

SUBITO FRAMEWORK AGREEMENT

New: Now covering the World including German-speaking countries

TOOLKIT FOR SIGN-UP BY PUBLISHERS

1. What is the Subito framework agreement?

The framework agreement or “general” agreement is a licence agreement to be entered into between each publisher and Subito e.V governing the supply of journal articles directly to end-users and via public libraries to their patrons.

The text has been worked out in a German and English version and both need to be signed and executed as both versions are equally binding.

The agreement comes with a so-called “side-letter” which binds Subito’s member libraries to adhere to the conditions laid down in the framework agreement.

2. What territories does the Subito framework agreement cover?

The Subito framework agreement comes in two (2) parts, each in English and German:

- **The Subito General Agreement – “Subito International”**) covering:
 - **the world for end-user deliveries;** and
 - **Countries listed in Annex 10** for deliveries to **public libraries;**
 - **Not covered are German-speaking countries,** (Germany Austria, Switzerland and Liechtenstein, or “GALS”).

- **Addendum No 1 to the Subito General Agreement – (“Subito GALS”)** covering:
 - **Germany, Austria, Liechtenstein, Switzerland (“GALS”);**
 - **German-speaking institutions listed in Schedule 15** (physically situated outside GALS).

3. What are the key issues on Subito International?

Outside GALS, the Subito International framework agreement runs for an initial term of three (3) years. The Subito International framework agreement allows a publisher to set a fee which Subito e.V. will pay in return for every article delivered to a customer of Subito e.V. by fax or by electronic means. The publisher will have to communicate the price per article to Subito e.V. (for details see para 8 and para 9 below). As part of the licence, Subito e.V. also offers to deliver articles for personal pick up from public libraries at a reduced library service fee of Euro 3.50 (year 1) and Euro 4.00 (year 2); the publisher and Subito e.V. will have to re-negotiate this fee from year 3 onwards.

4. What are the key issues of the Subito GALS framework agreement?

Within GALS, the Subito GALS framework agreement runs for a total **initial term of five (5) years**. However, terms and conditions for the supply of articles to students and academics within GALS are set to change after the first year and a half (after the first 18 months).

4.a Supply of articles in general: The Subito GALS framework agreement allows a publisher to set a fee which Subito e.V. will pay in return for every article delivered by electronic means to a customer (end-user or approved intermediary) of Subito e.V. in respect of any article that the publisher itself offers for online download (pay-per-view). The publisher will have to communicate the price per article to Subito e.V. for this purpose (for further details see para 8 and 9 below.).

For fax and post deliveries and for electronic supply where no pay-per-view of the publisher is available, Subito e.V. will pay the collecting societies operating in each of the GALS jurisdictions according to their tariffs, but make the statistics of any such deliveries available to the publisher directly. The highest such tariff (VG Wort's tariff) applies for crossborder deliveries within GALS payable directly to the publisher.

4.b Supply of articles to students and academics:

For the first 18 months from signature and as part of the Subito GALS framework agreement, Subito e.V. is authorised to deliver articles to **students and academics within GALS at reduced rates** set out in **Schedule 13** to the Subito GALS framework agreement;

After eighteen (18) months, electronic deliveries at reduced rates will be routed via an institutional library and the **rates for students and academics will increase every year** as set out in **Schedule 13** for the remainder of the five-year period (ie for 3.5 years).

During the remaining 3.5-year period, the **total quantity of reduced-fee deliveries is capped at ten (10) deliveries per journal per year per receiving institution**, unless the publisher and subito e.V. agree otherwise

pursuant clause 2.9.2 of the Subito GALS framework agreement. At the end of year five (5), the agreement is automatically renewed for consecutive one-year periods, unless the publisher and Subito e.V. make other arrangements.

5. Why should a publisher sign the Subito framework agreement (International and GALS)?

1. The phenomenon of document delivery, whether legal or illegal, is here to stay. The Subito framework agreement represents a break-through and benchmark for legally controlled – licensed – international cross-border delivery.

2. The agreement allows for a licensed and controlled approach to document delivery thereby avoiding channel conflicts. Electronic deliveries are DRM protected and individual delivery statistics are generated by Subito e.V. for each publisher. Subito e.V. bears the credit risk for non-payment by any of its customers.

6. What is the downside for publishers of not signing up for the Subito framework agreement (International and GALS)?

Foremost, the publisher loses the potential of reaching additional readers/customers.

Secondly, prior to negotiations, Subito e.V. distributed close to 2 million articles per annum at no fee or for a very low fee. It is reasonable to assume that a significant portion of this supply will convert to a fully paid licensing model. Consequently, non-participation leaves money on the table.

Thirdly, the library community may gain the impression that it is not worth negotiating with a particular publisher, if he or she is willing to forego this opportunity.

7. What exactly does the publisher have to do?

To bring the Subito framework agreement into operation, a publisher has to complete the following **five steps**:

- **Contact Subito e.V.** (www.subito-doc.de) by requesting a copy of the General Agreement (International Part) and Addendum No 1 (GALS) for signature (actually four copies of the General Agreement and Addendum No 1, two each in German and in English).
- **Fill in on page 1 correct name of company** entering into the General Agreement. **Check in Clause 4.7 (b) and (c)** that the prices for library-to-library delivery offered by Subito has been inserted (4.7(b) Euro 3.50 for year one; 4.7(c) Euro 4.00 for year two). **Fill in Annex 3** (contact information and payment information).
- **Fill in on page 1 of Addendum No 1 correct name of company** entering into the Addendum No 1. **Choose** among **two optional clauses** contained in **Clause 4 of Addendum No 1** as follows: Check box in **Clause 4.1, if you wish to allow sourcing of documents from electronic**

publisher databases (as opposed to permitting scanning from print only) – otherwise leave box 4.1 unchecked; Check the applicable box in **Clauses 4.2 if you wish to relax DRM requirements for certain territories** (4.2.1 through 4.2.5) mentioned – or leave boxes unchecked to maintain DRM requirement for all territories.

- **Send** two German and two English duly executed copies of the General Agreement and the Addendum No 1 to Subito e.V.
- **Receive** one German and one English version back from Subito.

8. What will follow after returning signed copies to Subito e.V.?

Now that the publisher has proof that the agreement was validly entered into, Subito e.V. still needs to know:

- **How much** it will have to pay to the publisher per delivery of each article;
- **Which journals** and articles appearing in them are owned or controlled by the publisher.
- **For the supply within GALS** (governed by Addendum No 1), **which journal articles are available as pay-per-view.**

9. How and by when does the publisher have to provide this information to Subito e.V.?

- **For Subito International and GALS**, within **six weeks** of signature, **submit a price list** in conformity with **Annex 5** (at least one price per journal, with the option of pricing at a discount for students and other non-commercial customer groups).
- **For Subito International and GALS** within **six weeks** of signature, **submit a list of journals** and relevant meta data information in the format as specified in **Annex 7**.
- **For Subito GALS**, within **six weeks** of signature of the General Agreement or as soon as practicable after signature of the Addendum No 1 (if signed subsequently), **enter data and relevant meta data** information in the format as specified at **Electronic Journals Library** (Elektronische Zeitschriftenbibliothek, **"EZB"**, <http://rzblx1.uni-regensburg.de/ezeit/>).

10. What about the members of Subito e.V. and their delivery practices?

The member libraries of Subito e.V. will have to indicate their adherence to the conditions set forth in the signed General Agreement and Addendum 1. This is done pursuant to the exchange of a side-letter:

- Subito e.V. will send to the publisher four copies of the "side-letter", two in German and two in English. **Execute and return** a German and English version of the side-letter.

○ As part of the side letter, you will be issued with a password and pin to check online which members of Subito e.V will apply the terms of the agreement to their own platforms (which may be run separately from the Subito portal).

December 2007

