

HMH
WORLD LANGUAGES DESIGN CHALLENGE
TERMS AND CONDITIONS

By submitting an entry (a "Submission") to the Houghton Mifflin Harcourt World Languages Design Challenge (the "HMH Challenge") you agree to the following terms and conditions.

Summary:

- Read these Terms and Conditions and the Rules on the HMH Challenge Website (the "Rules") before you make a Submission! If you disagree with any of them, don't make a Submission.
- Your Submission is not confidential. Be sure you are comfortable with its public disclosure. HMH can post your name and Submission, or a summary of it, on the Website.
- HMH will choose between four (4) and eight (8) finalists of the Design Challenge in its discretion, based on the criteria on the Website. These finalists will be invited to participate in a finalists pitch competition at HMH's Boston offices located at 125 High Street, Boston, Massachusetts, on Friday March 1, 2019. Based on the competition, HMH will select one (1) finalist to receive the HMH Design Challenge first prize award, as set forth in the Rules on the HMH Design Challenge Website. In addition, each of the other finalists that participate in the pitch competition (the runners ups) will receive a separate, lesser award, as provided in the Rules.
- If you are the final winner of the HMH Design Challenge you will automatically be deemed to have given HMH an exclusive option to negotiate with you for a commercial deal for nine (9) months after you receive your award.
- There are no other commitments. You do not have to do business with HMH, and HMH doesn't have to do business with you. No purchase necessary. Void where prohibited. HMH employees and their immediate family members are not eligible to participate. You must be 18 years of age to participate. The HMH Challenge is open to U.S. residents only.
- The HMH Challenge Submission Period ends on Friday, February 22, 2019 at 11:59 p.m. EDT. No entries will be considered after the Submission Period.

1. Rules of Competition

- a. You agree to comply with all contest Rules that are contained on the HMH Design Challenge Website and in these Terms and Conditions. The Rules and these Terms and Conditions constitute the Agreement (the "Agreement") between you and Houghton Mifflin Harcourt Publishing Company (hereinafter, "HMH").
- b. You may make multiple Submissions, each of which will be evaluated independently.
- c. Submissions may be made by individuals or by legal entities.
- d. You are not required to make any purchase as a condition to making a Submission.

2. Submission

- a. How made
 - i. All Submissions must be made in the form and following the procedures provided on the HMH Design Challenge Website.
 - ii. All Submissions must be made within the submission period stated on the HMH Design Challenge Website (the "Submission Period").
 - iii. All Submissions must be made in the English language.
 - iv. All Submissions must identify any patent or patent application, including provisional patent applications, that you have filed for any part or all of the Submission, and must include a consent for HMH to review and publish information derived from any pending application that has not been published as of the date of the Submission.
- b. Your Submission is not confidential. By making your Submission, you agree that HMH will not have any confidentiality or other obligation respecting the Submission, subject however to any intellectual property rights (other than trade secret rights or rights of confidentiality) that you may have in your Submission.

3. HMH's Obligations

- a. HMH will use commercially reasonable efforts to receive and consider your Submission. However, neither HMH nor any other person participating with HMH in providing, managing and promoting the HMH Design

Challenge will be responsible for any miscommunications such as technical failures related to computer, telephone, cable, and unavailable network or server connections, related technical failures, or other failures related to hardware, software or virus, or incomplete, late or misdirected entries.

- b. HMH will have no obligation to accept, summarize, post, evaluate or return your Submission.

4. Selection of the Winning Ideas; the Awards

- a. HMH will review all Submissions that conform to the Rules and declare the Finalists for the Finalists Pitch following the Evaluation Period (the "Evaluation Period") described on the HMH Design Challenge Website. HMH will evaluate all Submissions using the procedures and criteria described on the HMH Design Challenge Website. HMH reserves the right to request additional information from you as necessary to evaluate your Submission.
- b. You acknowledge and agree that other persons may make Submissions that are similar to your Submission and that HMH or other Design Challenge Organizers (as defined below) may already be pursuing ideas that are similar to your Submission. If HMH chooses another Submission that is similar to your Submission as one of the finalists or the eventual winner, you will have no right of participation in the Award (as defined below), notwithstanding the similarity.
- c. HMH's decision regarding the finalists and eventual winner of the Design Challenge is final and non-appealable. If you attempt in any way to challenge or appeal HMH's decision, you thereby forfeit any right you would otherwise have for your Submission to be considered for the finals and/or prize.
- d. You will be entitled to the award shown on the HMH Design Challenge Website if your Submission is selected as the first-prize winner, less applicable withholding and other taxes (the "Award"), unless applicable law or regulation prevents you from accepting the Award. To the extent that the Award permits you to designate a school or other organization to receive part of the Award, you must identify the recipient within five (5) days following notice of the Award, using the procedures shown on the HMH Design Challenge Website.
- e. If for any reason you are prevented from accepting the Award or from designating a recipient for the Award:
 - i. If permitted by applicable law, regulation or agreement, you may direct the Award that would otherwise be given directly to you to be given to a school district or charity of your choosing, provided that you make this choice within five (5) days of your receipt of notice of the Award, using the procedures shown on the HMH Design Challenge Website.
 - ii. If you are not permitted to direct the payment of the Award as provided above, HMH will contribute the Award to an institution or charity that in HMH's sole judgment will be in the best position to pursue the values and objectives represented by the HMH Design Challenge as represented by your submission.

5. Intellectual Property Rights in Submissions and in the Best Ideas

- a. HMH claims no proprietary or intellectual property rights in your Submission. By making a Submission you are not granting HMH or any other person any rights to any intellectual property such as patents, the right to patent or copyright, that you may have in your Submission, except for the limited licenses set forth in these Terms and Conditions.
- b. By making a Submission you agree that HMH has the right to:
 - i. Share your Submission, or a summary of it prepared by HMH in its discretion, as HMH deems appropriate to evaluate your Submission.
 - iii. All notifications of alleged copyright infringement that are submitted to HMH in accordance with the Digital Millennium Copyright Act ("DMCA") or equivalent principles of law in other jurisdictions will be handled in compliance with the requirements of DMCA or other applicable law. If we remove your Submission to comply with the DMCA or other applicable law, we will make a good-faith attempt to contact you so that you may make a counter notification pursuant to section 512(g)(2) and (3) of the DMCA or its equivalent.
- c. If your Submission is selected as the final first prize winner of the HMH Design Challenge:
 - i. You agree that you will not offer rights to or negotiate with any person other than HMH or persons authorized by HMH for the development or implementation of your Submission for a period of nine (9) months from the date of Award (the "Option Period").
 - ii. HMH may, in its sole discretion, choose to negotiate with you during the Option Period for an agreement to support the development, implementation or other use or application of your Submission. HMH's commitment and participation can take one of the following forms, or such other form as may be agreed upon by you and HMH:

1. A license agreement;
 2. An acquisition investment;
 3. A development agreement;
 4. A distribution or marketing agreement, and/or
 5. Creation of another business relationship.
- iii. If your Submission is not selected as the final winner of the HMH Design Challenge, then HMH may in its sole discretion agree to negotiate with you on a non-exclusive basis to acquire ongoing rights in your Submission.
- iv. Notwithstanding anything to the contrary, HMH has no obligation either to negotiate with you or to enter into any further agreement with you for the development, implementation or other use or application of your Submission. Neither you nor HMH will have any obligation to enter into any agreement or other business relationship with one another respecting your Submission.
- d. You acknowledge that HMH may have internal developments that are the same, similar or related to your Submission. Your participation in the HMH Design Challenge does not restrict HMH in any way from conceiving, developing, commercializing or otherwise exploiting ideas that may be the same, similar or related to your Submission. HMH respects intellectual property rights. HMH agrees not to violate any valid and enforceable patent or copyright you possess that relates to your Submission. HMH retains the right to challenge the validity and enforceability of any such patent or copyright. HMH reserves the right to continue its efforts in exploiting its ideas during any challenge period.

6. Use of Names, Images, Trademarks and Logos

- a. You grant to HMH the right to display and reproduce your name, including your company logo if you are a company, likeness and other identifying material identifying you as an entrant in the HMH Design Challenge on the HMH Design Challenge Website and in other materials promoting or reporting on the HMH Design Challenge, both before, during and after the Submission and Evaluation Periods.
- b. If your Submission is determined by HMH to be the winning entry, you may state truthfully that your Submission was the first prize Winner, using the name of the HMH Design Challenge for such purpose; provided, however, that you shall not claim or represent that HMH has endorsed or is affiliated with any product or service embodying the submission unless HMH has entered into a further agreement with you that permits such a statement.

7. Representations and Warranties. You represent and warrant that:

- a. All information provided with your Submission is true and complete.
- b. You are at least eighteen (18) years of age, and you are a resident of the United States.
- c. You are not an employee of HMH or of any of its affiliated companies, or an immediate family member of a HMH employee.
- d. You have the right to make the Submission without violating any obligation you may have to your employer or to any other person and without violating any applicable law or regulation.
- e. The submission, disclosure, use and exploitation of your Submission, including without limitation any photos, videos or other media or materials that accompany your Submission, does not infringe or violate the patent rights, industrial design rights, copyrights, trademarks, trade secret rights, confidentiality rights, rights of privacy, publicity or other intellectual property rights of any other person.
- f. Your Submission, including without limitation any photos, videos or other media or materials that accompany your Submission, is not defamatory or obscene.
- g. HMH will not need to obtain any license from any third party or pay a royalty or other amount to any third party in order to exercise the rights you grant herein.
- h. Your Submission does not contain malicious code, such as viruses, timebombs, cancel bots, worms, Trojan horses or other potentially harmful programs or other material or information.
- i. Your Submission, if chosen as a finalist or the first prize winner, or if otherwise exploited in any way by HMH under agreement with you, would not become subject to the payment of a royalty or other obligation to any other person.
- j. You have the right to grant the licenses you grant under these Terms and Conditions.
- k. You have the right to grant an exclusive license to HMH for purposes of exploitation of all rights in your Submission if it is chosen and if HMH, in its discretion, chooses to negotiate with you for such a license.
- l. If your Submission is already implemented anywhere in the world, you have disclosed, to the best of your knowledge, such implementation(s) in your Submission.

8. **Limitation of Liability:** In no event will HMH, its affiliates, subsidiaries, advertising and promotions agencies, all persons who participate in judging the Submissions, or each of their respective agents, representatives, officers, directors, shareholders, and employees (collectively, the "Design Challenge Organizers"), have any liability to you for any cause or reason whatsoever relating to the HMH Design Challenge. Without limiting the generality of the foregoing, in no event will any Design Challenge Organizer have any liability for loss of profits, loss of business opportunity, incidental, special, punitive or consequential damages arising from or in any way related to your participation in the HMH Design Challenge, and you waive any right to seek injunctive or equitable relief related to the HMH Design Challenge.
9. **Indemnity:** You agree to release, indemnify and hold harmless the Design Challenge Organizers from and against any injuries, losses, damages, claims, actions and any liability of any kind, including without limitation their reasonable attorneys fees, resulting from or arising out of your participation in the HMH Design Challenge or any breach of the warranties or other obligations you have incurred under the Rules or these Terms and Conditions.
10. **Your Obligations in making a Submission or receiving the Award**
 - a. You are responsible for verifying that you may participate under any laws, regulations, collective bargaining agreements or other requirements or obligations that apply to you, and for verifying that your Submission complies with all such requirements or obligations.
 - b. You are responsible for the payment of all taxes, union dues or other amounts that you may be obligated to pay as a result of your receipt of the Award.
11. **Certain limitations**
 - a. The HMH Design Challenge is void where prohibited or restricted by law or regulation.
 - b. HMH will not accept Submissions where acceptance, review or publication of a Submission would violate laws applicable to HMH.
 - c. You agree that you will not, during the Submission and Evaluation Periods, subject it to any obligation that would conflict with, or could create a potential for conflict with, the rights you grant to HMH and/or the obligations you undertake under the Rules and these Terms and Conditions.
 - d. Any compromise to the fair and proper conduct of the HMH Design Challenge may result in the disqualification of your Submission, termination of the HMH Design Challenge, or other remedial action, at the sole discretion of the HMH.
12. **Challenge Achievements and Random Drawings**
 - a. In addition to the other terms and conditions provided herein, challenge achievements and/or random drawings ("Achievements and Drawings") shall be subject to all applicable HMH rules and selection criteria, including the following terms and conditions. HMH's decisions regarding Achievements and Drawings are final and binding. Winning an Achievements and Drawings prize is contingent upon fulfilling all requirements set forth herein. The odds of being selected depend on the number of entries received and the performance of each entrant.
 - b. A winner is responsible for paying any applicable income taxes and any and all other costs and expenses not listed above. Any prize details not specified above will be determined by HMH in its sole discretion. A prize may not be transferred and must be accepted as awarded. You may not request a substitute prize; however, HMH reserves the right to substitute a prize with another prize of equal or greater value if the prize is not available for any reason, as determined by HMH in its sole discretion.
 - c. In the event that the operation, security, or administration of the Achievements and Drawings is impaired in any way for any reason, including, but not limited to fraud, virus, or other technical problem, HMH may, in its sole discretion, either: (a) suspend the Achievements and Drawings to address the impairment and then resume the Achievements and Drawings in a manner that best conforms to the spirit of the rules; or (b) award the prize(s) at random from among the eligible entries received up to the time of the impairment. HMH reserves the right in its sole discretion to disqualify any individual it finds to be tampering with the entry

process or the operation of the Achievements and Drawings or to be acting in violation of these rules or in an unsportsmanlike or disruptive manner. Any attempt by any person to undermine the legitimate operation of the Achievements and Drawings may be a violation of criminal and civil law, and, should such an attempt be made, HMH reserves the right to seek damages from any such person to the fullest extent permitted by law. Failure by HMH to enforce any term of these rules shall not constitute a waiver of that provision. Proof of sending any communication to HMH by mail shall not be deemed proof of receipt of that communication by HMH. In the event of a dispute as to any online entry, the authorized account holder of the e-mail address used to enter will be deemed to be the participant. The "authorized account holder" is the natural person who is assigned to an email address by an Internet access provider, online service provider, or other organization responsible for assigning email addresses for the domain associated with the submitted e-mail address. The Achievements and Drawings is subject to federal, state, and local laws and regulations and is void where prohibited.

d. To request a list of the semi-finalists and finalist, please send a self-addressed, stamped envelope to: HMH World Languages Design Challenge, 125 High Street, Boston, MA 02110, attention: Paul Murphy. Requests must be received within one (1) week of the end of the Submission Period.

13. General

- a. This Agreement constitutes the parties' entire agreement respecting the HMH Design Challenge.
- b. In the event of a disagreement between the Rules and these Terms and Conditions these Terms and Conditions will govern. In the event of a disagreement between the Summary and specific provisions in these Terms and Conditions, the specific provisions will govern.
- c. The Agreement shall be governed and construed in accordance with the laws of The Commonwealth of Massachusetts as a contract made and to be performed entirely within The Commonwealth of Massachusetts, without reference to conflict of law rules. The exclusive jurisdiction for any dispute regarding this Agreement or the HMH Challenge shall be in the federal or state courts sitting in Massachusetts, and you consent to the jurisdiction of those courts for this purpose.
- d. The Agreement may be updated or supplemented by HMH if required to protect the integrity of the HMH Design Challenge.
- e. HMH reserves the right to discontinue the HMH Design Challenge prior to the finalist pitch competition, if HMH determines in its sole discretion that the submissions received are not appropriate for the HMH Design Challenge. In such event, no award will be made and parties who have made a submission will be notified by HMH.