

AUTHOR CHALLENGE 2011

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Authors can accept the terms of this agreement while submitting their manuscript online.

For more details, go to:  
[www.meegenius.com/challenge/welcome](http://www.meegenius.com/challenge/welcome)



**MeeGenius!**

MeeGenius appreciates your interest in publishing a manuscript on the MeeGenius publishing platform and apps. By clicking below and submitting the manuscript, you agree, and/or agree on behalf of your co-creators (if any) acting as each co-creator's agent, on a joint and several basis among you and your co-creators, to this publishing agreement ("Agreement") as follows:

**1. Submission and Review Process.** MeeGenius only accepts original manuscripts that are complete and suitable for publication. MeeGenius is not accepting submissions that have been previously published. Accordingly, you represent, warrant and covenant to MeeGenius as follows:

- that you and any co-creator(s) are the only and sole creators of the manuscript;
- that the manuscript has not in any part been published or made publicly available in any format or medium;
- that all statements in the manuscript asserted as facts are true or based upon reasonable research for accuracy;
- that the manuscript is original, and no part was taken from or based upon any other protected literary, dramatic or musical material, motion picture or any other work produced or owned by a third party person;
- that the manuscript does not infringe any copyright, trademark or other rights of any other person or entity;
- that the manuscript contains no libel, nor violates any rights of privacy, or of publicity, nor is contrary to law in any way;
- that the title of the manuscript may be legally used fully as provided in this Agreement;
- that neither you nor any co-creator(s) have assigned, pledged or otherwise granted rights in the manuscript to any other person or entity; and
- that you and any co-creator(s) have full power to enter into this Agreement and make the grants of rights granted below.

MeeGenius may accept or reject any submitted manuscript at MeeGenius' sole discretion at any time including if it discovers at any time during the publication process or after publication that any of the foregoing representations, warranties or covenants are incorrect or were or have been breached or violated.

If the manuscript is accepted, you will be responsible for causing any co-creator(s) who contributed to its creation (e.g., author, illustrator, photographer, etc.) to formally accept the MeeGenius, Inc. Online Publishing Agreement for Co-Creators, available at <http://www.meegenius.com/r/challenge/MeeGenius-CoCreator-Publishing-Agreement.pdf>. Any failure to do so does not in any way nullify or otherwise affect any of rights granted to MeeGenius under this Agreement, though MeeGenius' may withhold credit and/or payments from any co-creator(s) until such formal acceptance is executed according to instruction.

An accepted manuscript will be referred to in this Agreement as a "Work."

If MeeGenius fails to either (a) send you formal notice of its acceptance of the manuscript within one hundred and eighty (180) days after you submitted it or (b) publish the Work within twelve (12) months of such formal acceptance of the manuscript, then the sole remedy that you and any co-creator(s) may seek shall be to terminate this Agreement and any and all rights granted to MeeGenius under this Agreement, and MeeGenius shall have no liability or obligation to you and any co-creator(s).

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- create a series or other derivative eBooks based on one or more of the story lines, characters, specific passages of text, actual illustrations or derivatives illustrations in the style thereof, or other aspects of any of the Work(s); or
- through technical features of the MeeGenius publishing platform or apps, enable clients and end users to modify, enhance or adapt, or create derivative works (including without limitation print-on-demand, video, analog or digital recordings, etc.) of, the Work for their personal enjoyment or as may be permitted by “fair use” or otherwise under applicable copyright and similar laws.

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**Exclusions; Exceptions.** No royalties will be owing upon any expiration or termination of the copyrights in the portions of the manuscript upon which the Work is based. No royalties are payable on sales of the MeeGenius app, publishing platform or associated service, even if the Work is accessible or featured thereon or therewith. MeeGenius may offer any products incorporating the Work at any price, for any amount of time in any market, in MeeGenius’ sole discretion. Notwithstanding the above, if the Work is bundled with other works or provided as part of a subscription service, MeeGenius will pay a pro-rata share of the Net Receipts attributable to the Work calculated based on metrics and formulae that MeeGenius may decide to use to measure, in an auditable manner, the value of including the Work in such bundle or service.

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### 3. Publication.

**Credit; Rights of Publicity.** MeeGenius will credit you and any co-creator(s) appropriately in the style, manner and format it determines generally for publications on the MeeGenius publishing platform or apps. You and any co-creator(s) hereby grant to MeeGenius the nonexclusive right to use, with the right to sublicense the use of, your and any co-creator(s)'s name (and, if applicable, any pseudonym) as well as your and his/her/their likeness, voice and biographical material, to advertise, promote and otherwise commercially exploit the Work.

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**Dispositions of "Other Rights."** If either party (i.e., MeeGenius, on the one hand, or you and any co-creator(s), on the other hand) exploits or disposes of any "Other Rights" in the Work, then such party will (a) notify the other party in writing of such proposed exploitation or disposition during the development stage, (b) involve such other party as reasonably appropriate or necessary, (c) provide a copy of the final or proposed to be final written agreement governing such exploitation or disposition, and (d) upon the other party's reasonable request, confirm in writing signed by such party and any third party involved that all obligations to share any proceeds as provided in this Agreement will be met. The parties will use commercially reasonable efforts not to interfere with each other's development of any bona fide opportunities.

**"Other Rights" Payments.** In respect of "Other Rights," MeeGenius will retain or be paid fifteen percent (15%) of the aggregate gross proceeds actually received upon any such exploitation or disposal of any "Other Rights." All amounts owing to MeeGenius for "Other Rights" shall be paid within thirty (30) days of receipt and be accompanied by a statement of account of sufficient detail to allow verification of the calculation of the amounts being paid.

**Others Conditions.** Notwithstanding the foregoing, any exploitation or disposition by you and any co-creator(s) of "Other Rights" will be subject to the following:

- such "Other Rights" may not conflict with eBook Rights granted above; and
- such "Other Rights" may not conflict with any "Other Rights" previously exploited or disposed of by MeeGenius as provided above; and
- you and/or any co-creator(s) agree to notify MeeGenius in writing of such proposed exploitation or disposal and give MeeGenius the opportunity for a period of thirty (30) days following its receipt of such notification to match any bona fide third party proposal. MeeGenius will have the right to verify any third party offer to its satisfaction,

and you and any co-creator(s) agree to cooperate as reasonably requested to effect such verification; and

- you and any co-creator(s) agree to cause MeeGenius to be credited as the original publisher in a manner prescribed or approved by MeeGenius; and
- you and any co-creator(s) agree to pay to MeeGenius fifteen percent (15%) of the aggregate gross proceeds actually received by you and any co-creator(s) upon exploitation or disposition of any such “Other Rights” by you.

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**Infringement.** In any claim against a third party for infringement of the manuscript or Work, you authorize MeeGenius, at its cost and expense, to bring any actions, including to make you and any co-creator(s) co-plaintiff(s) and with full authority to settle in its sole discretion, but MeeGenius will not be liable to you or any co-creator(s) for any failure to take action. Any recovery from any claim will be applied first to reimburse MeeGenius’ cost and expenses, with the balance to be divided equally between MeeGenius, on the one hand, and you and any co-creator(s), on the other hand.

**Indemnification.** You and any co-creator(s) will, jointly and severally, defend, indemnify and hold harmless, and pay and reimburse, MeeGenius and its directors, officers, employees, shareholders, affiliates, agents, representatives, successors, licensees, and assigns, from and against any claims, actions, proceedings, losses, damages, or expenses (including attorneys’ fees and costs) resulting from or arising out of (a) any breach of your or any co-creator(s)’s representations, warranties or obligations under this Agreement or (b) any infringement, violation or misappropriation of any third party intellectual property, privacy, publicity or other right due to the manuscript, the Work. In the event of a claim, MeeGenius may, in its sole discretion, withhold payments, if any, due under this or any other agreement between the parties. If any such claim is asserted, (a) MeeGenius will have the right to defend the same through counsel of its choosing and to settle in its sole discretion and (b) you will fully cooperate in such defense or settlement.

## 6. Disclaimers.

**Limitation on Liability.** Nothing contained in this Agreement shall obligate MeeGenius to exercise any or all of the rights granted to it under this Agreement, or to publish or to cause to be published digital or print editions of the manuscript or the Work, or to distribute, market, or exploit the Work anywhere in the world. MeeGenius makes no warranty

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**IN NO EVENT SHALL MEEGENIUS’ AGGREGATE LIABILITY TO YOU AND ANY CO-CREATORS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED \$250.**

## **7. Term; Termination.**

***Term.*** The term of this Agreement will begin on the date you and any co-creator(s) have accepted this Agreement and continue in perpetuity.

***Termination.*** This Agreement may be terminated by either party upon written notice to the other party as follows:

- By you, upon sixty (60) days’ prior written notice to MeeGenius, if MeeGenius breaches its payments obligations and MeeGenius fails to cure such payment breach within such 60-day period.
- By you, immediately upon prior written notice to MeeGenius, if MeeGenius enters into liquidation or becomes insolvent or makes an assignment for the benefit of its creditors, or if a receiver is appointed for it or its assets, or if any bona fide petition is filed by or against it seeking its liquidation or an adjudication of its insolvency or its adjudication as bankrupt or the appointment of a receiver for it or its assets, subject in all cases to applicable law; or
- By you with respect to any individual Work, upon at least sixty (60) days’ prior written notice to MeeGenius identifying such Work, if MeeGenius ceases to publish or otherwise make available for purchase such Work as an eBook in any format and on any medium for a consecutive period of six (6) months, provided that no such termination notice shall be effective if MeeGenius demonstrates that such Work was made available as an eBook during the 6-month period alleged or resumes publishing or making available such Work within such 60-day notice period; or
- by MeeGenius, upon prior written notice to you, if you or any co-creator(s) breach, or are discovered or alleged to have breached, any representation, warranty or obligation contained in this Agreement.

***Suspension.*** Without limiting the foregoing, upon discovering that you or any co-creator(s) are in breach of any representation, warranty or obligations, MeeGenius may, in lieu of terminating this Agreement, cancel, offset or suspend any

payments of royalties or other amounts owing to you, without prejudice to any other rights or remedies.

**Termination of Royalties.** MeeGenius' obligations to pay royalties with respect to the Work will terminate automatically upon the expiration or termination of any copyright in and to, or the passing into the public domain of, the portions of the manuscript upon which the Work is based. No termination of the payment obligations under this Agreement with respect to any public domain Work shall affect MeeGenius' rights to continue to publish and exploit the manuscript, the Work or any disposition or exploitation of Other Rights.

**Survival.** Notwithstanding anything to the contrary, Sections 5 through 8 inclusive and any other section that by its terms is intended to survive expiration or termination, shall survive the expiration or termination of this Agreement.

## **8. Miscellaneous.**

**Audit.** Either party may, no more frequently than once per calendar year, upon reasonable written notice and through the services of a certified public accountant designated and hired by the party seeking the audit at its expense and reasonably approved by the other party, examine the books and records that relate directly to sales of the Work during the previous twelve-month period. Such inspection will take place at the principal place of business where such books and records reside at a mutually agreed time during normal working hours. Any discrepancy discovered by such accountant will be resolved by the party whom such discrepancy favored as promptly as commercially practicable.

**Independent Contractor.** Each of you and any co-creator(s) is an independent contractor, and this Agreement does not create an agency, partnership, or joint venture relationship between any of you and MeeGenius. You have sole responsibility for your own activities, and shall have no authority and shall not represent to any third party that you have the authority to bind or otherwise obligate MeeGenius in any manner.

**Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall apply only to such provision, and this Agreement shall be reformed, construed and enforced so as to most nearly give lawful effect to the intent of the parties as expressed in this Agreement. The fact that any provision of this Agreement is held to be illegal, invalid or unenforceable in a particular jurisdiction shall have no effect upon the legality, validity, or enforceability of such provision in any other jurisdiction.

**Assignment.** This Agreement is personal to you and any co-creator(s), and shall be binding upon any of your or their respective successors or heirs but may not be assigned, transferred, or subcontracted without the written consent of MeeGenius, and any attempt to do so without consent shall be null and void. MeeGenius may freely assign this Agreement including to any affiliate or in connection with any corporate reorganization, merger, or sale of all or substantially all of the assets of MeeGenius.

**Governing Law.** This Agreement, and all matters arising directly or indirectly from this Agreement, shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws rules. Any and all disputes arising hereunder shall be subject to the exclusive jurisdiction of the federal courts sitting in New York County, New York, USA, and the parties hereby waive any defenses of lack of personal jurisdiction or forum non conveniens.

**Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all existing or prior agreements and communications, whether written or oral, relating to the subject matter hereof. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy under this Agreement shall operate as a waiver thereof.

**Amendment.** MeeGenius may amend or modify this Agreement from time to time based upon notification to you of such amendments or modifications by email to the email address registered in your account area or by posting such amendment or modification to your account area. Your acceptance of such amendment or modification shall be deemed by your continued use of MeeGenius's publishing services and/or acceptance of payments that may be owing hereunder. Non-acceptance of any amendment or modification will be handled in such manner and with such results or consequences set

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IF YOUR MANUSCRIPT PROCEEDS INTO THE FINALISTS ROUND OF THE MEEGENIUS AUTHOR CHALLENGE, YOU AND ANY OF YOUR CO-CREATOR(S) WILL BE REQUIRED TO SUBMIT TAX DOCUMENTS TO REMAIN ELIGIBLE IN THE CHALLENGE.

BY CHECKING THE "I HAVE READ AND AGREE" BOX BELOW AND CLICKING TO PROCEED WITH THE SUBMISSION OR BY ACTUALLY SUBMITTING A MANUSCRIPT, YOU AGREE TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THIS AGREEMENT, YOU CAN EXIT THIS SITE WITHOUT SUBMITTING A MANUSCRIPT.

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