

# **Memorandum of Understanding (MoU)**

among the Members of the  
**DINA Consortium**

## **Introduction**

The DINA consortium (DC) is an unincorporated international partnership among organizations and individuals (“Members”) for collaborative development of an open-source web-based information management system for natural history data. The system is intended for assembling, managing and sharing data associated with natural history collections and their curation. Target collections include zoological, botanical, geological and paleontological collections, living collections, observation records, and molecular data. Ultimately, the DC members determine the scope and functionality of the system through the mechanisms outlined in this agreement.

## **1 Scope of this Agreement**

- 1.1 The purpose of this agreement is to specify the intention of DC and its members to cooperate in the activities of DC and to promote their active involvement in these activities.
- 1.2 This MoU provides a legally non-binding foundation for the members to work together, under mutual consent.
- 1.3 The members acknowledge that it is in their common interest and to their mutual benefit to work cooperatively through DC in a manner consistent with each member’s mission, objectives, and ethical standards. The MoU is not intended to be, and does not constitute in any way, a legal agreement, or impose any legal obligation on any party. The parties will attempt to resolve any dispute arising out of or relating to this MoU through negotiations among senior executives of the parties.

## **2 Goals**

The goals of the DC are to:

- 2.1 organize joint development of a professional open-source web-based software system for the management and sharing of natural history data, the DINA System;
- 2.2 contribute to open sharing of natural history data through the DINA System;

- 2.3 develop and implement best practices for effective distributed development of the DINA System;
- 2.4 improve the accessibility to user support and training for the DINA System;
- 2.5 promote the adoption of the DINA System by organizations around the world hosting natural history collections and natural history data.

### **3 Activities**

The DC will work towards its goals by

- 3.1 promoting discussion among its members and other stakeholders concerning the user interfaces and functionality that need to be supported by a professional open-source web-based software system for the management and sharing of natural history data;
- 3.2 developing, testing and implementing approaches to efficient distributed development of such a system among its members;
- 3.3 disseminating information about engineering and user functionality aspects of the DINA System
- 3.4 providing joint technical support and training opportunities for users and administrators of the DINA System;
- 3.5 promoting the establishment of data models, interfaces, and transport protocols used by the DINA System as international standards;
- 3.6 exploring cloud computing, mirroring, and other technical solutions improving the robustness and performance of the DINA System installations;
- 3.7 organizing talks, seminars, workshops and other outreach events, as well as web activities, promoting the adoption of the DINA System.

### **4 Type of cooperation, obligations of the contracting parties**

- 4.1 The contracting parties shall perform the work to the best of their ability, in the performance of their duties in good faith, on the basis of the state of the art in science and technology, using existing knowledge and experience gained during the period of cooperation and in close contact with each other.
- 4.2 All information required for the performance of the work shall be provided in good time by the contracting parties to each other after prior consultation. The documents, objects or other aids provided by one of the contractual partners to the contractual partners for carrying out the work shall be made available free of charge. They shall be used exclusively for carrying out the work

and shall be returned to the respective contractual partners at their request after completion of the work.

- 4.3 The contracting parties shall grant each other access to the results and project findings available at any time upon request.
- 4.4 None of the contracting parties shall be entitled to represent any of the other contracting parties in legal transactions or to make legally binding declarations on their behalf.
- 4.5 A relationship under company law or a relationship similar to a relationship under company law shall not be established by this agreement.

## **5 Governance**

- 5.1 The DC is governed by an International Steering Committee (ISC) comprised of volunteers, who are selected by and represent DC members. The ISC oversees the pursuit of goals, priorities, and activities proposed by DC members. The ISC will focus this effort by identifying key agendas, directing work, sharing information, raising funds, and monitoring outcomes. The ISC reviews prospective members and membership status changes using DC membership and member responsibilities (presented below) as criteria.
- 5.2 The ISC elects among itself a chair and a secretary, and will meet at least twice a year, using web conferencing solutions if appropriate. The ISC should maintain a DC web site.
- 5.3 The ISC will make sure that DC goals are achieved through the work of task forces made up of volunteers who are selected by and represent the DC members. DC task force members will have capabilities and resources to offer DC. New task forces and new task force members may be proposed by DINA members to the ISC for review and approval at any time.

## **6 Technical Committee**

- 6.1 The permanent Technical Committee (TC) of the DC coordinates software development among the DINA Core Members (defined below in 7.2) to produce a coherent software system fulfilling the requirements and needs of DC members. Each Core Member elects one representative to the TC and may replace its representative at any time by informing the ISC.
- 6.2 Under the general guidelines set out by the ISC, the TC is responsible for the long-term system architecture roadmap and technology choices, as well as the short-term coordination of the development efforts.
- 6.3 The TC elects among its members a chair, who is responsible for organizing the work and for reporting back to the ISC.

- 6.4 In the TC, each partner institution has one vote. The TC meets on a regular basis, and organizes its work in the way that best suits the goal of developing and maintaining the system components efficiently.
- 6.5 The TC should strive to reach consensus but may take decisions based on a two-thirds majority if reaching consensus is not possible. Decisions are documented in minutes.
- 6.6 The TC should be transparent and open, and publish the created documents online. These include descriptions on how the DINA system works, meeting minutes, decisions, development tasks and all technical documents guiding the software development. Technical documents may include roadmaps and technical specifications of services and interfaces, as well as manuals for users and administrators. The documents need to be kept up-to-date and/or versioned appropriately.
- 6.7 The TC should find technical solutions promoting efficient distributed and modular development and drawing from the skills of each of the participating developer teams.
- 6.8 The TC should respect the priorities of each of the Core Members participating in the development effort while keeping an eye on the overall priorities of the DC.
- 6.9 The TC assigns development tasks to each of the Core Member teams, and sets up an appropriate timeframe for delivery in communication with that team.
- 6.10 Each development team is responsible for finishing its tasks on time according to the TC specifications. The TC is responsible for having the finished software component tested and approved for inclusion in the system. A task is not considered completed until it has been approved by the TC.
- 6.11 Each partner in the consortium is responsible for the administration of its system installation(s) and for supporting its user community.

## **7 Members**

- 7.1 Membership in DC is open to natural history museums, herbaria, botanical gardens, and other institutions hosting natural history collections, and to representatives of government agencies, academic and other organizations or individuals involved in the development or deployment of informatics tools for natural history data. Organizations or individuals may apply to the ISC to become new members or can be nominated by DC members at any time. Membership in DC is by mutual agreement between the prospective member and the ISC.
- 7.2 DC has two membership categories, Core Members and Associate Members. Organizations or individuals signing this contract need to fulfill at least the following requirements of Associate Members.

7.2.1 **Associate Members.** Associate members are expected to:

7.2.1.1 have a commitment to provide long-term preservation of natural history collections and associated data for the purpose of providing access for research and other societal uses of such data;

7.2.1.2 aim to use the DINA System or part of the DINA System in managing natural history data for their user community, if they have such a user community;

7.2.1.3 provide feedback from their users to the ISC and the TC;

7.2.1.4 support and contribute to the goals of the DC;

7.2.1.5 provide technical expertise to the DC;

7.2.1.6 participate in DC activities and task forces

In order to enjoy the benefits of a core membership organizations or individuals on one hand have to fulfill all the above mentioned requirements of Associate Members, and on the other hand have to sign a development contract specifying the additional subsequent tasks to be fulfilled as a core member.

7.2.2 **Core Members.** Core members are expected to:

7.2.2.1 commit at least one half-time equivalent of resources to the development of the consortium goals, at least half of which should be available for code development. The other half may be devoted to code development but also to analyzing requirements, testing software, or other contributions to the DC priorities;

7.2.2.2 actively contribute to the work in the TC and commit to working under the guidelines and instructions of the TC.

7.3 Hereafter the terms “Membership” and “Member” applies to both Core Members and Associate Members.

7.4 Any signatory may change its membership status by signing or quitting a development contract. If the change involves a Core Member becoming an Associate Member, the member should strive to complete all its development tasks assigned to it by the TC before becoming an Associate Member.

7.5 Each member is responsible for the acts and omissions of its employees while participating in the activities under this MOU. Members are responsible for the costs of their participation in DC activities.

- 7.6 Membership in DC will not affect the normal operations of member institutions. In particular, membership will not inhibit a member's ability to:
  - 7.6.1 Use different information management systems for their natural history data, in addition to the system developed by the DC.
  - 7.6.2 Decide to discontinue the use of the system developed by the DC and leave the DC.
- 7.7 Membership provides benefits including, but not limited to, the following:
  - 7.7.1 raising institutional profile by associating with an international consortium developing a professional open-source information management system for natural history data;
  - 7.7.2 improving institutional credibility by contributing to the long-term stability, reliability and accessibility of open-source software for the management of natural history data;
  - 7.7.3 gaining influence over the direction of the development of such a system;
  - 7.7.4 improving the ability to build on the efforts of other leading institutions in developing customized software solutions fulfilling special needs;
  - 7.7.5 ensuring maximum long-term flexibility and cost-effectiveness in meeting local institutional needs for professional web-based information management systems for natural history data.

## **8 External Communication**

- 8.1 All press releases and other external communications are based on a shared understanding between the contracting parties and must be coordinated prior to publication.
- 8.2 The arrangements to planned press releases and other external communication are to be coordinated before each publication exclusively with the ISC.

## **9 Confidentiality and Prohibition to Use**

- 9.1 The contracting parties undertake to treat the work results of the respective other contracting parties as well as all other information, in particular of a technical and economic nature (hereinafter collectively referred to as "confidential information"),
  - 9.1.1 confidentially,
  - 9.1.2 not to make them available to third parties without the written consent of the contracting party concerned,

9.1.3 to protect them from access by third parties and

9.1.4 not to make them the subject of their own application for industrial property rights.

These regulations also apply to intentions, experiences, knowledge, designs and documents, including the pre-existing results which become known to them as a result of the cooperation in accordance with this contract.

- 9.2 The contracting party shall only be entitled to pass on this confidential information to any other companies or other third parties with the prior consent of the ISC, subject to the imposition of confidentiality obligations.
- 9.3 The foregoing obligations shall not apply to such confidential information which was already known to a contracting party prior to the commencement of the cooperation within the scope of this contract, which was independently compiled or otherwise lawfully obtained by this contracting party or which is common or becomes common knowledge without breach of this contract.
- 9.4 The contracting parties shall ensure in a suitable form that the employees, freelancers and subcontractors called in by them for the execution of this contract always maintain the above confidentiality.
- 9.5 The confidentiality obligation pursuant to the above Sections 9.1 to 9.5 shall not be affected by the termination of this agreement and shall remain in effect for five years after the termination of the MoU.

## **10 Code of Conduct**

- 10.1 In its own operations, the DC will adhere to generally accepted principles, such as prior informed consent and mutually agreed terms. The DC will also follow ethical standards, best practices, and policies developed to support the Convention on Biological Diversity and other relevant international treaties.
- 10.2 The DC recognizes that its members may have their own institutional codes of conduct and/or ethical standards. Nothing in the DC's Code of Conduct should be viewed as contradicting or superseding institutional codes and/or standards of conduct.
- 10.3 The DC shall seek each member's permission before displaying that member's trademark or logo or otherwise representing that the member endorses, participates in or is affiliated with the DC. The DC may publish the names of individuals involved in or affiliated with the DC provided those individuals have consented to such publication.
- 10.4 Nothing in this MOU is to be treated as creating a partnership, agency, trust, joint venture or the like. This MOU does not represent a commitment to fund or otherwise participate in any

specific project or initiative. Except for the expected contribution in staff time to the DC development effort by Core Members, as outlined above, any activity that requires reimbursement or contribution of funds or any other contribution by one signatory of the MOU to another will be set forth in a separate written agreement in accordance with applicable laws, regulations, and procedures.

- 10.5 Under the blanket of the MoU, it is understood that in some cases additional contractual agreements may be put in place to ensure that support and further development of modules, systems or infrastructure associated with DINA can be guaranteed for a specified timeframe. Further, contractual agreements may be used to secure external funding and/or resources to the benefit of the DC. In both cases, these contracts will be negotiated and issued between DC members using their contractual procedures and will not be negotiated with the Consortium itself. Thus, the governance of the contracts will be the responsibility of the institution(s) which are signatories.

## **11 Term, Termination**

- 11.1 This MoU comes into force after signature by the contracting parties and expires at the end of 31.12.2025, with the possibility of renewal.
- 11.2 Each contracting party shall be entitled to terminate this contract for good cause. Important reasons include, but are not limited to, the substantial restriction or modification of the funding, the suspension or reduction of the funding of a contractual partner, the withdrawal of a contractual partner or the fact that the results show that the objective of the project cannot be achieved.
- 11.3 Any associate member may cease participating in this MOU with written notice to the DC secretary 30 days prior to such withdrawal.

## **12 Final Provisions**

- 12.1 Development agreements as well as amendments and supplements to this agreement must be made in writing. This shall also apply to the revocation of the written form clause. Verbal ancillary agreements are invalid. This MOU may be modified or amended upon the request of any signatory party with the concurrence of all others.
- 12.2 Should individual provisions of this cooperation agreement be invalid or unenforceable or become invalid or unenforceable after conclusion of the agreement, the validity of the remaining provisions of this agreement shall remain unaffected. Rather, the provision shall be

replaced by a provision which is legally permissible and which approximates or corresponds to the original provision.

- 12.3 In the event of any dispute arising out of or relating to this agreement, the contracting parties agree to mediate before bringing any action before a court of law or arbitral tribunal.
- 12.4 Each contracting party shall be liable to the other contracting parties for the professional and timely fulfilment of the obligations assumed by it.
- 12.5 The contracting parties declare that the contents and media used in the cooperation projects (texts, images, graphics, ...) are free of third-party rights, i.e. either originate from the respective contracting party itself or they have previously obtained the permission of the authors as well as the persons depicted on the media. If claims of third parties have arisen against a contractual partner due to the content and media provided to the cooperation project, the other contractual partner who has made the problematic media and content available to the cooperation project must cooperate in the defense of these claims by the contractual partners and indemnify the other contractual partners against all claims of third parties.
- 12.6 The exclusive place of jurisdiction for all claims arising from and in connection with this contract shall be xxx. The law of xxx shall apply.

## Membership in DINA Consortium



Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

For organization: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ZIP: \_\_\_\_\_

Country: \_\_\_\_\_

Contact person: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_