# Data Licence

**This Agreement** is dated [*date*].

**Between**

**Biodiversify Ltd** incorporated and registered in England with company number 11352631 whose registered office is at 6 Great North Road, Cromwell, Newark, Nottinghamshire, NG23 6JE ("Licensor"); and

**[*Stakeholder details*]**

Organisation Name

Contact details (Physical and email addresses)

Recitals

1. On behalf of Water Resources East, Licensor has (using open-source third party data) developed the Licensed Data.
2. Licensor has agreed to grant Licensees a licence of the Licensed Data on the terms of this Agreement.

**AGREED TERMS**

## Interpretation

### The definitions and rules of interpretation in this clause apply in this Agreement.

1. "**Act**" means the Companies Act 2006 (England), as may be amended, modified or replaced from time to time.
2. "**Agreement**" means this agreement, together with the recitals and the schedules.
3. "**Business Day**" means a day, other than a Saturday or Sunday, on which banking institutions in London, England are required to be open.
4. "**Confidential Information**" has the meaning given in clause 4.1(a).
5. "**Control**" means the power to direct the management and policies of a person (directly or indirectly), whether through ownership of voting securities, by contract or otherwise.
6. "Effective Date" means the date of this Agreement.
7. "Group" means in respect of a party, that party together with any subsidiary, holding company or subsidiary of a holding company of that party, and "**Group Company**" shall be read accordingly.
8. "**Licensed Data**" means the tabular and/or shapefile data developed by Licensor, on the basis of open-source data, and provided by Licensor to each Licensee, which indicates the likely optimum number of hectares required for the conservation, restoration and establishment of various habitat types in the various counties, parishes and catchments in the Water Resources East region.
9. “**Non-Commercial**” means use of the Licensed Data, or the provision or receipt of any goods or services which use the Licensed Data, that does not make a profit. This definition applies to organisations regardless of whether they are commercial or Non-Commercial in nature (e.g. charitable).
10. "Term" means the term of this Agreement as set out in clause 5.
11. "Territory" means the Water Resources East region, being the area from the Humber in the North to Basildon in the South, and Northampton in the West to the Eastern coast.

### Clause and paragraph headings are inserted for ease of reference only and shall not affect construction.

### Save where specifically required or indicated otherwise:

#### references to the parties, recitals, schedules and clauses are references respectively to the parties and their successors and permitted assigns, the recitals and schedules to and clauses of this Agreement;

#### the singular includes the plural and vice versa;

#### the expression "**person**" includes any person, firm or company or group of persons or unincorporated body;

#### references to the words "**include**" or "**including**" (or any similar term) are not to be construed as implying any limitation and general words introduced by the word "**other**" (or any similar term) shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things;

#### any reference to a document is to that document as varied, supplemented or replaced from time to time;

#### any reference to "**writing**" or "**written**" includes any method of reproducing words or text in a legible and non-transitory form, but for the avoidance of doubt, shall include email; and

#### a company or other entity shall be a "**holding company**" for the purposes of this Agreement if it falls within either the meaning attributed to that term in s.1159 of the Act or the meaning attributed to the term "**parent undertaking**" in s.1162 of the Act, and a company or other entity shall be a "**subsidiary**" for the purposes of this Agreement if it falls within either the meaning attributed to that term in s.1159 of the Act or the meaning attributed to the term "**subsidiary undertaking**" in s.1162 of the Act, and the terms "**subsidiaries**" and "**holding companies**" are to be construed accordingly.

## Grant of licence

### Licensor hereby grants to each Licensee, with effect from the Effective Date, a non-exclusive, non-assignable, non-sublicensable licence to use the Licensed Data in the Territory for the Term for any Non-Commercial purpose, including to develop natural capital plans, subject always to the other terms of this Agreement.

### The parties agree that nothing in this Agreement shall operate as an agreement to transfer (nor shall transfer) any right, title or interest in or to any aspect of the Licensed Data. The Licensor remains the owner of the Licensed Data and to any intellectual property rights therein.

### Licensees shall not:

#### do or omit to do any act which will or may weaken, damage or be detrimental to Licensor’s reputation or goodwill; or

#### create any security or analogous interest over any part of the Licensed Data.

### Any approvals given by Licensor will not release Licensees from any warranties, undertakings or agreements in respect of the use of the Licensed Data by Licensees.

## Infringement

### Each Licensee shall immediately give notice in writing to Licensor if they become aware of any claims made or threatened that the use of the Licensed Data infringes the rights of any third party.

### In the event of any infringement or suspected infringement by any third party of any rights in the or relating to Licensed Data or any claim made or threatened that use of the Licensed Data infringes any third party rights:

#### Licensor shall, in its sole discretion, decide what action (if any) to take;

#### Licensor shall have sole control over, and conduct of, all claims and proceedings;

#### Licensees shall provide Licensor with all assistance that it may reasonably require in the conduct of any claims or proceedings; and

#### Licensor shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account.

### Licensor shall not be obliged to bring or defend any proceedings in relation to the Licensed Data and Licensees shall not be entitled to bring or defend any action in relation to the Licensed Data unless expressly authorised by Licensor to do so in its absolute discretion.

## Confidentiality

### Each party shall, during the continuance of this Agreement and after its termination:

#### keep secret and confidential all information that it may acquire from any other party in the course of this Agreement ("**Confidential Information**"); and

#### use such Confidential Information solely for the purposes of this Agreement and disclose it only to those of its employees to whom, and to the extent that, such disclosure is reasonably necessary for the purposes of this Agreement and procure that any disclosure is made under obligations of confidence at least equivalent to the obligations imposed under this clause 4.

### The provision of clause 4.1 shall not apply to Confidential Information which:

#### prior to receipt from one party was in the possession of the other party and at its free disposal;

#### is subsequently disclosed to the recipient without any obligations of confidence by a third party who has not derived it directly or indirectly from the other or in breach of any obligation or duty of confidence; or

#### becomes generally available to the public in the Territory through no act or default of the recipient.

### The provisions of clause 4.1 above shall not prohibit disclosure if and to the extent:

#### required by any applicable law or for the purpose of any judicial proceedings arising out of this Agreement;

#### required by the rules of any stock exchange or other regulatory authority; or

#### made to the agents, professional advisers, auditors or bankers of either party on terms that such agents, professional advisers, auditors or bankers undertake to comply with the provisions of clause 4.1 above in respect of such information as if they were a party to this Agreement.

### This clause 4 shall continue to apply after termination or expiry of this Agreement without limit of time.

## Term and Termination

### This Agreement shall commence on the Effective Date and continue in force for a period of five years unless terminated in accordance with the remainder of this clause 5.

### Licensor may terminate this Agreement in respect of any Licensee on 30 Business Days' written notice in the event that that Licensee undergoes a change of Control.

### Licensor may terminate this Agreement on three months’ written notice to any Licensee.

### Licensor and any Licensee may (without prejudice to any other right or remedy available to it, and without prejudice to any claim for antecedent breach) by notice in writing to any Licensee (if given by the Licensor) or to the Licensor (if given by a Licensee), terminate this Agreement with immediate effect if:

#### the other party commits a material breach of any provision of this Agreement which is not capable of remedy or which is not remedied within 30 Business Days of having been notified in writing by the terminating party of such material breach;

#### the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of s.123 of the Insolvency Act 1986;

#### the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;

#### a petition is filed, a notice is given, a resolution is passed, or an order is made for or in connection with the winding-up or re-organisation of the other party, save that no right to terminate will arise in respect of any procedure commenced for the purpose of a solvent amalgamation or reconstruction;

#### an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given, or if an administrator is appointed, over the other party;

#### the holder of a qualifying floating charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

#### a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

#### a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets;

#### any event occurs, or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect similar to any of the events mentioned in clauses 5.4(a) to (g) inclusive; or

#### the other party suspends or ceases, or threatens to suspend or cease, carrying on a substantial part of its business.

## Effect of Termination

### Upon expiry or termination of this Agreement for any reason:

##### all rights and licences granted under this Agreement to any party subject to termination will immediately cease to be of any force and effect; and

##### any Licensee subject to termination must cease all activities authorised by this Agreement and not thereafter exploit or otherwise use any of the Licensed Data.

### The expiry or termination of this Agreement, for any reason:

##### shall not affect any provision of this Agreement which is expressed to survive or operate in the event of expiry or termination; and

##### will not give any Licensee subject to termination the right to claim any compensation, indemnity or reimbursement from Licensor by reason of such termination, but termination will be without prejudice to any rights or remedies available to, or any obligations or liabilities accrued to, either party at the effective date of termination.

## Notices

### Save as otherwise provided in this Agreement, any notice, demand or other communication ("**Notice**") to be given by any party under, or in connection with, this Agreement shall be in writing and signed by or on behalf of the party giving it. Any Notice shall be served by delivering it by hand, mail, courier service or email to the address set out in clause 7.2 and in each case marked for the attention of the relevant party set out in clause 7.2 (or as otherwise notified from time to time in accordance with the provisions of this clause 7). Any Notice so served shall be deemed to have been duly given or made when delivered, provided that in each case where delivery occurs after 6pm on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9am on the next following Business Day. References to time in this clause are to local time in the country of the addressee.

### The addresses of the parties for the purpose of clause 7.1 are as follows:

#### Licensor

* + 1. Address: 6 Great North Road, Cromwell, Newark, Nottinghamshire, NG23 6JE
		2. Email: sam@biodiversify.org and mike@biodiversify.org
		3. For the attention of: Sam Sinclair and Mike Burgass

#### [Licensee name] [to be replicated for each Licensee]

* + 1. Address: [address]
		2. Email: [email]
		3. For the attention of: [contact name]

### A party may notify the other party to this Agreement of a change to its name, relevant addressee, or address for the purposes of this clause 7, provided that such notice shall only be effective on:

##### the date specified in the notice as the date on which the change is to take place; or

##### if no date is specified or the date specified is less than 5 Business Days after the date on which notice is given, the date following 5 Business Days after notice of any change has been given.

## Announcements

### Subject to clause 8.2, no party shall (save to any member of its respective Group, or to its officers, employees, agents or advisers, or those of any member of its respective Group) publish or make any announcement or statement concerning the signing or contents of this Agreement or any related matter without the prior written approval of the other parties (such approval not to be unreasonably withheld or delayed).

### Notwithstanding the provisions of clause 8.1**,** any party may publish or make any announcement or statement concerning the signing or contents of this Agreement or any related matter if and to the extent required by law or the rules of any stock exchange or other regulatory authority, in which case the announcing party shall use its reasonable endeavours to consult with and provide a copy to the other parties prior to publication.

## Assignment

### Licensor may freely assign, novate or otherwise transfer any or all of its rights or obligations under this Agreement without the consent of Licensees. Licensees may not assign, novate or otherwise transfer any or all of their rights or obligations under this Agreement without the prior written consent of Licensor, such consent to be in the absolute discretion of Licensor.

## Third party rights

### The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

## Law, jurisdiction and disputes

### The construction, validity and performance of this Agreement and all non-contractual obligations arising from or connected with this Agreement shall be governed by English law and the parties hereby submit irrevocably to the exclusive jurisdiction of the English courts to resolve any dispute between them.

## Waiver

### The failure of any party to enforce or to exercise at any time or for any period of time any term of or any right pursuant to this Agreement does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that party's right later to enforce or to exercise it.

## Severance

### If any term of this Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from this Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms.

## Entire Agreement

### This Agreement contains all the terms agreed between the parties regarding the subject matter and supersedes and replaces any prior agreement, understanding or arrangement between the parties, whether oral or in writing.

### No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to this Agreement except as expressly stated in this Agreement.

### Neither party shall have any remedy in respect of any untrue statement made by the other upon which that party relied in entering into this Agreement (unless such untrue statement was made fraudulently). Without prejudice to the foregoing, the only remedy available to a party in respect of a breach of any representation which is incorporated into this Agreement shall be for breach of contract.

## General

### Provisions of this Agreement which either are expressed to survive its expiry or termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such expiry or termination.

### The relationship of the parties is that of independent contractors dealing at arm's length. Nothing in this Agreement shall constitute the parties as partners, joint venturers or co-owners, or constitute either party as the agent, employee or representative of the other, or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither party shall hold itself out as having authority to do the same.

### Subject as otherwise provided in this Agreement, each of the parties agrees to do, execute and/or deliver or cause to be done, executed and/or delivered such additional acts, things documents and/or instruments as may from time to time be necessary or proper to carry into full force and effect the provisions hereof.

### No alteration to or variation of this Agreement shall take effect unless and until the same is in writing and signed on behalf of each of the parties by a duly authorised representative.

### This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

#

# Execution

**EXECUTED** by the parties on the date set out on the first page of this document.

|  |  |
| --- | --- |
| Signed for and on behalf of **Biodiversify Ltd** |  |
| Signature: |  |  |  |  |  |
| Name: |  |  |  |  |  |
| Title: |  |  |  |  |  |
| Date: |  |  |  |  |  |

|  |  |
| --- | --- |
| Signed for and on behalf of [**name of Licensee**] [replicate for each Licensee]: |  |
| Signature: |  |  |  |  |  |
| Name: |  |  |  |  |  |
| Title: |  |  |  |  |  |
| Date: |  |  |  |  |  |