

ACORDO DE NÍVEL DE SERVIÇO (ANS)

entre o

GBIF <país>, com sede em <endereço>, representado pelo seu Coordenador, <nome completo>, na qualidade de Prestador de Serviços

e o

<**Empresa**>, com sede na <endereço>, representado pelo seu <Cargo>, <Nome completo>, na qualidade de Utilizador de Serviços.

INTRODUÇÃO

<Aqui deve ser incluída uma informação breve sobre a entidade privada com o Nó GBIF está a estabelecer este acordo, sobre o Nó GBIF e sobre a interação entre ambas as entidades>

Cláusula 1ª

(Objeto)

1. O Acordo de Nível de Serviço tem por objeto a disponibilização de serviços de apoio e de alojamento de dados à publicação de dados através do GBIF.

Cláusula 2ª

(Responsabilidades e Obrigações das Partes)

1. É responsabilidade do Prestador de Serviços:

- a) Alojamento dos conjuntos de dados de biodiversidade do Utilizador do Serviço e realizar as cópias de segurança necessárias para manter e garantir a sua integridade.
- b) Fornecer uma conta de acesso ao IPT do Nó GBIF com o nível de acesso necessário para criar, editar e registar publicações de dados do Utilizador do Serviço através do GBIF.
- c) Respeitar e creditar a propriedade do Utilizador do Serviço sobre a informação publicada.
- d) Notificar ao Utilizador de Serviços em caso de o serviço de alojamento e publicação de dados ser descontinuado ou encerrado, com pelo menos 3 meses de antecedência.
- e) Fornecer assistência necessária para a migração dos dados para um novo alojamento no caso do serviço ser descontinuado ou no caso do Utilizador do Serviço querer migrar os dados para um alojamento próprio ou outro a que tenha acesso.
- f) Ao Prestador do Serviço não poderá ser imputada qualquer responsabilidade pela não observância dos termos do GBIF *Data Publisher Agreement*, anexo a este ANS, por parte do Utilizador do Serviço.

2. É responsabilidade do Utilizador de Serviços:

- a) Assegurar que tomou conhecimento e concorda com os termos do GBIF *Data Publisher Agreement* e do GBIF *Data Users Agreement*, anexos a este ANS.
- b) Proceder ao pedido de registo no GBIF enquanto publicador de dados, fornecendo ao Prestador do Serviço a senha fornecida pelo GBIF, necessária para associar a sua organização à plataforma IPT.
- c) Garantir a propriedade intelectual dos dados registados para publicação e autorização da publicação dos mesmos sob os termos da licença escolhida aquando da publicação.
- d) Citar todas as fontes de dados em caso destes não serem propriedade da instituição e apresentar acordos ou autorizações para a publicação dos mesmos, conforme previsto no GBIF *Data Publisher Agreement*.
- e) Realizar a manutenção, atualização e administração dos conjuntos de dados publicados no âmbito deste acordo.

- f) Referir o apoio dado pelo GBIF <país>, através deste ANS, nas comunicações e divulgações científicas ou outras que refiram a publicação de dados de biodiversidade através do GBIF.

Cláusula 3ª

(Vigência)

1. O presente ANS entra em vigor na data de assinatura do mesmo por ambas as partes, tendo uma vigência de cinco anos, sendo renovado automaticamente por iguais períodos, caso não seja denunciado por qualquer das partes.

Cláusula 4ª

(Suporte Técnico)

1. O Prestador de Serviços compromete-se a dar apoio e suporte técnico no processo de publicação de dados de biodiversidade.

Cláusula 5ª

(Custos)

1. O Prestador de Serviços compromete-se a fornecer os serviços descritos neste acordo livre de quaisquer custos.

Cláusula 6ª

(Disposições Finais)

1. As Partes poderão, de comum acordo, fazer adendas e adicionar anexos ao ANS que considerem necessários.
2. Nenhuma disposição deste ANS poderá ser interpretada no sentido de criar obrigações perante terceiros, por qualquer das partes.
3. Surgindo qualquer dúvida ou controvérsia da execução deste ANS, as partes elegem a resolução amigável, sendo que se esta não for possível, os diferendos serão definitivamente resolvidos pelo Tribunal Cível da Comarca de Lisboa.

Celebrado em <local>, aos <dia> dias do mês de <mês> do ano de <ano>, em dois exemplares, composto por <nº de páginas> páginas sem verso, incluindo dois anexos, que serão rubricadas e assinadas pelos outorgantes.

Assinam:

Nó GBIF

<Nome completo>, <cargo>

<Empresa>

<Nome completo>, <Cargo>

Anexo I - Data publisher agreement

Background

The goals and principles of making biodiversity data openly and universally available have been defined in paragraph 8 of the GBIF Memorandum of Understanding (MOU). The relevant excerpts of the attached Annex shall be construed as an operative part of this Data Publisher Agreement, as well as the Definitions.

The GBIF Participants who have signed the MoU have expressed their willingness to promote and facilitate publication of Biodiversity data, using their Participant Nodes to coordinate such activity and to engage with Data Publishers under their domain, to foster scientific research development internationally and to support the public use of these Data.

Data Publishers often participate in several data publishing arrangements at different levels (thematic, community, national, global).

In the context of GBIF, Biodiversity data are understood to have been published when they have been organized into formats and standards recognized by GBIF's data harvesting facilities, and have been made available via a stable web-based platform. This agreement relates to the conditions under which such published Data are registered and made available through the GBIF network.

Provisions

All institutions authorized to publish Data using GBIF facilities may do so only under the conditions laid down by this Data Publisher Agreement.

When registering their services with GBIF, the Data Publishers are required to expressly agree the following:

Biodiversity data accessible via the GBIF network are openly and universally available to all users within the framework of the Data users agreement, including through mandatory selection of an accepted machine-readable licence.

The GBIF Secretariat does not assert any intellectual property rights in the Data and datasets that are made available through its network.

The Data Publisher warrants that it has made the necessary agreements with the original owners of the Data and other material which may be subject to a third

party's copyright or other similar rights, that it can make the Data available through the GBIF network. The GBIF Secretariat reserves the right to retract a dataset from publication if it has reason to believe that continuing its publication could create a direct responsibility as a service provider, until any such potential claim is cleared to the satisfaction of the GBIF Secretariat.

The GBIF Secretariat reserves the right to change its policy of acceptable licences that Data Publishers apply on their Data. Where no licence is specified by the Publisher, the GBIF Secretariat reserves the right to apply a default licence consistent with this Agreement, and with the stated policy of acceptable licences. The GBIF Secretariat shall also have the right to accept publication of Data not conforming to this policy, without this decision having any impact on the refusal to publish other Data under the same licensing.

The Data Publisher makes reasonable efforts to ensure that the Data it serves are accurate. The GBIF Secretariat reserves the right to refuse publication of a dataset, or to retract a dataset from publication, if it has reason believe that the ongoing publication could provide misleading or inaccurate information to the Data User. The GBIF Secretariat will only take such action after it has taken reasonable steps requesting the Data Publisher to correct or withdraw the dataset.

Responsibility regarding the restriction of access to sensitive Data resides with the Data Publisher. The GBIF Secretariat shall have no duty to monitor the content of the published dataset. However, it reserves the right to retract a dataset from publication if it has reason to believe that the ongoing publication could cause harm or danger because it contains sensitive information.

The Data Publisher includes stable and unique identifiers in its Data so that the Owner of the Data is known and for other necessary purposes.

The GBIF Secretariat may cache a copy and serve full or partial Data further to other users together with the terms and conditions for use set by the Data Publisher. Queries of such Data through the GBIF Secretariat are made available on each dataset page. The GBIF Secretariat may also enrich the presentation of the Data by aggregating them with Data and other material coming from different sources through suitable algorithms, based on a technical decision, but in all cases it will be apparent which parts of this information are from the published data and which parts are presentational artefacts, for instance by linking to the raw Data.

Data Publishers are endorsed by a GBIF Participant Node, or if applicable by the GBIF Participant Node Managers Committee, before their datasets are made available by the GBIF Secretariat.

The GBIF Secretariat is not liable or responsible, nor are its employees or contractors, for the Data contents or their use; or for any loss, damage, claim, cost or expense however it may arise, from an inability to use the GBIF network. The Data Publisher agrees to hold the GBIF Secretariat, employees and contractors harmless from any consequence of the decision to publish a certain dataset. The power to publish data only belongs to Data Publisher, which can retract Data from publication without giving notice or explanation.

Services provided by the GBIF Secretariat are managed in accordance with the GBIF Work Programme, and implementation of such services may vary without requiring changes to this Agreement.

GBIF Publishers must keep the GBIF Secretariat informed of their up to date contact and service information.

In the event that the web-hosting environment used by Data Publishers to publish Data becomes inaccessible, the GBIF Secretariat reserves the right to maintain a copy of the Data to ensure its long-term availability. Should Data Publishers become unresponsive or unable to manage the Data and correct reported issues, the GBIF Secretariat reserves the right to identify and collaborate with relevant partners to ensure long-term management of archival Data.

This Data Publishing Agreement is governed by the laws of Denmark.

Definitions

GBIF Participant: Signatory of the GBIF Memorandum of Understanding (MoU).

GBIF Secretariat: Legal entity empowered by the GBIF Participants to enter into contracts, execute the Work Programme, and maintain the central services for the GBIF network including software components and updates, interfaces, indexing and registry services, helpdesk and relevant training.

GBIF network: The infrastructure consisting of the central services of the GBIF Secretariat, Participant Nodes and Data Publishers. Making data available through the GBIF network means registering and advertising the pertinent services via the GBIF central services.

Participant Node: An organisational unit designated by the GBIF Participant to coordinate activities in its domain. It may also provide data.

Biodiversity data: Primary data on specimens, observations, names, taxonomic concepts, and sites, and other data on biological diversity.

Metadata: Data describing the attributes and combinations of biodiversity data.

Data: Biodiversity data and metadata.

Data publishing: The process of and agreements for making data freely and universally available on the Internet.

Data Publisher: A custodian of data making it technically available. This may or may not be the data owner. If not they will have declared to GBIF that they have permission to make the data available.

User: Anyone who uses the Internet to access data through the GBIF network.

Owner of data: The legal entity possessing the right resulting from the act of creating a digital record. The record may be a product derived from another, possibly non-digital product, which may affect the right.

Sensitive data: Any data that the Data Publisher does not want to make available, e.g. precise localities of endangered species.

Annex

Memorandum of Understanding for the Global Biodiversity Information Facility

Paragraph 8 – Intellectual Property

1. Applicable Law

Nothing in this MOU should be read to alter the scope and application of Intellectual Property Rights and benefit sharing agreements as determined under relevant laws, regulations and international agreements of the Participants.

2. Access to Data

To the greatest extent possible, GBIF is an open-access facility. All users whether GBIF Participants or others, should have equal access to data in databases affiliated with or developed by GBIF.

3. Intellectual Property Rights to Biodiversity Data

GBIF promotes the free dissemination of biodiversity data and, in particular:

(a) should not assert any proprietary rights to the data in databases that are developed by other organisations and that subsequently become affiliated to GBIF;

(b) should seek, to the greatest extent possible, to make freely and openly available, with the least possible restrictions on reuse, any data commissioned, created or developed directly by GBIF; and

(c) should respect conditions set by data publishers that affiliate their databases to GBIF.

When establishing affiliations or linkages with other databases, GBIF should seek to ensure that the data so made available will not be subject to limitations on the further non-commercial use and dissemination of those data, apart from due attribution of their source.

4. Attribution

GBIF seeks to ensure that the publisher/holder of data is acknowledged and requests that such attribution be maintained in any subsequent use of the data.

5. Access to Specific Data

Nothing in this MOU should be read to restrict the right of publisher/holder of databases affiliated with GBIF to restrict access to any data.

6. Validity of Data

It should be a condition of access to and use of GBIF accessible data that users acknowledge that the validity of the data in any databases affiliated with GBIF cannot be assured. GBIF disclaims responsibility for the accuracy and reliability of the data as well as for the suitability of its application for any particular purpose.

7. Legitimacy of Data Collection

Where the collection of new data has entailed access to biodiversity resources, GBIF should ask for reasonable assurances from the data publisher/holder that such access was consistent with applicable laws, regulations and any relevant requirements for prior informed consent.

8. Intellectual Property Rights to Biodiversity Tools

GBIF may claim appropriate Intellectual Property Rights available within applicable national jurisdictions over any tools, such as search engines or other software products that are developed by GBIF while carrying out the GBIF Work Programme.

9. Technology Transfer

The Participants acknowledge that, subject to any relevant Intellectual Property Rights, GBIF should seek to promote the non-exclusive transfer, on mutually decided terms, to research institutions, particularly in developing countries, of such informatics technology as it has available, especially in conjunction with training and capacity development programs.

Annex II - Data user agreement

Background

The goals and principles of making biodiversity data openly and universally available have been defined in paragraph 8 of the GBIF Memorandum of Understanding (MOU). The relevant excerpts of the attached Annex shall be construed as an operative part of this Data User Agreement, as well as the Definitions.

GBIF data publishing should take place within a framework of due attribution. Data users are encouraged to notify GBIF regarding data quality and other issues concerning data shared through the network, using the feedback mechanisms provided by GBIF Secretariat.

Provisions

Using data and services available through the GBIF network therefore requires and implies agreeing with the following:

GBIF Secretariat provides a publication framework for biodiversity data, but is neither the owner nor custodian of such data, and therefore is not responsible for the actual content served by Data Publishers.

GBIF Secretariat cannot guarantee the quality or completeness of data, nor does it guarantee uninterrupted data access services. Users employ these data and services at their own risk.

In order to make attribution of use for owners of the data possible, the identifier of ownership of data must be retained with every data record shared onward for reuse.

Users must publicly acknowledge, following the scientific convention of citing sources in conjunction with the use of the data, the Data Publishers whose biodiversity data they have used, where appropriate through use of a Digital Object Identifier (DOI) applying to the dataset (s) and/or data downloads.

Users must comply with the terms and conditions included in the licence selected by each Data Publisher, and the licensing information included with each data download. If any provision of this Use Agreement conflicts with the terms and conditions within the licences selected by the Data Publisher, licences selected by the Data Publisher shall prevail.

Users must provide accurate and up to date personal data at the time of registration. Failure to do so implies automatic termination of this Agreement.

Data use through the available Application Programming Interfaces (API) shall comply with the technical specifications provided in the website of the GBIF Secretariat. In particular, it is forbidden to use APIs to create denial of service, disruption in the service, and in general to interfere with the normal operations of GBIF and the Data Publishers. Offenders may be denied further use of the API at the sole discretion of the GBIF Secretariat, and reported to relevant authorities for prosecution, if applicable.

The GBIF website uses cookies of a technical nature for website administrative purposes.

Personal information provided by registered users of GBIF.org is governed by the Privacy policy.

This Data User Agreement is governed by the laws of Denmark.

Citing data

Users are strongly encouraged to cite data retrieved from the GBIF network according to the recommended citation, as shown on the dataset, occurrence or download page on the GBIF.org platform.

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