Linked Sites are not under the control of HP and HP is not responsible or liable for the content of any Linked Site, including, without limitation, any link contained in a Linked Site, or any changes or updates to a Linked Site.

HP is not responsible or liable for web-casting or any other form of transmission received from any Linked Site nor is HP responsible or liable if the Linked Site is not working appropriately. HP is providing these links to the USER only as a convenience, and the inclusion of any link does not imply endorsement by HP of the site or any association with its operators. The USER is responsible for viewing and abiding by the privacy statements and Terms of Use posted at the Linked Sites.

(20) Governing Law and Jurisdiction

The validity, interpretation and implementation of these Terms of Use and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by German law. The exclusive place of jurisdiction for all disputes arising from and regarding this agreement is Frankfurt am Main, Germany.

(21) Final Provisions

If any regulation of these provisions proves to be invalid or not feasible, the effectiveness of the other regulations shall remain unaffected thereby.

The foregoing regulation shall apply mutatis mutandis in case the agreement should contain loopholes.