

**GLOBAL FOREST BIODIVERSITY INITIATIVE (GFBI)  
DATA USERS' AGREEMENT**

**THIS AGREEMENT**, dated this 19th day of November, 2016, is made by the Global Forest Biodiversity Initiative (“GFBI”).

**WHEREAS**, the party or individual (Data User) has requested access to GFBI forest inventory data, by submitting GFBI Data Application through GFBI website (<http://www.gfbinitiative.org/data>) or via email; and

**WHEREAS**, Dr. Jingjing Liang, Assistant Professor of Forest Ecology, School of Natural Resources at West Virginia University (“GFBI Coordinator”) has acted on the Data User’s behalf and requested approval from the GFBI Steering Committee (<http://www.gfbinitiative.org/team>) via anonymous voting to release the GFBI data set to the Data User; and

**WHEREAS**, if Data User’s application is accepted, he or she will receive this agreement by email or mail, and will need to send GFBI Coordinator a written consent to the terms before the GFBI data set can be released; and

**WHEREAS**, the parties understand and agree that in order to maintain the integrity of the research process, the GFBI’s intellectual property, and the data owners’ legal rights, all parties involved must follow certain guidelines and standards of conduct, which are defined in this agreement and GFBI’s general guideline (<http://www.gfbinitiative.org/data>); and

**NOW, THEREFORE**, subject to the terms and conditions set forth herein, the parties agree to the following:

1. Confidentiality.
  - a. If Data User’s application is approved, GFBI Coordinator may disclose to him or her information related to the GFBI data set, all of which is to be considered confidential and proprietary (“Confidential Information”).
  - b. In consideration of GFBI Coordinator’s disclosure of the Confidential Information, Data User agrees that it will make no use of any of the Confidential Information except for the study set forth in the Data Application Form (Study) and will only disclose the Confidential Information to those of its employees, officers, directors, and legal and financial advisors who have a legitimate need to know the Confidential Information for the permitted purposes hereunder and who are informed of the confidential nature of the Confidential Information and who agree to be bound by obligations of confidentiality and non-use no less restrictive than those contained herein. To the extent that any such recipient takes any action, or fails to take any action, that would constitute a breach of such confidentiality or non-use obligations by such recipient (as if such recipient were a party to this Agreement), it will constitute a breach of such obligations as if the Data User had taken, or failed to take, such action him or herself.
  - c. The obligations of Data User under paragraph 1.b above will not, in any event, apply to any Confidential Information which Data User can demonstrate:
    - i. as shown by written records, was known to, or was otherwise in the possession of, Data User or its employees, officers, directors, or his/her respective legal or financial advisors prior to the receipt of such information from GFBI Coordinator;
    - ii. is obtained by Data User or its employees, officers, directors, or his/her respective legal or financial advisors from a source other than GFBI Coordinator and other than one who would be breaching a commitment of confidentiality or non-use to GFBI Coordinator by disclosing the Confidential Information to Data User or its employees, officers, directors, or their respective legal or financial advisors; or
    - iii. as shown by written records, is developed by Data User or its employees, officers, or directors independently of any disclosure of Confidential Information made hereunder.
  - d. Upon the completion of the Study, or at any time upon the request of GFBI Coordinator, and as may be requested by GFBI data owners, Data User will return to GFBI Coordinator all Confidential Information (and all copies thereof and extracts therefrom) or destroy all digital or physical Confidential Information (and all copies thereof and extracts therefrom). The destruction of Confidential Information shall be certified in writing by the Data User and sent to the GFBI Coordinator within three (3) business days upon the completion of the study.
  - e. In the event that Data User is required (whether by statute, regulation, law, or order of a court of competent jurisdiction) to disclose any Confidential Information or any of the facts disclosure of which is prohibited under this Agreement, Data User will provide GFBI Coordinator with prompt written notice of any such requirement, to permit GFBI Coordinator to seek a protective order or other appropriate remedy and Data User may disclose only that portion of the Confidential Information or the facts which its counsel advises is legally required to be disclosed.
  - f. All Confidential Information will remain and be the property of GFBI and/or data owners. This Agreement does not, and shall not be construed to, constitute the grant to the Data User of (i) any right or license to use any Confidential Information of GFBI for any purpose other than those specified in this Agreement, (ii) any patent right or license, or (iii) the right to file any patent application containing or based upon any Confidential Information.
  - g. The failure of any party hereto to exercise any right, power or privilege under any provision of this Agreement will not constitute a waiver and will in no manner affect its right to enforce such provision.
  - h. The parties understand and agree that money damages may not be a sufficient remedy for any breach of this Agreement by Receiving Party and that GFBI will be entitled to equitable relief, including injunction and specific performance, as a remedy

for any such breach. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement but will be in addition to all other remedies available at law or equity.

2. GFBI Co-authorship.

Data Users agrees to invite *GFBI Coordinators and other directly involved GFBI personnel* to coauthor in the manuscript developed based on the Confidential Information, and will invite GFBI Coordinator and his recommended GFBI personnel to participate in the development of the study and the writing of the manuscript. Senior authorship need to be offered to the GFBI Coordinator if GFBI data consist the majority of data behind the Study.

3. As the GFBI database consists of data sets contributed by individual data contributors, GFBI Coordinator is not to be hold responsible for the contents of the Confidential Information.
4. Both parties to this Agreement shall comply with all applicable laws, rules, regulations, and ordinances including, but not limited to, export control regulations.
5. No waiver of any term or condition of this Agreement or of any breach of this Agreement or of any part thereof, shall be deemed a waiver of any other term or condition of this Agreement or of any later breach of the Agreement or of any part thereof. If any provision of this Agreement shall be held illegal, unenforceable, or in conflict with any United States law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions or provisions hereof shall not be affected.
6. This Agreement expresses the entire understanding of the parties and replaces any and all former agreements, understandings, or representations relating in any way to the subject matter of this Agreement. This Agreement shall be interpreted according to the laws of the State of West Virginia.
7. This Agreement must be executed as an entity, and should not be separated in two or more counterparts.

Intending to be legally bound, the parties have executed this Agreement as of the day and year first set forth above.

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Data User (Print Name)

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Data User (Signature)

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Date