

Mercedes-Benz FOSS Disclosure Portal Terms of Use

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Version: v1.1

Mercedes-Benz Group AG ("Mercedes-Benz") provides the Mercedes-Benz FOSS Disclosure Portal ("Disclosure Portal") - a platform and APIs for the upload and request for approval of disclosure information regarding software, especially Free and Open Source Software ("FOSS"), according to contractual obligations and/or FOSS license obligations and/or additional agreements. The Disclosure Portal is governed under these Terms of Use ("ToU").

1. Acceptance of ToU

By accessing Disclosure Portal and accepting these ToU you, as an individual ("You"), declare to comply with these ToU on behalf of Yourself and the company/organization ("Entity") that You represent. You hereby represent that You are legally entitled to make such legally binding statements on behalf of the Entity that You represent. Access to Disclosure Portal is denied if You and/or likewise Your Entity do not accept the ToU. You are then asked to leave the Disclosure Portal.

2. Registration and Access

Access to Disclosure Portal is granted to companies of the Mercedes-Benz Group (§§ 15 et seq. Aktiengesetz, German Stock Companies Act; all such companies together "Mercedes-Benz Companies") and third parties if these are commissioned by a Mercedes-Benz Company ("Commissioned Third Parties") to deliver software and/or products, including hardware, services, etc., which contain software.

Commissioned Third Parties and You acting on behalf of such party may access the Disclosure Portal, if Your Entity cumulatively

(a) holds a valid Mercedes-Benz supplier number;

or has been appointed by an Entity with a valid supplier number according to the agreement with a Mercedes-Benz Company;

or has been appointed by a Mercedes-Benz Company; and

b) has been instructed and/or obliged to fulfill parts of their contractual obligations via Disclosure Portal; and

c) warrants that it (i) shall maintain the accuracy of information/data/content provided; and (ii) shall not use Disclosure Portal for purposes other than agreed; and (iii) shall not use Disclosure Portal to reverse engineer, upload malicious code (e.g. malware) and/or malicious information/data/content; and (iv) shall only access and/or use information/data/content revealed in course of use of the Disclosure Portal within the scope of commissioning.

3. Scope

Disclosure Portal enables a submission of software bill of materials, including related artefacts such as metadata and source code ("SBOMs"). Disclosure Portal especially enables the disclosing of FOSS components and licenses ("FOSS Information") according to the Mercedes-Benz Companies FOSS Disclosure processes and facilitates the submission and approval between a Submitting Entity ("Submitter") and a Receiving Entity ("Recipient"). Disclosure Portal does not provide legal advice. Both Submitter and Recipient are acting on their own responsibility and must ensure to fulfill their obligations towards each other. The Disclosure Portal must not be used to upload information/data/content, which is classified as "confidential" or "secret" according to Mercedes-Benz information classification or can reasonably assumed to be confidential or secret.

The Disclosure Portal may be used to collect and analyze information about the use of individual FOSS components and/or licenses.

4. Main User Types

The main User Types of the Disclosure Portal are the following:

4.1 Submitter

Submitter is an Entity submitting information to Recipient in order to fulfill contractual obligations, especially in the field of use of FOSS components in a procured product/service ("Deliverable"). Submitter can request approval for the use of FOSS as described in the disclosure, according to the contractual arrangement with Recipient to fulfill contractual obligations with regard to FOSS disclosure (for example, a statement of conformity).

4.2 Recipient

Recipient is a Mercedes-Benz Company ("Recipient") that requests and expects, due to contractual obligations, disclosure of FOSS Information associated with or related to (e.g. linked) a Deliverable. Recipient can approve or deny the use of FOSS in a Deliverable, according to the contractual arrangement with Submitter.

4.3 Individual User

Individual User is an employee, agent or otherwise rightfully entitled person, acting on behalf of a Submitter and/or Recipient. Any act or omission of such Individual User shall be the responsibility of the Submitter and/or Recipient entitling the Individual User to act on behalf of such Entity.

4.4 Administrator

Administrator is a user with additional rights and obligations, typically entitled on behalf of the Mercedes-Benz Company providing the Disclosure Portal. Administrators maintain datasets with regard to disclosures.

In addition to the Main User Types in this section, Mercedes-Benz may appoint Special Interest Users for areas including without limitation governance, compliance and cyber security. A Special Interest User may be granted read-only access to the disclosure information of individual projects and/or data/information/content, additionally in aggregated form.

5. Use of the Disclosure Portal

Use of the Disclosure Portal may differ depending on the user type:

5.1 Use of the Disclosure Portal by Submitter

A Submitter typically uses the Disclosure Portal to upload a SBOM and request approval (or re-approval) for such from the Recipient. Use of the Disclosure Portal including any approval of Deliverable does not release the Submitter from the obligations under the terms of the contract between Mercedes-Benz Company and Supplier. Submitter must make reasonable efforts to ensure content transmitted to Recipient is free from malicious code.

Submitter and the rightfully entitled Individual User can use the Disclosure Portal if they agree: (1) to use it only according to the underlying agreement with the Recipient; and (2) to warrant that any submission complies with applicable laws and regulations; and (3) to ensure that they have the rights to do their submission as intended.

Submitter sends all required FOSS Information related to a specific Project in the relevant SBOM format, as identified by that Project's unique identifier. After submitting a SBOM, Recipient can provide Submitter with (a) General Remarks; and (b) Scan Remarks; and (c) License Remarks (as well as any other remarks which Recipient may deem to be relevant in the future). General Remarks serve as a non-conclusive reminder on obligations that are usually agreed between Submitter and Recipient or which are common in FOSS licenses. Scan Remarks are initial, non-conclusive results from uploading and processing a SBOM and can help to identify potential data quality issues in the SBOM (including without limitation missing copyright information; missing license information). License Remarks are comments to certain license terms that have been identified by Mercedes-Benz with regard to a specific FOSS license. Those License Remarks are neither conclusive, nor do they provide any guidance with respect to the interpretation of such identified terms. They can, however, serve to improve the standard of the disclosure. For the avoidance of doubt, such remarks and the Disclosure Portal in its entirety, shall not be interpreted as providing legal advice in any form.

Only after uploading the SBOM to the Disclosure Portal may the Submitter start a request for approval from Recipient. The upload of a SBOM does not, therefore, immediately start a review by Recipient, but rather enables Submitter to collect all necessary information for an approval request.

5.2 Use of the Disclosure Portal by Recipient

Recipient (together with the respective rightfully entitled Individual User) sets up a project to collect FOSS Information related to a specific Deliverable on the Disclosure Portal. Recipient is responsible for fulfilling applicable Mercedes-Benz policies with regard to such project.

6. Confidentiality

6.1 Access to and use of Disclosure Portal is made available for the purpose of disclosure of FOSS Information in Deliverables to Mercedes-Benz Companies only. All users must take adequate precautions against unintended or unauthorized access to Disclosure Portal or disclosure of information/data/content of Disclosure Portal to other third parties.

6.2 No content revealed in the course of using the Disclosure Portal may be publicly disclosed. Such content may be accessed on a "need to know" basis only. For the avoidance of doubt, a disclosure of information/data/content from the Disclosure Portal shall not be treated as public disclosure of business and/or trade secrets.

6.3 Users are strictly prohibited from making personal credentials or access means to the Disclosure Portal available to any other individual, or to use any credentials or access means of another user to circumvent restrictions by any means. Any potential misuse is to be immediately reported to cyber.security@mercedes-benz.com and may be treated according to Section 9.

7. Remuneration, Warranty and Liability

7.1 The Disclosure Portal is made available without remuneration. Mercedes-Benz may, however, charge Mercedes-Benz Companies according to agreed service agreements.

7.2 Access to and use of the Disclosure Portal is provided "as is" without any warranty. There is no warranty provided beyond mandatory statutory obligations.

7.3 Mercedes-Benz assumes no liability exceeding mandatory statutory obligations (intentional damage; damage to life and/or body; statutory product liability).

7.4 Any warranty and liability of Commissioned Third Parties and commissioned Mercedes-Benz Companies, especially based on any contract with a Mercedes-Benz Company, remain unaffected and are not restricted by Sections 7.2 and 7.3.

7.5 Mercedes-Benz takes no responsibility for any loss or damage to an upload, or request for approval. Neither shall Mercedes-Benz take responsibility for any loss or damage due to discontinuation of the Disclosure Portal. Submitter should ensure an individual track record for the uploaded information/data/content and should generate a submission protocol after a request for approval of FOSS Information.

7.6 Mercedes-Benz accepts no responsibility whatsoever for any content transmitted by Submitter. Entities and Individual Users should conduct their own due diligence according to their own requirements.

8. Suspension and Termination of Access to, and Use of Disclosure Portal

8.1 Mercedes-Benz reserves the right to temporarily or permanently suspend or restrict access to, and use of, Disclosure Portal, especially in cases of breach of these ToU or violations of obligations by the Individual User. In case of breach of the ToU, Mercedes-Benz additionally reserves the right to delete uploaded information/data/content. Mercedes-Benz will make reasonable efforts to give notice in advance, where a breach leading to such an action can be cured without leaving disadvantages for a Mercedes-Benz Company, a Commissioned Third Party or any other Individual User.

Notwithstanding the foregoing, Mercedes-Benz may undertake measures with immediate effect and without prior notice, especially to avoid disadvantages for Mercedes-Benz Companies and/or others. Mercedes-Benz will make reasonable efforts to provide an alternative solution for the disclosure of FOSS Information where access to the Disclosure Portal has been suspended, where appropriate.

8.2 Any rights to access and use Disclosure Portal terminate automatically and completely if the legal entity, to which an Individual User is attributed (except Mercedes-Benz), (i) declares a termination of the ToU, or (ii) the membership of such legal entity to the Mercedes-Benz Companies ends.

8.3 Any rights of a Commissioned Third Party and its Individual User to access and use Disclosure Portal also terminate completely and automatically if the commissioning with the Mercedes-Benz Companies (which requires the use of Disclosure Portal, ends for any reason. The Commissioned Third Party will ensure, that any and all affected access to, and use of Disclosure Portal by Individual Users of this party ends immediately. This also applies for Individual Users whose right to act on behalf of Commissioned Third Party ends for any reason.

8.4 A suspension, restriction or termination of access to or use of Disclosure Portal leaves the ToU unaffected.

9. Final Provisions

9.1 Mercedes-Benz reserves the right to amend these ToU. Mercedes-Benz will provide one month prior notice in text form in order to advise the recipients that the ToU are being modified and making available the future version of the ToU. If the affected Mercedes-Benz Company or Commissioned Third Party does not accept such future version, access to Disclosure Portal ends with the date of effectiveness of such ToU, unless otherwise agreed or declared by Mercedes-Benz.

9.2 The ToU constitute the complete agreement on rights and obligations with regard to access to, and use of, the Disclosure Portal. Parties that make use of the Disclosure Portal may agree on further rights and obligations as required in the course of submission. If any stipulation of these ToU should be held to be invalid or unenforceable, this does not affect the remaining stipulations or individual agreements between Parties. The affected Parties will substitute an invalid or unenforceable stipulation with a provision that comes as close as possible to the intent and effect of the affected stipulation. In case of conflict between these ToU and the terms of the contract between Mercedes-Benz Company and Supplier, the terms of the contract take precedence.

9.3 The Disclosure Portal shall not be used by anybody to track personal behavior or performance of any employee of the Mercedes-Benz Companies (incl. trainees, interns, students, doctoral candidates, temporary student employees and temporary workers). Misuse may lead to restrictions and suspensions according to Section 9, or other disciplinary measures.

9.4 The ToU are governed by applicable German Law for domestic business under exclusion of the UN-purchase rules (CISG). Sole legal venue for any conflict arising in connection with the ToU is the appropriate civil courts in Stuttgart (Mitte), Germany. Mandatory statutory jurisdiction remains unaffected.

9.5 Any concerns regarding the access or functions of Disclosure Portal are to be addressed to disclosure-portal@mercedes-benz.com.