

TERMS AND CONDITIONS

for the use of the IMDS Advanced Interface Service

Introduction

The International Material Data System (IMDS) as well as the IMDS Advanced Interface Service were developed by EntServ Deutschland GmbH, a DXC Technology company – hereinafter also referred as “DXC”.

IMDS is an internet based web application that was designed on behalf of several international car manufacturers to enable the gathering of environmentally relevant information on parts and materials along the automotive supply chain for reporting to various government bodies.

The IMDS Advanced Interface Service (hereinafter also referred as “IMDS-AI”) is a special service to interface locally hosted ERP and/or PLM systems that process and store material data information, with the IMDS. IMDS-AI is designed to upload and download material data information from and to IMDS. In addition it provides necessary master data that are necessary to create and maintain Material Data Sheets in an in-house system. The service is completed by Software Tools and the necessary System Documentation.

These “Terms and Conditions for the use of the IMDS Advanced Interface Service” (hereinafter referred to as “Terms and Conditions”) settle the contractual relationship between any legal entity and DXC for using the IMDS-AI. This includes a regular service contract as well as an optional free of charge upfront test phase of the IMDS-AI.

The car manufacturers' interface usage is handled in the IMDS license agreements / SLAs for car manufacturers.

§ 1 Subject of the Terms and Conditions for IMDS-AI

- (1) DXC grants the IMDS-AI using company (hereinafter also referred to as the “Company”) a limited-transferable, non-exclusive and non-perpetual right to use the IMDS-AI according to the conditions as described in these Terms and Conditions.
- (2) The so called “User” under these Terms and Conditions is the human being carrying out up- and download activities for the Company and therefore being registered with a special virtual identification in IMDS.
- (3) The IMDS-AI is available thru the “Up-/Download Menu” within IMDS, that is visible for registered IMDS-AI User(s) only.

All data provided from DXC thru the „Up-/Download Menu” (user documentation and software programs, master data, and download files) are in summary named as “Service Material”.

§ 2 Targeted User Group, Scope of Usage

- (1) The IMDS-AI is offered to all companies or their legal entities which are registered in IMDS and are obliged to provide material data to car manufacturers. With the IMDS-AI they are entitled to link the IMDS-AI to their so called “in-house” computer programs to upload their material data into the IMDS as well as to download own and received material data sheets into their in-house systems to ensure and prove compliance with environmental regulations.
- (2) The User is only entitled to use the IMDS-AI as described in the User Documentation and without any modification. Changes to the IMDS-AI are only permitted to the extent, as they are mandatory for the described usage of the IMDS-AI. In the case of such mandatory changes the Company has to inform DXC. A decompiling of the program code is prohibited.
- (3) The User is not entitled to assign its rights and obligations acquired through registration to any third parties and/or grant a sub-license or rights and conditions to a third party.
- (4) The IMDS-AI is valid for up to a maximum of 5 (five) User-IDs. It is not necessary for all 5 (five) User-IDs to be registered with the Company. A User assigned to an IMDS-AI User-ID must be an employee of an affiliate of the Company which is at least 51 % owned by the Company which is registered for IMDS.

§ 3 Protection of the Service Material

- (1) Irrespective of the usage rights granted in §§ 1 and 2, DXC retains all rights in the Service Material, including all duplicates or parts of duplicates. The Company’s property in machine-readable recorders, data processors and computers shall not be affected by this.
- (2) The Company undertakes to leave all intellectual property protection marks, such as copyrights and other reserved rights, contained in the Service Material unaltered and to reproduce them in all produced printed or electronic duplicates of the Service Material.
- (3) The Company shall not disclose the Service Material, neither in its original version nor as a duplicate or part duplicate, to third parties. This shall also apply in case of a complete or part sale or liquidation of the Company. Employees of the Company and other persons who are using the Service Material according to these Terms and Conditions on behalf of the Company are not regarded as a third party. Nevertheless, the Company must assure that these individuals stick to the underlying Terms and Conditions.
- (4) The Company and the User shall in no event pass on to third parties any data downloaded from the IMDS except the downloading of data is compliant with the predefined processes as shown on the webpage <https://public.mdsystem.com/web/imds-public-pages/non-standard-data-use>. These processes may only be changed by the IMDS Steering Group according to the rules set forth in the respective member contracts (IMDS SLAs). In the event that the before mentioned processes will be changed DXC will inform the Client in due time about the according changes shown on the webpage.
- (5) In the case of non-compliance with these Terms and Conditions DXC is entitled to terminate the usage without prior notice. In particular the termination for cause applies in all cases of unauthorized data downloading in conflict with the processes defined in this paragraph.

§ 4 Test Systems and Test Periods

- (1) DXC provides a test system of IMDS (Model Office) in addition to the productive system that includes two instances: Model Office Current is on the same release stage as the productive system while Model Office Next reflects the upcoming next release version.
- (2) On request (recommended: via e-mail to mds-solutions@dxc.com) a Company is given the opportunity to use the IMDS-AI and the Service Material in the Model Office for a test period of up to 6 (six) weeks free of charge for testing purposes before concluding an IMDS-AI Service license agreement.

The test period shall start as soon as the Company will be given access to the model office (provision of an IMDS-AI User Id. and initial password) and shall end, as the case may be, after six weeks or ahead of schedule, with the start of the productive usage of the IMDS-AI.

- (3) In the case that new releases or enhancements of IMDS are relevant for the IMDS-AI, an updated version of the Service Material will be made available in the Up-/Download Menu at least three (3) months ahead of the release change.

Upon notification of such new releases or enhancements, that will be available in the Model Office Next, the Company should use the three months period ahead of the production period to adjust the IMDS-AI to the new releases or enhancements of IMDS.

§ 5 Charges

- (1) The regular runtime of a service license is a 12 (twelve) months contract period but with the number of MDS Upload Modules restricted to the selected license tariff.
- (2) The tariff depends on the number of modules that will successfully (based on the respective information in IMDS) be uploaded into IMDS.

A module is build up as a tree structure that may consist of components, semi-components, materials, and substances.

The module volume is reduced by 1 for each new or altered module that was successfully uploaded to IMDS.

- (3) The Company has to estimate the volume of uploaded modules for the 12 months contract period in advance. On request DXC offers support, especially to new customers, by providing the volume number of recently uploaded modules of the Company.
- (4) The license is exclusively bound to the IMDS Company Id. of the CLIENT for whom the license was ordered. The license is not cancellable and not transferrable. It is not refundable, regardless if the included upload modules or service hours are fully used within this license period or not.
- (5) The User is entitled to request free remote consulting support (e.g. initial implementation support, release upgrade support) to the extent as assigned to the selected tariff. For any additional support services, the User may contract DXC.
- (6) The actual IMDS-AI fee structure and price list is published on our website "<https://public.mdsystem.com/web/imds-public-pages/pricing1>".

§ 6 Order Process

- (1) The start date of the contract period is arbitrary. The subsequent contract period starts the next day the prior period has expired.
- (2) A valid purchase order has to be sent to DXC per each contract period. The purchase order shall at least include the selected tariff and a reference to these Terms of Conditions as a confirmation of acceptance. On request DXC provides a quote to the Company that specifies the selected tariff and price and service runtime and as well refers to these Terms of Conditions.
- (3) A valid PO in reply to a quote from DXC, latest the acceptance letter from DXC (via e-mail) establishes an IMDS-AI Service license agreement. Per each contract period a new license ID is assigned.
- (4) DXC is not obliged to continue the IMDS-AI Service in case a PO for a subsequent contract period is not sent right in time before the subsequent service period has started.
- (5) If the Company recognizes during the contract period that more upload modules will be needed, an additional package must be ordered. Alternatively, an early service license renewal may be taken into account.

In the event, that no additional package or renewal is ordered the Company has no right to claim an upload into IMDS based on these Terms and Conditions, but all other contract rights remain existent until the license runtime expires.

- (6) Any other services, except for the remote consulting support included in the purchase of the IMDS-AI, such as training of the Company's employees (Users), adaptation of the IMDS-AI to special conditions or other development services, are explicitly not covered by the scope of these Terms and Conditions and the charges paid by the Company. For such extra services, the Company may contact DXC directly by e-mail. The Company and DXC may then enter into a separate agreement and agree on additional charges.

§ 7 Payment Terms and Taxes

- (1) DXC will invoice the Company based on a submitted valid purchase order in advance of the service period, but not earlier than 30 days in advance of the start date.
- (2) All invoices are payable within 30 (thirty) days after invoice date without any deduction. Any amount not paid when due will bear interest until paid at a rate of interest equal to eight percent per annum more than the deposit facility rate established by the European Central Bank.
- (3) All invoices submitted by DXC include the applicable value added tax ("VAT") as required by law. The Company will bear the cost of and either pay to DXC, or reimburse DXC for the payment of amounts equal to any and all present or future taxes, assessments, duties, permits, tariffs, fees, and other charges of any kind, however designated, assessed, charged or levied, now or hereafter, including state, local, sales, use, property, gross receipt, provincial, excise, value-added goods and services, transaction or similar liabilities imposed in connection therewith, arising from or imposed on (i) such charges, (ii) the use of the Advanced Interface, (iii) the purchase of the IMDS-AI or (iv) the services, software, equipment, materials or other property (tangible or intangible), or the use thereof or the resources used therefore, that are provided or are otherwise used in connection herewith, excluding income taxes that are based on or measured by DXC's net income. All invoices will be issued in Euros.
- (4) DXC is not obliged to continue the IMDS-AI in case an invoice is not paid within the payment term.

§ 8 Provision of Usage

- (1) DXC will provide the IMDS-AI in such way that it can generally be used in a manner as described in the Service Material, provided that User uses the IMDS-AI in compliance with these Terms and Conditions as well as the Service Material. DXC explicitly excludes any liability if the Company/User is not compliant with these Terms and Conditions and the Service Material. Additionally DXC is entitled to terminate the usage pursuant to clause § 3 “Protection of the Service Material”. Depending on the severity of the breach of this Terms and Conditions termination of the usage means either revoking the according access right of a specific user or the termination of the whole underlying service agreement.
- (2) In case of any defects § 377 HGB (German Commercial Code) applies. The User shall give DXC written notice describing such defects in detail. Sub-section 1 applies accordingly.
- (3) DXC shall be given two opportunities to remedy such defects; each remedy period will be of a reasonable period of time depending on the nature of such defects. DXC shall remedy such defects at its own choice either free of charge or DXC shall deliver a new IMDS-AI. If the Company demands damages from DXC, DXC’s liability is restricted in accordance with § 9 Limitation of Liability.
- (4) To the extent longer periods are not mandatory by law, claims relating to material defects expire within twelve (12) months after delivery.
- (5) For the avoidance of doubt, DXC shall not be responsible and therefore not liable for any content or its usage of the data uploaded to or downloaded from the IMDS via the IMDS-AI nor for any damages, which may result from any incorrect data.

§ 9 Limitation of Liability

DXC shall not be liable for any damages, direct or indirect, incidental or consequential, regardless of its legal basis, unless caused by the willful intent or gross negligence of DXC or expressly required by applicable law. DXC does not warrant, guarantee, or make any representation regarding the use of, or the results of the use of the IMDS-AI in terms of its correctness, accuracy, non-infringement, reliability or otherwise, unless expressly required by law. The Company relies on the IMDS-AI and any related findings solely at its own risk.

§ 10 Indemnification

The Company acknowledges and agrees that all data entered into IMDS and the accuracy and adequacy thereof is under the exclusive control of that company that has initially entered the data into IMDS. This company that has initially entered the data into IMDS will indemnify DXC and data receiving Company and hold them harmless from any claims by third parties arising from or related to the use of such provided data unless the User can produce evidence that DXC itself is at default.

§ 11 Final Provisions

If any regulation of these Terms and Conditions 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.

DXC reserves the right to amend these Terms and Conditions if appropriate. In such case DXC will notify the USER at least thirty (30) calendar days before the modified Terms of Conditions will be effective.