

SFWA Model Author Collaboration Agreement, Version 1.0

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Contact : SFWA Contracts Committee -- contracts@SFWA.ORG

The following is SFWA's model Author Collaboration Agreement.

As part of its continuing effort to educate writers about publishing contracts, the Contracts Committee periodically writes new sample contracts and updates old sample contracts. Address comments or suggestions to the Chair, SFWA Contracts Committee at contracts@sfga.org

The model agreement is based on a collaboration agreement written by writer and filmmaker James A. Conrad. The members of the Contracts Committee who worked on the 2017 revision of the contract were: Michael Capobianco, Jim Fiscus (chair), Ginjer Buchanan, Jeff Hecht, Ken Liu, Rosemary Smith, and Anne Leonard. SFWA Director-at-Large Lawrence Schoen served as an ex-officio member of the Committee.

The agreement was written with the assistance of SFWA's attorney. SFWA's model contracts are written as generic guides to help writers and others understand common publishing contracts and to help them negotiate better contracts. They are not intended to be and should not be used as boilerplate contracts, and any such use is not approved by SFWA. SFWA's model contracts have been written by writers for writers, and are for educational purposes only.

Legal Disclaimer: Neither the model agreement nor the comments thereto are intended to be or should be understood to be legal advice. The issues presented in the model agreement are not an exhaustive list of the issues that may arise, and other important issues may need to be addressed depending on the nature of the relationship of the parties, the jurisdiction that they are contracting in, and other factors. You should consult a competent attorney familiar with the business of publishing as well as the law of the applicable jurisdiction.

[Brackets] show where information needs to be inserted, such as the title of the story, or where the language may vary, such as the language or languages for which a license has been granted and the geographical limits of the license.

NOTES on the text are inset with blue text.

Model Author Collaboration Agreement

This Agreement (the "Agreement") is made by [enter Co-Author "A"'s name] and [enter Co-Author "B"'s name] hereafter referred to as the "Parties" and "Co-Authors," and further identified as follows:

(First Author) Co-Author "A" Name, Address, Phone, Email (fill in all that are available):

_____	_____
Name	Email Address
_____	_____
Address	City, State, Postal Code
_____	_____
Phone	Cell Phone

Additional Information

(Second Author) Co-Author "B" Name, Address, Phone, Email:

_____	_____
Name	Email Address
_____	_____
Address	City, State, Postal Code
_____	_____
Phone	Cell Phone

Additional Information

The following sets forth the Parties understanding regarding their respective obligations with respect to, and rights in and to, the work described below.

1(a). The Parties agree to collaborate in the writing of a [enter nature of work: story, novel, a series set in a universe created by the Parties, etc.], hereinafter referred to as the "Work," having the following working title and subject matter:

Working Title

Subject of work and short description of work

The following sets forth the Parties understanding regarding their respective rights in the Work and the royalties and other considerations to which the Parties may be entitled pursuant to this Agreement:

1(b). The Parties shall collaborate in the writing, editing and completion of the Work, as well as the sale or other disposition of the Work. Each Party shall keep the other Party informed in a reasonable and timely manner of their progress and shall inform the other Party in a reasonable and timely manner of any changed circumstances affecting the first Party's time or capacity to contribute to the Work as previously agreed upon. Each Party shall respond to communications from the other Party regarding the Work and from others having an interest in the Work in a reasonable and timely manner so as not to harm or unreasonably delay the creation, sale, or other disposition of the Work.

NOTE: Communications are crucial to a collaboration's success, and that means collaborators should inform each other of falling behind or events such as family emergencies.

1(c)(i). In the absence of a sale, as specified in Clause 1(c)(ii), there is no time limit imposed in efforts to write, edit and complete the Work, or achieve the sale, option, or other disposition of the completed Work.

NOTE: While this clause has no enforceable expectations with regard to the completion of and disposition of the Work, collaborators generally expect each other to do the work they have agreed to do, and to do so on schedule. But in the absence of a performance metric, it can be difficult to enforce such a schedule. Clauses 8 and 9(k) discuss possible legal action a Party may take in case of failure by the other Party. Clause 9(j)(ii) requires the Parties to join in mediation or non-binding arbitration with each other before filing suit.

1(c)(ii). If the work is incomplete at the time it is sold to a publisher with a contractual deadline, the Authors agree that they will complete and submit the work by the deadline specified in the contract with the publisher.

1(d). Either Party may terminate this Agreement prior to completion of the Work in the event that the other Party commits a material breach of the terms and conditions of this Agreement. The Party seeking termination shall give the other Party a written notice clearly stating the nature of the breach and requesting that the breach be remedied within 30 days of receipt of the notice.

NOTE: The most likely breaches are failure of one co-author to meet deadlines, especially any set in a publishing contract, and irreconcilable creative differences. Failure of one party could easily kill the project. Authors may want to spell out possible consequences to certain breaches, such as missed deadlines or creative differences.

1(e). If the Parties terminate this Agreement prior to the completion of the Work, either because of a breach by one Party or by mutual agreement, the Parties shall retain the

intellectual property they have brought to the project, which may or may not be included in Clause 2(a)(ii), below. Following termination, the Parties may produce works that involve joint intellectual property only with the written consent of the other Party. This provision shall survive the termination of this Agreement.

NOTE: Our main expectation is that this clause would apply to material created by one of the authors before this agreement was signed. For example, one author may have created the world in which the work is based, and even published work in that world. The authors might want to spell out the ownership of material that might be involved. The Parties may also want to explicitly address the disposition of any writing that has been completed at the time of the termination if this Agreement is terminated before the Work has been completed. If they do not, there is a danger of having a stalemate over disposition of the material.

1(f). In the event of the death or disability of one of the Authors before completion of the Work, the surviving Author may, at his or her option, complete the Work and this Agreement shall not terminate.

NOTE: The Parties should consider spelling out in greater detail what will happen in case of death or disability, including assignment of the copyright and income to heirs, and should include a detailed appendix to this Agreement and cite it in this Clause. Authors should always have an up-to-date will and literary will spelling out what will happen to their literary estates and explicitly addressing the disposition of collaborations.

2(a)(i). The copyright in the Work shall be held jointly (without the right of survivorship) by the Parties in the percentages set forth below for the term of the copyright, and for any additional or new copyright which may hereafter be embodied in any copyright law throughout the world.

_____	_____
Name of Co-Author A	Percentage
_____	_____
Name of Co-Author B	Percentage

NOTE: The phrase "without the right of survivorship" means that the copyright does not automatically vest in one Party upon the death of the other. A Co-Author who wishes to leave copyright to their collaborator should so specify in their will.

2(a)(ii). Notwithstanding the foregoing, or any other provision in this Agreement, any rights held, or licenses issued, by the Parties to material that is not related to the Work are retained by the Party holding the right. The phrase "not related to" includes, but is not limited to, material created by a Party prior to the execution of this Agreement.

NOTE: The Parties may want to add language covering other situations, such as

material subsequently created that is in the same world and/or that relies on some of the same characters created for the Work. For example, one party might have created the future world and characters and previously sold stories based on them. Would that Co-Author be able to continue doing so, and would they be able to use any material created during the collaboration?

2(a)(iii). Notwithstanding the foregoing, or any other provision in this Agreement, all property and other rights in and to the following material contained in the Work is retained by the specified Party, free of any claim of any kind from any other Party (the “Non-Retaining Party”).

Co-Author retaining rights	Description of material excluded from Clause 1(a):

NOTE: There are a number of circumstances that could require more detailed language. For example, if the Work was set in a world created by Author A, Author A would likely retain intellectual property rights to the world they had created (trademarks, etc.) In cases of this sort, Author A might explicitly license use of the world to Author B for the purposes of the Work covered by the agreement, or this Agreement might provide for a different ownership percentage. Other circumstances might include a situation where a junior author will write all or most of the Work based on a senior author’s outline or synopsis as a work for hire. Such collaborations are beyond the scope of this model contract.

2(a)(iv). Notwithstanding the foregoing, or any other provision in this Agreement, all property and other rights in and to the following material contained in the Work shall be subject to the following ownership percentages:

Ownership Percentage between		Description of material:
Co-Author “A”	Co-Author “B”	

See prior NOTE: In addition, the parties may also want to explicitly state how any material created after conclusion of the Work and termination of this Agreement should be handled, for example, should one of the Authors write additional stories based in the world created by the Work.

3. All monies, advances, proceeds, and other consideration (including but not limited to advances, royalties, credits, commissions, or any other payments, including any payments

resulting from any publication of the Work or any derivative of the Work) from the sale, lease, license, or other disposition of any and all rights in and to the Work, or specified materials in the Work, now or which may hereafter come into existence, shall be apportioned between the Parties in accordance with the percentages in Clause 2(a)(iv).

NOTE: The rights covered here would likely include: all print rights, for hardcover and paperback books and for magazines; electronic rights (e-books); audio and podcast rights; foreign print and other foreign media publication rights; film, television, stageplay, radio, and all other production rights; game rights or any other derivative rights; any other computer-related or new media-related rights; and merchandising rights.

4(a). With respect to any copyright registration for the Work, both Co-Authors are to be listed as authors of the Work and as copyright claimants of the Work, and their names are to be positioned first and second on such copyright registration as their names appear in Clause 2(a)(i).

4(b). The authorship of the Work shall be and shall appear on the Work, and on any other material, including, but not limited to, advertising, with each name (or pseudonym) in an identical font size and color as follows, immediately following the title of the Work, together in the order set forth above, in the following or substantially similar manner:

by [enter name of First Author or pseudonym] & [enter name of Second Author or pseudonym] OR [enter joint pseudonym.]

NOTE: Some collaborators may want to use a variation, such as "with" instead of "and," or may use a single pseudonym for the jointly-written work, as was done with the books credited to Ellery Queen. It can be important to clearly designate use of the ampersand (&) instead of the word "and," if that is desired. Should they wish to do so, the Parties can modify the by-line font and placement requirement to meet their requirements.

The Parties will inform their agent or agents (if applicable) and all publishers and licensees of this requirement.

5(a). Each Party hereto warrants and represents to the other that any material written and provided by the Party in connection with the Work is, and shall be, solely the work of that Party. Each Party further warrants that any such material does not, to the best of their knowledge, infringe upon any copyright or upon any other proprietary or personal right of any person, firm or corporation.

5(b). Should the Parties, either individually or together, be sued for alleged violation of 5(a), the Parties agree to jointly defend any such action. No settlement may be reached without the written agreement of both Parties.

NOTE: Although one collaborator may not have contributed knowingly to the infringement, it would be typical for an infringement suit to be brought against both authors. This Agreement provides that both Parties will "jointly defend," and thus may subject the non-culpable party to the expenses of litigation. Parties may wish to exclude

that requirement, or include a provision requiring the culpable party to indemnify the non-culpable Party in an action finally sustained in a court of law.

6(a)(i). The Parties agree that [insert name of literary agent or agency who will represent the Work] shall be the exclusive agent or representation of the Parties for the purpose of sale or other disposition of the Work or any rights therein, until such agent or representation is terminated by the Parties, or ceases to represent the Work for any reason. In the absence of an agent or other representation, all said payments are to be made directly to the Co-Authors in the percentages stated in this Agreement. If no agent or representation is available at the time of signing of this Agreement, the phrase "Representation information not available at the time of signing" shall be written in the space above.

6(a)(ii). If split payment is not practical for the payor, [Co-Author A or Co-Author B] agrees to receive payment and forward [Co-Author A or Co-Author B] the proper fraction of the proceeds.

NOTE: We added this note to accommodate situations involving self-publication and some other transactions, such as some sales to foreign markets.

6(b). Should either or both Parties wish to sever their relationship with the designated agent for work the agent has not represented, or should the agent chose to sever his or her relationship with either or both Parties, the Parties shall mutually agree on new representation.

6(c). If the work has been sold and the relationship with the designated agent is terminated because the agent fails in their responsibility to represent the Parties or does not forward moneys, statements, or other related documents-in a timely fashion, Parties may request that moneys due them be paid directly to them individually.

7. Expenses of any amount for which the Parties are mutually responsible shall be incurred only with prior written mutual consent. Either Party may elect to absorb an expense in order to advance the production or promotion of the Work and in such instance the Party making the expenditure cannot later require full or partial compensation for such expense from the other Party.

8(a). Notwithstanding any provision to the contrary, the parties hereto hereby acknowledge that monetary damages may not provide a remedy in the event of a breach of this Agreement in some instances. Therefore, in addition to any other rights that they may have, each of the parties hereto acknowledges the other's right to enforce this Agreement by filing suit or otherwise resorting to court process to obtain an injunction, both mandatory (specific performance) and preventive. The prevailing party in any action to enforce this Agreement, whether or not that action involves injunctive relief, shall be entitled to costs and fees, including reasonable attorneys fees, from the non-prevailing party. This paragraph 8(a) shall survive the termination of this Agreement for any reason unless specifically released in a signed writing at the time of termination.

8(b). Prior to either Party bringing suit against the other Party for breach of this Agreement, the Parties agree to attempt to resolve the issues involved through mediation or non-binding arbitration.

9(a). It is expressly understood that the Parties hereunder are not, and do not intend to be, by means of this Agreement, joint venturers or partners and that this Agreement shall not be construed to constitute the creation of same.

9(b). **OPTION 1.** This Agreement is for a one-time collaboration only. Any sequels to the Work, or works derived from the Work, shall be subject to a new agreement. Any new agreement for any sequel or derivative work shall take into account the shared copyright ownership of the material contained in the original Work.

9(b). **OPTION 2.** This Agreement shall apply to all subsequent works by the Co-Authors in the series [overall name of series] or the shared universe [name of the shared universe], unless specified otherwise in writing prior to starting the new work.

NOTE: The Parties may want to specify what should happen should one of the Co-Authors want to continue writing in the series or world while the other does not wish to do so. Depending upon what they wish, they could chose either Option 1 or Option 2.

9(c). The terms of this Agreement shall be in effect for the entire term of copyright of the Work.

9(d). Notices by mail shall be addressed to each Party's address as given above, or to such other address as any Party may specify by written notice to the other Party and copied to all publishers, licensees, and the literary agent representing the Work.

9(e). For purposes of convenience and expediency, [insert name of the Co-Author or literary agent who shall be the contact] shall be the primary spokesperson and contact point in matters regarding the Work and the publication process. Each Co-Author shall keep the other Co-Author informed in a timely manner of any matters requiring mutual decisions regarding the Work.

9(f). This Agreement shall be executed in at least three original copies so that one fully executed copy may, and shall, be delivered to each Party and to the agent representing the Work, or to the publisher, whichever is applicable. The Co-Author identified as spokesperson in the immediately preceding paragraph of this Agreement shall have initial possession of the third executed copy.

9(g). The terms and conditions of this Agreement shall be binding and inure to the benefit of the executors, administrators, and successors and assigns of each Party. This Agreement may not be assigned by either Party without the prior written consent of the other.

9(h). This Agreement constitutes the entire Agreement between the Parties, and supersedes all prior writings or oral agreements. This Agreement may be amended only by a written agreement clearly setting forth the amendments and signed by both Parties.

9(i). The failure of a Party to enforce any provision or object to any breach of this Agreement shall not constitute a waiver nor affect that party's right to enforce every other provision of the agreement.

9(j)(i). Regardless of its place of execution, this agreement shall be interpreted under the laws of the State of [name of state]. The Parties agree that any action to enforce this Agreement shall be brought in the appropriate state or federal court in the State of [name of state], and that such court shall have personal jurisdiction over each of the parties.

Note: Differences in jurisdiction, particularly international ones, can have significant effects upon the outcome of a lawsuit. Parties residing in different jurisdictions should consider this clause carefully, as at least one of them needs to live in the state given jurisdiction.

9(j)(ii). Except as specified above, this Agreement shall be binding on any and all heirs and assigns (if assignment is consented to).

9(k). If any term or condition of this Agreement is found by a court of competent jurisdiction to be illegal, unlawful or otherwise unenforceable, the parties agree that such term or condition shall be reformed as nearly as may be possible to carry forth the intentions of the Parties and that such illegality, unlawfulness or unenforceability shall not act to void any other term or condition of this Agreement nor to void the Agreement as a whole.

9(l). The Parties shall have the right to make known or reference the occurrence of this collaboration, even if sale, option, or other disposition of the Work does not occur.

9(m). Each Party acknowledges that he or she has read and understood this Agreement, and has had the opportunity to review this Agreement with counsel of their choosing, prior to execution.

In witness whereof the parties have executed this contract in [number of copies] duplication originals on this ____ day of _____, 20__

Signature of Co-Author A

Date

Co-Author A's Social Security or Tax ID Number

Signature of Co-Author B

Date

Co-Author B's Social Security or Tax ID Number