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# PERMISSION TO REPRINT PUBLISHED MATERIAL & GUIDE

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Permission to Reprint Published Material

## 1. Overview

Research and writing, whether business or academic, legal or commercial, does not exist in a vacuum. Books and essays are often based on previously published writings and may draw heavily on those works. However, previously published material, including articles, essays, and other written content, is usually protected by copyright. With certain exceptions for academic or personal use, U.S. copyright law prohibits the use of copyrighted material without the owner's specific consent.

The enclosed document lets an owner permit the reprinting of its published work. You can provide detailed information about how the material may be used and the extent of its incorporation into the secondary publication. The copyright holder can be assured of its continuing ownership rights, and the requestor will gain rights to material it needs to move forward with publication.

## 2. Dos & Don'ts Checklist

- A copyright is a form of protection provided by federal law to creators of "original works of authorship." This includes both published and unpublished literary, dramatic, musical, and artistic works. The author of a copyrighted work can prevent others from copying, performing, or using the work without his or her consent. A third party wishing to reprint all or any part of a copyrighted work must first obtain the permission of the copyright holder. Failure to do so could result in a lawsuit and substantial fines.
- Not every third party use of copyrighted material will be considered a copyright violation. American copyright law contains a concept called "fair use," which allows third parties to use copyrighted works without permission if such works are used for purposes of criticism, comment, news reporting, teaching, scholarship, or research. There are other factors involved in assessing whether an instance of unauthorized use is fair use (including its purpose, the nature of the copyrighted work, the amount used, and its effect on the market or value of the copyrighted work), and it's not always an easy or clear determination. The best practice is to obtain permission from a copyright holder in every context rather than risk the damages and costs that could result from a finding of infringement.
- Permission is also not needed to republish work existing in the public domain. Works in the public domain are not simply those that are publicly available; rather they are those either not currently protected by copyright or never protected by it. Public domain works generally fall into one of the following categories:
  - General information (e.g., facts or numbers).
  - Materials created by the U.S. government.
  - Items that had copyrights that expired because of time or because the holder didn't renew the copyright.
  - Materials created before 1989 that lacked proper copyright notices.

- Include as much information as possible in the document. The copyright owner has the right to limit the use of its property, and giving a clear picture of how the work may be used will make clear to all parties what permission is being given.
- Consider that if the source material contains an embedded material from another source, the requestor will be required to obtain permission from the owner of the embedded excerpt as well as from the owner of the source material.
- If the source material contains another company's trademark, that company's permission will also be required. Encourage the requestor to talk to the trademark holder to determine what information will be needed to obtain permission to use it.
- The enclosed document permits the material to be reprinted in one edition, volume, or issue of the final publication only. If there is a second or third publication of that work, the requestor will need to obtain additional permissions for each such edition, volume, or issue.

### 3. Permission to Reprint Published Material Instructions

The following instructions will help you understand the terms of your permission to reprint published materials. The numbers below correspond to paragraph numbers in the document. Please review the entire form before starting the step-by-step process.

1. Describe the publication in which the material originally appeared. Include the name of the author, the title of the piece, the title of the publication, and the date of the original publication. This date should be found in the first few pages of the work.
2. Give specific details in the space provided. Include reference to the chapter, page, line opening and closing words, and approximate number of words. If you want to enclose a copy of the material to make sure both parties understand the rights being granted, include the sentence at the end of the paragraph. If you do not intend to do so – or if it isn't necessary because of information you've already provided – delete the bracketed sentence.
3. Write in the title of the publication that will reprint the Material. Include also the author, editor, or compiler of the new work, the publisher and its address, and the use to which the Material will be put. This can include a designation of the publication type (e.g., trade edition, paperback, hardback, CD-Rom, DVD, Intranet, magnetic media, etc.) and as many other details as possible about the new publication. For example, consider providing relevant information about:
  - Publication date(s)
  - Expected retail price
  - Total expected sales (or distribution) for the (edition of) publication
  - No. of pages (entire publication)
  - No. of pages (requested Material)
  - No. of printed copies
  - Circulation (e.g., countries, special markets, etc.)

4. There are two options provided and you should choose the one that best characterizes how the Material is to be used. If the use will not be for educational purposes, select the first option. If it will be for educational purposes, use the space provided to explain specifically the purpose intended.
5. In most agreements, each party is expected to do something. This obligation may be to perform a service, transfer ownership of property, or pay money. In this case, the Requestor is giving money (sometimes called "consideration") to be able to use the Owner's property. Under the terms of the Agreement, this is a one-time fee that must be paid before any permission given under the Agreement will be effective. Enter the amount of the fees to be paid by the Requestor. This may be higher or lower depending, among other things, on the size of the Material used, the use of the Material (e.g., commercial, educational, etc.), and the character of the Requestor (e.g., non-profit organization, government body, etc.).
6. There are some options in the tagged sentence, and you should select those that best suit your arrangement. If the reprint rights are worldwide, include that word. Select the word that best describes the type of publication (i.e., if the material is being published in a book, the word 'edition' may be appropriate; if in a journal, the word 'volume' might apply). If none of the suggestions seem to fit, provide other language to limit the type of publication in which the Material will appear.
7. In every copy of a publication in which the Material appears, there must be credit given to the copyright owner. The space provided allows you to specify how you want this copyright credit to look (e.g., "Reproduced with permission from [Copyright Owner] [Book/Title/etc] ([Year]). Copyright [Year], [Copyright Owner].")
8. Although the Owner is giving permission to use the Material, there are may be other permissions required before republication can occur. For example, the Material may contain a third party's copyrighted or trademarked work. If this is the case, the Requestor may need to seek out third parties and obtain their permissions as well. If it does not do so, any resulting expenses or penalties will be the Requestor's responsibility only.
9. The first part of this provision places a limit on the permission granted under the Agreement, requiring that any republication be completed within a certain amount of time. Enter the amount of time the Requestor has to make its publication. Try to make this reasonable – think years, not months.

The second part allows the Owner to terminate the Agreement with a certain amount of notice, whether or not the publication has been completed. Enter the amount of notice that must be given. Note that if the Requestor violates any term of this Agreement, the Agreement will terminate automatically (i.e., immediately and without notice).

10. If the Agreement is terminated (in any of the ways listed in Paragraph 9), this section explains what the Requestor must do in response. Essentially, the Requestor must stop printing any volumes or editions in which the Material is included. If the termination is not by any fault of its own (e.g., because the Owner provided notice), the Requestor has the right to sell any remaining copies for a certain period of time. Enter the period of time the Requestor has to make these final sales. If the termination is because of a wrongful action on the Requestor's part, the Requestor is not permitted to sell off any remaining copies.

11. This lets the parties choose the state laws that will be used to interpret the document. Note that this is not a venue provision. The included language will not impact where a potential claim can be brought. Write in the applicable state (or commonwealth) in the blank provided.
12. The Requestor must give the Owner a free copy of the work after it has been published. If the Material is being incorporated into an electronic document, the Requestor must provide a link to that document.
13. This reiterates that the permission being granted is not an ownership transfer. The Owner remains the owner, and has the right to transfer the Material to any third party it chooses. The Requestor does not have the right to make any transfers.
14. Both the Owner and the Requestor must sign the Agreement. If either party is a company, note who is signing the document on its behalf and what his or her title is.

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## Form Sample

### PERMISSION TO REPRINT PUBLISHED MATERIAL

Date: \_\_\_\_\_

\_\_\_\_\_ (the "Owner") has received the request of \_\_\_\_\_ (the "Requestor"), in a letter dated \_\_\_\_\_, to reproduce the Material (as defined below). The Owner hereby grants the request on the following terms and conditions, which terms and conditions Requestor hereby accepts:

- (1) The published work (the "Original Work") that is the subject of this agreement (the "Agreement") is the following:

Author:

Title:

Name of Publication:

Date of Original Publication:

The Owner is the sole copyright holder of the Original Work.

- (2) Permission is hereby granted to use the following selection of Work:  
\_\_\_\_\_