

LICENCE FOR ACCESS TO DATA AVAILABLE FROM THE BUTTERFLY, MOTH OR DRAGONFLY MONITORING SCHEME

Version: 4 October 2021

BEFORE PROCEEDING PLEASE READ THE TERMS OF THIS AGREEMENT ("LICENCE AGREEMENT") CAREFULLY. IF YOUR REQUEST FOR DATA IS APPROVED THEN THE DATA WILL BE SUPPLIED TO YOU AND YOU WILL BE LICENSED TO USE THE DATA ON THE CONDITION THAT YOU ACCEPT ALL THE TERMS CONTAINED IN THIS LICENCE AGREEMENT.

BY SIGNING THIS LICENCE AGREEMENT WHERE INDICATED, YOU ARE CONFIRMING YOUR ACCEPTANCE OF THE TERMS OF THIS LICENCE AGREEMENT. SUCH ACCEPTANCE IS EITHER ON YOUR OWN BEHALF OR ON BEHALF OF ANY CORPORATE ENTITY OR PARTNERSHIP SPECIFIED IN YOUR DATA REQUEST.

Your use of information provided under the terms of this Licence Agreement is at your own risk. Please read any warnings given about the limitations of the information.

1 DEFINITIONS

"Data" means the data from the Dutch Butterfly, Moth or Dragonfly Monitoring Scheme described in the Data Request Form.

"Dutch BC" refers to Dutch Butterfly Conservation (De Vlinderstichting), based Mennonietenweg 10 in Wageningen, the Netherlands.

"Data Request Form" means the data request form provided in Appendix 1 of this licence.

"Licensor" means Dutch Butterfly Conservation (De Vlinderstichting).

"National BMS Co-ordinators" or "NCs" means the national coordinators of the Butterfly, Moth or Dragonfly Monitoring Schemes

"You" or "Licensee" means either (a) the individual accepting the terms of this licence on their own behalf, or (b) the corporate entity or partnership on whose behalf those terms are accepted.

2 GRANT OF LICENCE

By supplying the Data to the Licensee under the terms of this agreement the Licensor grants to the Licensee a non-exclusive, non-transferable, royalty free licence to use the Data, providing the use falls within the permitted use set out below and for no other purpose. Your licence does not permit You to sub-license for any purpose.

Data will only be provided upon the completion of the supplied Data Request Form in addition to a signed copy of this Licence Agreement and subject to approval by the relevant National BMS Co-ordinators.

3 PERMITTED USE

3.1 Data are provided solely for the use(s) described in the Data Request Form and may not be used for any other purpose without prior permission from the eBMS.

3.2 Subject to Clauses 5.3, 5.4, 5.5, 5.6 and 6.2, You may disseminate publications and reports based upon the Data to third parties, including to third party internet sites.

3.3 Dutch BC recognises that it is in the nature of academic research that unforeseen results require investigation with unplanned further analysis. However, you must seek permission from the Dutch BC before undertaking any analysis other than that detailed in your Data Request Form and governed by this Licence Agreement.

Annex A

- 3.4 The Data may be entered into a computer database or geographical information system (or similar) but only as part of the specified uses detailed in your Data Request Form. Please ensure that your description of the intended uses of the Data includes such information.

4 RESTRICTIONS ON USE

- 4.1 You may not rent, lease, sell, sublicense or otherwise distribute the Data to a third party without written permission from Dutch BC. If such data transfer forms part of your intended use of the Data, please ensure that this is detailed adequately in the Data Request Form.
- 4.2 You may not assign or transfer this Licence Agreement or any rights under it.
- 4.3 You may not use or attempt to use any of the data/information provided to deliberately damage the natural environment or make the information available to other(s) to do this;

5 UNDERTAKINGS

- 5.1 You undertake to hold all data and all other information relating to the Data confidential and not at any time disclose the same, whether directly or indirectly, to any third party without the consent of the Licensor.
- 5.2 The Licensor undertakes to provide you with contact details for the BMS Co-ordinator relevant to your data request on provision of Data.
- 5.3 You undertake to involve the relevant National BMS Co-ordinators in the use of their data in any scientific papers or other output and provide regular updates on progress of analyses.
- 5.4 You undertake to offer co-authorship to the relevant National BMS Co-ordinators as well as members from all organisations contributing to the co-ordination of a national BMS and intellectual input into the drafting of any scientific publications, conference presentations or posters resulting from use of the Data governed by this Licence Agreement.
- 5.5 You undertake to acknowledge the Dutch Butterfly/Moth/Dragonfly Monitoring Scheme, Dutch Butterfly Conservation (De Vlinderstichting), Statistics Netherlands (CBS) and the Network Ecological Monitoring (NEM) in all publicity, publications and articles concerned with the use of data supplied. The following form of acknowledgement should be used. This includes a standard acknowledgement for any use of monitoring data. Any alternative form of acknowledgement must be agreed with the co-ordinator of Dutch BC:

Standard acknowledgement

The Dutch Butterfly/Moth/Dragonfly Monitoring Scheme is a co-operation between Dutch Butterfly Conservation (De Vlinderstichting) and Statistics Netherlands (CBS), in the context of the Network Ecological Monitoring (NEM), and financed by the Ministry of Agriculture, Nature and Food Quality.

In case of a publication in Dutch:

Het Landelijk Meetprogramma Vlinders/Nachtvlinders/Libellen is een samenwerkingsproject van De Vlinderstichting en het CBS, in het kader van het Netwerk Ecologische Monitoring, in opdracht van het Ministerie van LNV.

- 5.6 You undertake to inform co-authors of the submission and revision process so that they can also comment on revised versions of manuscripts and remain fully informed of progress.
- 5.7 You undertake to report the realized use of the Data in publications to Dutch BC co-ordinators involved and provide an electronic copy of any publications to them.
- 5.8 You undertake to store the Data in such a way that they can be accessed and used only in accordance with the terms of the Licence Agreement.
- 5.9 You undertake to ensure that all persons to whom You make the Data accessible are aware of the limitations placed upon the use of the Data by this Licence Agreement, and ensure that such persons comply with all the restrictions placed upon the use of and access to the Data as set out in this Licence Agreement.

Annex A

6 OWNERSHIP

- 6.1 The Licensor retains ownership of the Data and related documentation, which are also protected under applicable copyright and database laws.
- 6.2 For use of the Data in scientific and/or academic publications, accepted scientific referencing conventions will apply and You will act reasonably in carrying out such referencing and will including in any publication such acknowledgment and/or citation text as may be provided to you by the Dutch BC Co-ordinator from time to time.

7 WARRANTY

- 7.1 Data may have been transcribed from analogue to digital format, or may have been acquired by means of automated measuring techniques. Although such processes are subjected to quality control to ensure reliability where possible, some data may have been processed without human intervention and may as a consequence contain undetected errors.
- 7.2 The Licensor gives no warranty as to the accuracy or completeness of the Data, including in the form in which they are cached or downloaded to your computer, as they may be affected by on-line conditions over which the Licensor has no control.
- 7.3 The data, information and related records supplied by the Licensor should not be taken as a substitute for specialist interpretations, and /or professional advice. You must seek professional advice before making technical interpretations on the basis of the materials provided.
- 7.4 The Licensor does not warrant that the Data will meet your requirements or that its operation will be uninterrupted or error free. This licence agreement does not affect your statutory rights.

8 LIABILITY

- 8.1 All guarantees, representations and warranties of any kind, whether express or implied, including, without limitation, the implied warranties of satisfactory quality, merchantability and fitness for a particular purpose or ability to achieve a particular result are hereby excluded, so far as such exclusion or disclaimer is permitted under the applicable law. You assume the entire risk as to the quality and performance of the Data. Should the Data prove defective, You (and not the Licensor) assume the entire cost of all necessary servicing or correction.
- 8.2 In no event shall the Licensor be liable for any damages, including loss of business, loss of opportunity, loss of data, loss of profits or for any other indirect or consequential loss or damage whatsoever arising out of the use of or inability to use the Data, even if the Licensor has been made aware of the possibility of such damages.
- 8.3 The Licensor accepts no liability for any loss or damage which may be caused by the condition of the file in which the information is provided and the Licensee is expected to operate suitable anti-virus software before loading it into its computer system. The Licensee also being responsible for ensuring that the form of the information received is compatible with its computer system and any other data with which the information is to be used.
- 8.4 Nothing in this Licence Agreement shall exclude or limit the liability of the Licensor or the Licensee for fraudulent misrepresentation or for death or personal injury resulting from the negligence of the Licensor or the Licensee.

9 DATA PROTECTION

- 9.1 The Licensor will treat any personal information provided or obtained, in accordance with Dutch law.

Annex A

9.2 Any personal information provided or obtained shall be used only for the purposes of providing the Data to the Licensee, for communication relating to updates and amendments, relating to the Licensor's products or services, and for system administration of the web server, unless otherwise agreed by the Licensee.

9.3 The Licensor will on request, delete or remove any personal information held from a Licensee.

10 TERMINATION

10.1 The Licensor may terminate this Licence Agreement by providing the Licensee with 30 days notice of such termination.

10.2 The Licence Agreement will terminate automatically if any of its terms are breached by the Licensee.

10.3 Upon termination all rights You have to use the Data will cease and You must destroy or delete the Data (including partial or modified versions and datasets derived from the Data) and all copies from all storage media in your control.

10.4 Clauses 1, 7, 8, 10.3 & 13 will survive termination of this agreement.

11 SEVERABILITY

If any provision of this licence agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions here of shall continue in full force and effect as if this licence agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

12 ENTIRE AGREEMENT

This licence agreement contains the entire agreement between parties relating to the subject matter and supersedes all proposals, representations, understandings and prior agreements, whether oral or written, and all other communications between parties relating to that subject matter.

13 GOVERNING LAW AND JURISDICTION

This agreement shall be governed by and construed in accordance with Dutch law and the parties submit to the exclusive jurisdiction of the Dutch courts.

I HAVE READ THE LICENCE AGREEMENT ABOVE AND AGREE WITH ITS TERMS AND CONDITIONS

Signed : **Date:**

Annex A

APPENDIX 1

DATA REQUEST FORM

Please complete this form to clarify the nature of your request. The request will then be considered against our access policy and in conjunction (as necessary) with partner organisations.

Name:	Company/Organisation:
Project:	
Address:	Phone:
	Fax:
	Email:

Please outline the type of data (counts, indices, phenology) required (including species, geographical area, temporal scale and date period), the reason for the request and the uses to which the data will be put (including any other parties involved and any planned changes in the format of the data e.g. entry into a database or GIS). Continue on an additional sheet if necessary:

Date by which data is required (subject to agreement)

Signed : Date:

Please send this filled in form to: chris.vanswaay@vlinderstichting.nl