

MEMORANDUM OF AGREEMENT

De Gruyter Publisher Guarantee

Made between De Gruyter (“The Publisher”)

and

.....
 (“The Subscription Agent”)

1. Aims of this Agreement

- The Publisher and The Subscription Agent recognize the impact of increased uncertainty on institutional customers caused by recent bankruptcies among subscription agents.
- The Publisher and The Subscription Agent agree that concerted action is required to restore customer confidence in service providers, and particularly in arrangements to maintain access to content should an intermediary’s business fail.
- The Publisher and The Subscription Agent agree that in signing this Agreement they will implement together the provisions of the “De Gruyter Publisher Guarantee” to the mutual benefit of all stakeholders.

2. Object of this Agreement

- The “De Gruyter Publisher Guarantee” exists to ensure that institutional customers retain access to subscribed content in the event that financial difficulties prevent a Subscription Agent from fulfilling their normal functions in the supply chain.
- The “De Gruyter Publisher Guarantee” enables The Publisher to take over the duties of the Subscription Agent in fulfilling subscriptions and standing orders to their mutual institutional customers, should the Subscription Agent be unable to continue in business.
- The “De Gruyter Publisher Guarantee” provides that The Publisher will guarantee to institutional customers their ongoing access to the Journals and Book Series of The Publisher, and that these will be fulfilled direct to the institutional customer in the event that the Subscription Agent is unable to continue its business.

3. Entry into Force of this Agreement.

- The Publisher and the Subscription Agent agree that the provisions of the De Gruyter Publisher Guarantee will come into force under the following circumstances:
 - The Subscription Agent is declared insolvent or declares itself insolvent.
 - The Subscription Agent is referred by The Publisher or its service providers to a debt collection agency for nonpayment of The Publisher’s invoices.
 - The Subscription Agent is unable to continue in business for a period of at least 30 days

due to catastrophic systems failure or other unforeseen event, including the advent of Force Majeure.

4. Duties of the Subscription Agent

- The Subscription Agent will place at the disposal of The Publisher a customer order file containing details of journal subscriptions and book series standing orders for the Publisher's products currently fulfilled by the Subscription Agent.
- The customer order file will be in Excel or similar proprietary format and will contain as a minimum:
 - ISBN/ISSN and Title, Quantity, Series Name
 - Supplier's and end customer's order references.
 - Discount
 - End customer name, address and contact details.
- The updated, complete customer order file will be made available to The Publisher twice during each year, the exact timings to be agreed between The Publisher and the Subscription Agent.
- The Subscription Agent will provide pre-payment for a minimum of 75% of the value of journals subscriptions ordered from The Publisher, the payment to be made at the time the order is placed. The outstanding 25% of the value of subscription orders placed will be due for payment within The Publisher's normal payment terms as granted to The Subscription Agent.
- The Subscription Agent will use its best efforts to communicate its participation in the De Gruyter Publisher Guarantee to institutional customers so that the benefits of the scheme can be realized. Such efforts to include (but not be limited to) the inclusion of the De Gruyter Publisher Guarantee logo on relevant communications, and promotion alongside the Subscription Agent's own services.

5. Duties of The Publisher

- The Publisher undertakes to provide secure electronic storage for customer and order details supplied by The Subscription Agent and will use its best efforts to ensure that:
 - The data can only be accessed by named, senior staff authorized to use it solely for the purpose of ensuring business continuity.
 - The data cannot be copied or moved onto storage media other than The Publisher's centrally provided servers.
- The Publisher warrants that the data will only be accessed and used should the provisions of Clause 3 (Entry into Force of this Agreement) come into effect.
- The Publisher will use its best efforts to ensure that the Subscription Agent is able to continue in business should adverse financial circumstances intervene, and to support the Subscription Agent so that difficulties can be overcome.
- Should it become necessary under the provisions of Clause 3 (Entry into Force of this Agreement) that the publisher fulfill orders direct to the Subscription Agent's institutional customers, the Publisher will use its best endeavors to maintain high service levels and

ensure there is no interruption to access or delivery of content.

- The publisher will provide content to the institutional customer at the same terms as those given by the Subscription Agent, as far as these are known to the publisher and can be replicated by The Publisher's procedures and systems.
- The publisher will use its best endeavors to market and promote the De Gruyter Publisher Guarantee to Subscription Agents and institutional customers in order to establish and promote the credibility of the Guarantee and maximize its value to all stakeholders. Such measures to include, but not limited to:
 - Provision of logos and other material
 - Promotion on the publisher's website
 - Press and PR work.
 - Promotion in conversations with institutional customers and intermediaries.

6. Information

- The Publisher and the Subscription Agent will provide the other with appropriate non-confidential information relevant to this Agreement.
- Neither The Publisher nor the Subscription Agent will disclose to any third party the terms of this Agreement or privileged information obtained by either party as a result of this Agreement.

7. Management strategy

- In each year of this Agreement at an appropriate time the Commission Representative and a representative of De Gruyter will agree the following, in writing:
 - The timing for provision of the Subscription Agent's customer and order files to the Publisher.
 - Estimates of the value of The Subscription Agent's order to be placed with De Gruyter during the next trading year.

8. Term and termination

- This Agreement will initially be valid for a term of 12 months from signature and will automatically renew for a further 12-month period unless written notice is given by either party at least 3 months before the renewal date.
- No liability will result from the non-performance of any obligation of this Agreement during any period of Force Majeure. If Force Majeure continues for more than three months, this Agreement will immediately terminate.
- Should either party be in material breach of the terms and conditions of this Agreement and fail to remedy such breach within 30 days of being given written notice by the other party, this Agreement will terminate forthwith and without further notice.
- Should The Publisher be declared bankrupt, take advantage of any insolvency law in its jurisdiction, liquidate its business, or otherwise cease its usual trading operation for any reason, this Agreement will terminate forthwith and without further notice.
- Termination of this Agreement for whatever reason will be without prejudice to any claim

for damages or otherwise and without prejudice to any money already paid or then due to either party by the other.

9. General

- This Agreement may not be assigned by The Publisher or The Subscription Agent without the written consent of the other party.
- All notices given and amendments mutually agreed under this Agreement will be deemed sufficiently served if sent by registered post or fax to an address commonly used by the addressee for the receipt of such correspondence.
- If any differences arise between The Publisher and The Subscription Agent touching the meaning of this Agreement or the rights and liabilities of the parties to it, then The Publisher and The Subscription Agent will attempt to resolve the matter, failing which it will be referred to the arbitration of two persons (one to be named by each party) or their umpire, provided that any dispute between the parties not resolved by arbitration or agreement will be submitted to the jurisdiction of the courts.
- This Agreement will be construed in all respects in accordance with the law of Germany

As witness the hands of the parties hereto or their duly authorized representatives.

For and on behalf of the Subscription Agent:

Signature

Initials

Name

Date

For and on behalf of The Publisher:

Signature

Initials

Name

Date