ARCHWAY CONTENT GUIDELINES

NOTE: These content guidelines set forth our aspirations for your work. Not all of these guidelines are strict requirements for publication. Please note that while Archway may review your work and may suggest or require that you comply with one or more of these guidelines, any review that Archway conducts is being done solely and exclusively for its internal purposes. You may not rely on any review by Archway of your work, any results we may share with you or your acceptance of any changes suggested or required by Archway for any purpose whatsoever, including, without limitation, as confirmation that your work (a) complies with these Content Guidelines; (b) does not violate any applicable laws or regulations; or (c) does not infringe upon the rights of any third parties. If you have questions regarding your work’s compliance with applicable laws and regulations, such as copyright laws, rights of privacy and publicity, and libel/defamation, you should consult an attorney of your own choosing for such legal advice.

FAIR USE GUIDELINES

Fair Use is a principle of U.S. copyright law that permits limited quotation from another work without that author’s permission.

- Fair Use analysis can be complicated, but an essential element is that the quoted material be used in a “transformative” way, e.g., that it be reworked by the quoting author into something new and original. Comment on or criticism of a work is an example of a transformative use of a work, but even comment or criticism of a particular work does not necessarily justify copying extensively from a work or copying an entire work. A use is not “transformative” where it is being used simply for itself, or because you like it, or where your work could end up serving as a substitute or replacement for the original source.
- There is a popular misconception that any quotation of fewer than 500 words (or 350, or 400, etc., depending on the source from which it is taken) qualifies as Fair Use. This may not be the case where the quote is taken from a poem, a song or another short work (such as a children’s book) that may not be much more than 500 words in total. In other words, quantity of the material quoted is just one factor. Also important is the quality of the quoted material, i.e., whether it is the heart of the original work. Thus, while it may be Fair Use to quote just a few hundred words from a 400-page book, in one famous case involving a presidential memoir, a quotation of a few hundred words was held to be an infringement because it related to one of the book’s most spectacular – and most marketable – revelations.
- Song lyrics and poetry are more problematic, not only because of their shorter length (which makes any quotation a more substantial taking), but also because even a brief quotation could go to the heart of the material. For example, one could argue that “not with a bang but a whimper” is not just one line of the 100-line poem “Hollow Men” by T.S. Eliot, but the essence of the poem. (With regard to song lyrics, be forewarned, too, that music publishers tend to take an aggressive posture, and demand licensing fees even for uses that clearly qualify as Fair Use.)
- Another factor is the nature of the work using the quotation. Non-fiction works have more Fair Use latitude than fiction simply because it is easier to show a “transformative” aspect in a non-fiction work. Nonetheless, an appropriate use of material in fiction can qualify as Fair Use.
- Epigraphs used as chapter headings and sidebars may not qualify as transformative, except where there is a strong thematic connection between the quotation and the chapter
subject matter. As a practical consideration, a line or two from a long book is unlikely to
draw complaint. But an epigraph consisting of a line or two of poetry or song lyrics should
be avoided (unless you get permission for the use or the poem was first published before 1923).

- Fair Use is more restrictive for unpublished works, such as letters, journals and diaries.
- Quotations from unpublished sources should be avoided if at all possible and, if absolutely
necessary, such quotations should be sparing in both length and total quantity, and should
have a clear commentary/criticism purpose or a strong “transformative” character.
- PERMISSIONS:
  - If a quotation does not qualify as Fair Use, it is necessary to obtain permission from
    the rights proprietor. The rights proprietor is the person or entity controlling the right to
    license the particular use requested. The rights proprietor and the copyright owner
    may be – but are not necessarily – the same. For example, the typical book-publishing
    agreement provides that the copyright will be registered in the author’s name, but that
    the publisher will control the licensing of certain uses, included the quotation of
    excerpts and abridgments and anthologies. So, in the case of quotations from
    published books, the publisher of the book is a good place to start to find out how to
    seek permission; most publishers have permissions departments set up for this very
    purpose.
  - In identifying the proprietor, please keep the following in mind:

    1. Ownership of the physical copy of a work such as a letter or a photo or a
       painting is not the same as ownership of the copyright for that work. Copyright is
       generally held by the creator of a work. You cannot assume that a university library
       that serves as a repository for someone’s papers, for example, has the power to
       authorize reproduction or quotation. In fact, the library will not have that power
       unless the rights proprietor has explicitly given the library that power by way of a
       separate agreement. (Sometimes an archive will require the researcher to sign an
       agreement before allowing access to the documents in its possession. Such an
       agreement might impose restrictions on uses beyond those protected by the
       Copyright Act and may, for example, even restrict the use of public-domain
       material. You should keep copies of all such agreements that you sign.)
       (Incidentally, availability of a letter is available in a library’s archives does not mean
       that the letter has been published before; if you don’t find the letter in a book or a
       magazine or some other publication, you should assume that it is an unpublished
       letter.)

       Similarly, the recipient of a letter owns only the physical copy of that letter; the
       copyright in the letter itself remains with the person who wrote the letter. In other
       words, the mere fact that someone received a letter from a famous person, does
       not give that person the right to publish that letter. In the same vein, the owner of
       a painting or photograph ordinarily will not have the right to authorize reproduction
       of the image. Even family photos can raise issues. For the reasons stated above,
       the fact that the photo is in a family album does not mean that the family can
       authorize reproduction of the image. For example, the copyright in a professional
       photo – e.g., a graduation or wedding picture – usually remains with the
       photographer. Likewise, if taken by a relative or friend, the relative or friend would
       have to give permission.
2. Under the Copyright Act, periodicals (and similar works comprised of the contributions of different authors) generally do not have the right to license use of individual articles. Unless the author's contribution agreement with the periodical expressly gives it that authority, the author controls the right to license such uses. The more prominent periodicals do have such contribution agreements with their writers, however, and thus contacting the periodical first still is a good way to start to find the person who can grant permission.

3. By operation of several international agreements ratified by the U.S. in the last 15 years, some foreign works long in the public domain (e.g., by writers from the former Soviet Union) have been restored to copyright. Identifying the copyright proprietor can be difficult, in particular when the proprietor was a now-defunct government agency. The fact that you may have tried to find the proprietor and failed, however, is not a defense to a copyright infringement claim.

4. The widespread dissemination of material on the Internet (including Facebook, Instagram and Twitter) sometimes gives the impression that it is free for the taking. In fact, many of these sites reproduce copyrighted text and images without permission. One therefore should not assume that anything copied from the Internet is public domain. It still is necessary to determine whether the material is copyrighted, and if so, to identify the rights proprietor and obtain permission. The format and appearance of websites may also be copyright-protected, and therefore requires permission to use.

5. Images of newspapers are copyright-protected, in addition to the actual text of the articles. Even if the text is not legible, the overall format and appearance of the newspaper is often protected and often requires permission to use in your work.

6. Maps, clip art, cartoons, advertisements, and comic book characters are also copyright-protected and often require permission to use in your work.

7. The use of material from the Bible and the permissions required often depends upon the version of the Bible you are using, the amount and nature of the material quoted, as well as the amount of original material in your work. You must research the rules of the publishing company to determine what is Fair Use and what requires permission to use.

- A special warning regarding permissions to use photographs: ordinarily, the license will cover only the right to reproduce the image itself. It might be necessary also to obtain separate model releases from individuals appearing in the photograph, especially if you plan to use the image on the cover of your book. In certain circumstances, if a building is depicted, permission even might be required from the owner of the copyright in the architectural plans.

- Works in the Public Domain. Works that have entered the public domain are not protected by intellectual property laws, including copyright and fair use rules. Any works created and published before January 1, 1923 are in the public domain and can be used without the proprietor's permission. However, Archway will not publish a work
that contains less than 75% original content, meaning we will not publish public domain works unless you have added significantly to that work.

- To assist in your self-assessment of whether the use of the ideas or words of others in your work is permissible, you may consult the US Copyright Service’s Fair Use Index. If you have further questions regarding your use of another's words or ideas, you should consult an attorney of your own choosing for legal advice.

LIBELOUS/ DEFAMATORY CONTENT

- In general, the content of your work may be libelous if it contains a false statement of fact about another person that is defamatory. A defamatory statement is one that injures a person's reputation, exposes a person to hatred, contempt or ridicule or injures his or her business or profession. For example:
  - A false statement that accuses a person of a crime;
  - A false statement that a person has an infectious or contagious disease, or a mental disease or defect;
  - A false statement that a person is impotent or unchaste; or
  - A false statement that alleges that a person is not qualified to perform his or her job due to lack of skill, education, character, trustworthiness, etc.

- While there may be certain exceptions or defenses that apply to your work, IT IS ALWAYS YOUR SOLE RESPONSIBILITY TO ENSURE THAT YOUR WORK DOES NOT, TO YOUR KNOWLEDGE, CONTAIN, ANY LIBELOUS MATERIAL. If you have questions about whether your work may contain material that is potentially libelous, you should consult an attorney of your own choosing for legal advice.

GENERAL CONTENT GUIDELINES

- We reserve the right to reject a work that contains any of the following:
  - Hate speech or any speech that incites violence or attacks, threatens, intimidates, or disparages individuals or groups based on attributes such as race, sex, color, religion, national origin, sexual orientation, disability, or other traits
  - Explicit and salacious or graphic descriptions of sexual situations
  - Explicit descriptions of sexual situations involving individuals under the age of 18
  - References to or descriptions of beastiality
  - Any other content that Archway determines, in its sole discretion, that the publication or distribution of which may injure its reputation or subject it to public disapproval.

- We reserve the right to reject a proposed book cover that contains images reflecting any of the following:
  - Nudity of any sort
  - Logos or registered trademarks
  - Celebrities or famous individuals
  - Posters from movies, plays, concerts or other events
  - Drugs or drug paraphernalia
  - Actual currency

- We reserve the right to reject a work that contains representations or images of male or female genitalia if they reasonably can be included in one of the following categories:
Overly or gratuitously sexual in nature
Salacious depiction of any nature
Depiction of what could reasonably appear to be an individual under the age of 18

- Representations or images of male or female genitalia on the interior pages of your work are acceptable if they reasonably can be included in one of the following categories:
  - Valid, medically-related content
  - Commonly recognized works of art
  - Non-salacious photographs
  - Non-salacious artwork
  - Non-salacious instruction manuals

**GENRE-SPECIFIC CONTENT & PERMISSION GUIDELINES**

**Autobiography/Memoir:** Without written and notarized permission from the person, entity or legal guardians of the person mentioned, we reserve the right to reject a work that contains any of the following:

- False statements of fact that could harm the reputation of any identifiable living persons, companies or other entities
- False statement either of a fact or implication that an identifiable, living person (aside from the author him or herself):
  - Committed a crime or was convicted of committing a crime
  - Engaged in unethical conduct
  - Engaged in immoral sexual conduct
  - Associated with unsavory people
  - Demonstrated professional incompetence
  - Demonstrated financial irresponsibility or unreliability
  - Acted disgracefully
  - Suffered from a mental disease or disorder
- Embarrassing private facts about any identifiable, living persons
- Statements about an identifiable, living person that would lead that person to have hurt feelings because certain thoughts and feelings are attributed to that person or the person is put in a false light
- References to an identifiable, living child that state as fact or by implication that the child was:
  - Sexually abused
  - Otherwise physically abused
  - The victim of a crime
  - Adopted
**Biography:** Where the subject of a biography is a living person, we reserve the right to require written and notarized permission from the subject of the biography and/or from any living persons (or their guardians) and any legal entities mentioned therein. If the subject of the biography is clearly a famous person or a public figure, written permission may not be required, though permission from non-famous people mentioned therein may still be required.

**Self-help / Textbook / Politics and History:** You must provide proper citations where applicable.

**Translated Books:** You must provide written and notarized permission from the owner of the copyright of the book in its original language in order to publish a translation of a book originally published in another language.

**Endorsements:** If you wish to include an endorsement or other statement about your book written by a person other than yourself, you must provide written permission to use the statement from that individual.