Instructors are responsible for supplying the correct, full citations and all necessary copies. These copies must conform to the Fair Dealing test. The Fair Dealing test is outlined on the reverse of this sheet. In cases where copies are not Fair Dealing, specific copyright permission has been obtained.*

INSTRUCTOR: _____________________________________________________________

PHONE: _____________________________

COURSE: _____________________________

RESERVE LOAN PERIODS

_____ 1 HOUR OVERNIGHT

_____ 2 HOUR OVERNIGHT

_____ 4 HOUR OVERNIGHT

_____ 24 HOUR LOAN

_____ 72 HOUR LOAN

_____ 7 DAY LOAN

REMOVAL DATE:

PERMANENT _____, END OF FALL EXAMS_____, WINTER EXAMS ________, OR

SPRING EXAMS ________, OR (SPECIFY DATE)__________________________

SPECIAL INSTRUCTIONS: _____________________________________________

*Instructors must submit a copy of the copyright permission with copies that do not meet the Fair Dealing test.
Fair Dealing

The Copyright Modernization Act purposely refuses to set clear definitions of what constitutes “fair dealing.” This ambiguity provides the freedom for the factors involved in a given situation to determine the legitimacy of a fair dealing claim. The Supreme Court ruled that if a use is fair dealing, then it is not an infringement of copyright.

Six (6) Step Fair-Dealing Test

The Supreme Court outlined six non-exhaustive criteria that may be applied to help determine whether a dealing is fair. Each of the six criteria must be considered when making an assessment. No one factor can be considered alone. It is the assessment of all the factors in aggregate that produces a judgment of fairness. It is worth noting that the simple availability of a work for sale or the availability of a licence does not automatically mean that a use will not qualify as fair dealing.

1. **The Purpose of the Dealing**—To qualify, your use must fall under one of the following categories; works on reserve would fall under “research” and/or “private study”.

   - Research
   - Private Study
   - Criticism
   - Review
   - Education
   - Satire
   - Parody
   - News reporting

2. **The Character of the Dealing**—How were the works dealt with? The Court ruled that when teachers make copies for their students the amount per student must be fair, according to this test, and multiple copies are not a barrier to copying.

3. **The Amount of the Dealing**—How much of the work was used? To make a decision about whether copying an excerpted amount is fair; the Court ruled that it must not be an unreasonable amount compared to the rest of the work.

4. **Alternatives to the Dealing**—Was a "non-copyrighted equivalent of the work" available to the user? Could the work have been properly criticized without being copied? In cases where a non-copyrighted version of a work was available, always use this instead.

5. **The Nature of the Work**—Copying from a work that has never been published would be more fair than from a published work "in that its reproduction with acknowledgement could lead to a wider public dissemination of the work - one of the goals of copyright law."

6. **Effect of the Dealing on the Work**—Is it likely to affect the market of the original work? "Although the effect of the dealing on the market of the copyright owner is an important factor, it is neither the only factor nor the most important factor that a court must consider in deciding if the dealing is fair."

If your reserve copies are fair dealing, then they are not an infringement of copyright; in these cases, we do not need to seek permission, nor must we pay royalties.

**NOTE**: For a use to be considered fair dealing and not an infringement of copyright, you **MUST** mention the name of the author and the source of the material.