

"Contract for a Co-Author"

by

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http://cba.unomaha.edu/faculty/mohara/web/NEBA08_Co-author_Contract.pdf

We each have co-authored multiple times, as we are sure each of you have. Some work, and some don't. Some of those that did not work out almost certainly could have been flagged as certain to produce difficulties early in the production process if the commitments had been made more clear to all parties. Towards that end, we have resolved to never co-author again without a prior, written, signed co-author contract. It's a pain, but it is a smaller pain.

Based upon our personal experiences as co-authors; and based upon our second hand experiences with colleagues who were co-authors; and based upon O'Hara's experiences as an editor managing co-authors we have come to a conclusion: never co-author without a prior, written, signed, contract. Never. And, we do mean never. Life happens to everyone; but, especially, it seems, to co-authors. Everyone's memory of past conversations fade; but, especially, it seems, for co-authors. Never co-author without a prior, written, signed, contract. We each know many faculty who have co-authored that agree with the preceding sentence only if you drop the last six words, but we are optimists.

A co-author contract always identifies and resolves predictable points of contention. Always include [1] through [13]. Always include more than [1] through [13] if you can identify additional points of contention. Never start a project with an identified point of contention that is not resolved within the prior, written, signed contract.

[1] Who is the lead author; and, what is the sequence of listing of all other co-authors (see also, [8])? NOTE: some journals impose their own naming nomenclature (e.g., alphabetical by last name), which is why you want to attach the submission guidelines as an appendix, since the journal's naming nomenclature trumps the parties' contract clause [1]: especially, because of [5]. Also, in single manuscript projects, but especially in a multi-manuscript project, the author with the greatest percent in [8] might not be the lead author in [1]. Lead might go to the author originating the manuscript's main idea or lead might be rotated among authors across the multiple manuscripts.

[2] What is the article's title as of the date of the contract?

[3] What is the article's abstract as of the date of the contract? Note, both [2] and [3] end with the phrase "as of the date of the contract" because projects can morph with the approval of the signatories, but all parties ought to start working the same direction.

[4] Of course, the manuscript will be presented at least once at an academic conference or a professional conference. Specifically identify each conference to which the manuscript will be submitted, who will make the presentation, and whose travel budget will pay for the conference expenses.

[5] What is the first, second, and third journal that the manuscript qua article be submitted (and, of course, attached as appendices to this prior, written, signed, contract will be the then current submission criteria for journal #1, journal #2, and journal #3). NOTE: if morphing of [2] and/or of [3] occurs in [4] or [5], then at that time the signatories ought to expressly choose to morph in [4] and in [5].

[6] What are the production milestones for this article? Be sure to identify at least five discrete production steps for each conference and for each journal submission.

[7] What are the calendar dates (be date specific [e.g., May 1, 2008; never May 2008]) for each of those milestones that are controlled by the authors? If, a milestone follows an action by another (e.g., journal's response of "revise and resubmit"), then that milestone is expressed in calendar weeks following the occurrence of that contingent milestone. Remember, it is better to under promise and then to over delivery, than it is to over promise and then under deliver.

[8] Specifically rather than generally, what is the contribution of each co-author to each of the milestones identified in [6]; as well as what percent credit for the entire manuscript will each co-author rightfully claim (see also, [1])?

[9] Who
[9a] physically manages production of galleys between the co-authors as well as
[9b] who physically submits the finished manuscript to journal #1, to journal #2, and to journal #3; and
[9c] as such acts as the corresponding author? NOTE: need not be the lead author.

[10] Is this a project to produce a single manuscript through to publication as an article; or, is this article the first of a series of articles to be co-authored by the signatories? (I recommend never doing a multi-manuscript project with a person with whom you have not happily completed a single manuscript project all the way to publication.)

[11] How are additional co-authors selected? How is morphing away from the agreed upon title and abstract to be determined? This is a must if the project is a multiple manuscript project. Are these changes to be made:

[11a] unilaterally by any single signatory (recall, some folks are unethical);
[11b] by majority vote (e.g., 2 yes and 1 no yields add co-author) (recall, some folks are unethical); or

[11c] unanimous secret ballot vote by all signatories?.

It is wise to completely specify how to handle morphing and additional co-authors in all contracts, not just multiple manuscript projects.

[12] Who controls the copyright and how are royalties to be distributed?

[13] Signing of the contract is notarized. Ideally the notary will be a person in the campus building shared by both authors; or, by a person in the campus building of the senior author (age and/or rank as distinguished from the lead author in [1]); or, on the campus of the senior author. The idea is to impose social costs upon a breaching senior author.

[14] Opinions vary on this next topic, but after much reflection and witnessing of situations, I firmly am of the belief that the junior member of the co-authorship contract ought to be the lead author on the first manuscript project between the signatories (e.g., a single manuscript project); and absolutely must be the lead author if the project is to be a multiple manuscript project. There are many reasons for this, but a good one to note is that in any calendar year old people die more frequently than young people.

[15] Depending upon how imbalanced is the power relationship between the co-authors, then I recommend against (e.g., roughly balanced power [e.g., two full Professors]) or strongly recommend in favor (e.g., grad student and member of Ph.D. committee; or Asst. Prof. and person with vote on Asst. Prof.'s tenure) of a binding arbitration clause with the arbitrator being:

[15a] the academic Dean of the most junior co-author as of the date of the written demand for arbitration by any signatory; or,

[15b] if chosen by the most junior co-author within ten business days of the date of the written demand for arbitration by any party the academic Dean of the most junior co-author's choice; or,

[15c] if [15a] is not applicable and/or if the most junior co-author does not make that choice in [15b] within ten business days, then the arbitrator academic Dean shall be chosen within ten business days by the party making the demand for binding arbitration.

As much as any person might try to do so, no person can accurately estimate the many forms of and the various intensities of displeasure that (let us be generous) the less than ideal co-author can impose upon you. Many, but far from all, of those displeasures can be avoided or minimized by a prior, written, signed contract. Accordingly, never co-author without a prior, written, signed contract. Never.