



## Outgoing Loan Agreement Guidelines for Held-In-Trust Collections

History Colorado encourages exhibition of held-in-trust archaeology and fossil collections through proper execution of museum/repository loan agreements. Pursuant to History Colorado's and the State-Approved Museums and Curatorial Repositories program rules and policies (8 CCR 1504-7, Section 9); this guidance is intended to aid institutions with outgoing loan best practices.

### Basic Pre-Requirements

**Length of Loans.** All loans should typically be made for three (3) years or less. Loans of greater length pose a risk of loss of control of the collection. A best practice actually is to grant only one (1) year loan agreements that may be renewed upon review and re-approval not to exceed a three-year continuous period. This arrangement allows for a yearly check on the status of the loan and greater assessment on the condition of the artifacts/fossils by the lending institution.

**Entities that May Borrow.** With rare exceptions, State collections should not be loaned to individuals. However, institutions may loan materials from one research institution/museum or repository to another, thereby providing researchers access to the materials at the nearest museum or repository. Many repositories also allow for the loan of microfilm, photocopies, or facsimiles, as opposed to original records.

### State Requirements of Outgoing Loan Agreements

**Notice Requirement.** As stated in the State-Approved Museums and Curatorial Repository rules and procedures (8 CCR 1504-7, Section 9), held-in-trust state collection may be loaned out to other institutions and organizations by securing a loan agreement between the other facilities provided **notice** of the arrangement is **sent** to the State Archaeologist (c/o the State Curation Coordinator) for tracking purposes. Notices must include at a minimum: the artifact(s)/fossil(s) description, catalog number(s), the Colorado Smithsonian site number(s) from which the artifact(s)/fossil(s) are derived, the full borrowing institution's contact information (i.e. name, contact, address, phone, e-mail), the type of loan (e.g. exhibit, conservation, fossil prep, research etc.) and the duration of the loan.

**When is Permission from the State Archaeologist Required?** Permission is required if a loan is proposed and initiated by a researcher for out-of-state study or for any destructive analysis (beyond fossil preparation or destruction of ancillary samples) (see page 5 for more information on requesting permission). If the loan is initiated by a State-Approved Museum/Repository for exhibition, conservation, in-state study or fossil preparation purposes prior approval from the State Archaeologist is not required however all loans must be reported by giving notice to the State Archaeologist (c/o the State Curation Coordinator) as described above.



**Responsible Party.** The director of the approved museum or curatorial repository is responsible for all loan transactions of state collections and for ensuring that appropriate and timely administration of the loans is conducted.

**Loan Inventories are Required.** Relocation inventories must be conducted and included as part of the written loan agreement.

**Insurance is Required.** The loan and transportation of the state collection must be insured for liability purposes through securing a commercial fine art or other insurance policy or be adequately covered by governmental self-insurance to fulfill any damage or loss incident. Collections that are not inventoried or cataloged shall not be loaned.

All loaned objects must be covered by insurance in the full amount of the value (fair market plus estimated replacement value) specified by State-Approved repository from the time the objects are removed from the repository until they are returned in satisfactory condition. Coverage afforded must be “all risk,” “wall to wall” (“nail to nail”). As proof that the loaned objects under the borrower’s policy meet this specification a certificate of insurance, indicating that the State-Approved Museum/Repository and History Colorado (State of Colorado) are shown as additional insured under the policy should be forwarded to the lending State-Approved Museum/Repository prior to the shipping date.

The loaning museum/repository as well as the borrower must understand that in the event of a total collection loss, a liability assessment of the value of the collection shall be determined by mutual agreement with History Colorado as the sum of the estimated current fair market value and the estimated costs of replacing the scientific and educational information from the lost artifacts or specimen. A determination of these replacement costs may include, but are not limited to: (a) research design development; (b) fieldwork; (c) laboratory analysis; (d) curation; (e) reports or educational materials; and (f) lost visitor services or experience. In some cases, it may be appropriate for the estimated cost of replacement value to be peer reviewed by archaeologists or paleontologists with appropriate expertise and with no conflicts of interest.

**Commercial Use is Prohibited.** Commercial use of a State collection is prohibited without written consent from History Colorado.

**Ancillary Samples Do Not Require a Loan Agreement.** Ancillary samples defined as organic or inorganic specimens, other than human remains or artifacts, gathered by scientists for the purpose of analysis to provide information on past environments, diets, chronology, or material source areas. Ancillary samples may include, but are not limited to, charcoal, wood, soil, coprolites, and floral or faunal specimens. Such objects may be transported and analyzed without a formal loan agreement; however, the museum or curatorial repository will provide to History Colorado two copies of any publications, reports, and other documents prepared by researchers studying ancillary samples.



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**Credit Line.** All exhibits, reproductions, and studies will credit the State Archaeologist of Colorado as follows: “Courtesy of History Colorado, Office of the State Archaeologist.” The museum or curatorial repository will also provide to History Colorado two copies of any publications, reports, and other documents prepared by museum or curatorial repository staff studying or exhibiting the state collection (or any part thereof).

**Damages.** Damages, whether in transit or on the borrower’s premises, and regardless of responsibility, shall be reported immediately to the outgoing State-Approved repository that is loaning such objects. Within five calendar days of the discovery of any loss or theft of, deterioration or damage to, destruction of the state collection (or any part thereof), or any State property used to support and care for a state collection, the lending State-Approved museum/repository will provide to the Office of the State Archaeologist’s State Curation Coordinator written notification of the circumstances surrounding the loss, theft, deterioration, damage, or destruction, and actions taken to stabilize it. This includes any supporting state property (shelving/cabinets etc.) and efforts to correct any deficiencies in the operating procedures or environment that may have contributed to the loss, theft, deterioration, damage, or destruction.

**Condition of the Collection.** Borrowers should agree to maintain the loaned objects in the condition in which they are received and not to permit cleaning, repairing, retouching, or alteration of any kind without the outgoing loaned repositories prior written consent. Other than routine, small and simple paleontological specimen or artifact mending repairs, any planned actions that involve major repair or restoration beyond basic re-attachment of the state collection (or any part thereof) or any other State of Colorado property associated with the state collection must be approved of in advance after consultation with the State Archaeologist. The agreement should describe the condition of the item when it was loaned, noting any blemishes for which the recipient should not be held accountable and providing the lender with a means to demonstrate the condition of the item when it left their care in case it is returned damaged. Some institutions may ask for a special condition report to be filled out and returned by the borrower.

**Title and Rights.** Loan agreements do not confer on the borrower any right, title, or interest in a held-in-trust State collection. All State-owned objects remain the sole and exclusive title of the State of Colorado. The borrower should also agree to return such objects immediately upon demand by the State-Approved Museum/Repository or if the lending repository is in breach of a loan contract/agreement as History Colorado may direct.

### Other Common Standard Terms and Conditions

**Stable Condition.** Loans should only be made if the subject object(s) are in stable condition and appropriate for the purpose of a loan (except when loaned for repair).

**International Loans.** Foreign, out of country loans must address all packing, shipping, insurance, destination, and customs information. Loans out of the country can be complicated due to language



barriers, customs and government rules. It is best to seek the advice of legal counsel when dealing with international loan requests.

**Exposures.** Borrowers should not expose loaned objects to damage from unfiltered ultraviolet radiation, biological agents, or unstable environmental conditions.

**Transportation Costs.** Borrowers should agree to pay all costs involved in the transportation of loaned objects, including framing, matting, packing, crating, shipping, and for the hiring of special packers when such hiring is deemed necessary.

**Lender's Contact Information.** Lender's name and full contact information. This will enable the recipient to easily contact the lender if a question arises about the loan or the item.

**Borrower's Contact Information.** Recipient's name and full contact information. This will enable the lender to easily contact the recipient if a question arises about the loan or the item.

**Loan Purpose.** The agreement should describe why the item(s) are being loaned and how it will be used. For example, is the item to be used in an exhibit that will be open to the public? Is the item to be displayed at a private fundraising reception? Is the item to be used by the recipient's staff for research purposes? Is the item being provided to a vendor or other institution to be scanned?

**Description of the Artifacts/Fossils.** The agreement should carefully describe the item so that it can be readily identified. Please use the official site number (e.g. 5AM2), site name and artifact/fossil description (e.g. three pound two-handed red sandstone mano with small hatch indent on the largest flat surface).

**Storage and Exhibition Requirements.** Some repositories will include information on how the item must be stored and/or exhibited.

**Signature, Title, and Date.** Representatives of the lender and borrower, who are authorized to enter into a legally binding document (e.g. the historical society president or director of a museum), should sign and date the loan agreement.

**Acknowledgement of Return.** The loan agreement should include an area to be completed upon the item's return in which a representative of the lender acknowledges that the item was received and notes the condition upon return.

**Security.** Regardless of the type of loan, certain security procedures should be in place to protect the artifacts/fossils. Evidence of security procedures must be present before a loan agreement is signed. At a minimum, it is best practice to maintain loaned objects securely within a 24-hour-a-day security alarm system.



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**Legal Note.** Only one document can govern any loan transaction. Multiple loan agreements for the same action cannot be enforced. The last one signed will invalidate earlier signed forms. If the museum has specific concerns or specific requirements not addressed on the borrower's agreement, the lender should amend the loan agreement provided by the borrower as needed rather than issuing another outgoing loan agreement.

Outgoing loan agreements are contracts and should be vetted by your legal counsel.

### For Researchers and Permit Holders

**Out of State Analysis or Study.** Permittees and researchers proposing to transport collections out of the state of Colorado must secure a loan agreement between an out-of-state facility and a permanent approved on-site institution, reputable in-state museum, or curatorial repository, *subject to the approval of History Colorado (via the State Archaeologist)*. Ancillary samples however may be transported and analyzed without such a loan agreement or prior approval from History Colorado. Any proposed out-of-state analysis of human remains and associated funerary objects is subject to the approval of History Colorado.

To request permission to transport State artifacts/fossils out of state please fill out and return Form #1656, *the Request for Non-Destructive Out-of-State Transportation Approval for Held-In-Trust Artifacts or Fossil Specimen* found on-line [HERE](#).

**Destructive Analysis Request.** Proposed analysis of artifacts or fossils, which would cause their destruction or damage, such as trace-element analysis of materials, may be performed *only with the written consent of History Colorado through the State Archaeologist*, who shall consider whether such artifacts are unique or duplicated in state-owned collections. If part of the artifact/fossil will remain intact after the analysis is completed and will be returned to the repository for continued curation, an outgoing loan agreement must be issued for the artifact(s)/fossil(s). The Office of the State Archaeologist will supply notification of consent to the affected museum within thirty days, after filling out and sending back to the Office with the proper request form.

To request permission to perform destructive analysis on State artifacts/fossils please fill out and return Form #1647, *Request for Destructive Analysis Approval of Held-In-Trust Artifacts or Fossil Specimen* found on-line [HERE](#).



# HISTORY Colorado

## Sample Loan Agreement Form

### OUTGOING LOAN AGREEMENT

LOAN NUMBER

This agreement is between (REPOSITORY NAME) and the borrower whose name appears below (herein called the Borrower), and provides for the loaning of the object(s) described below, for the purpose of exhibition or study and subject to all terms and conditions of this agreement.

Loan Period:	DATE to DATE
Borrower:	NAME OF INSTITUTION
	CONTACT NAME
	TITLE
	ADDRESS
	CITY, STATE, ZIP
Office phone:	XXX-XXX-XXXX
Email:	
Description:	
Object ID	Object Information
	Current Value:
	Total loan Value:
	\$0.00
Shipping Instructions:	

Notes:

INSURANCE COVERAGE TO BE ASSUMED BY:  BORROWER

Signature below signifies acceptance of all Terms and Conditions of this agreement.

Borrower \_\_\_\_\_ Date \_\_\_\_\_

Printed Name/Title \_\_\_\_\_

Repository Name \_\_\_\_\_ Date \_\_\_\_\_

Printed Name/Title \_\_\_\_\_

Borrower Initials:

#### Terms and Conditions for Outgoing Loans

...of study, exhibition, analysis, repair, or appraisal, and are made only to other historical agencies or educational institutions (except for the purpose of repair, analysis, or appraisal). Loan of an object usually only if Repository considers safe to loan by Repository (except when loaned for repair). In general, loans are not made of extremely fragile materials, unless society exhibits.

...the shipping date in order to allow time for photography, packing, and other arrangements.

...ously received, in writing, all packing, shipping, insurance, destination, and customs information. In the case of foreign loans, who will be in charge of coordinating the foreign loan on the borrower's behalf, and who will handle all

...title, or interest in the objects described herein except such rights as are expressly set forth herein and the borrower Repository, or within such period as Repository may direct.

...in condition in which they are received and not to permit cleaning, repairing, retouching, or alteration of any kind without with any additional reasonable conditions specified by Repository and not to expose the objects to damage from environmental conditions.

...loaned objects, including framing, matting, packing, crating, shipping, and for the hiring of special packers when such authorized by Repository, objects shall be returned in the original crate for the return to Repository by the same borrower. Damages, whether in transit or on the borrower's premises, and regardless of responsibility, shall be the

...ount of the value specified by Repository, from the time the objects are removed from Repository until they are returned "wall to wall" ("nail to nail"). By marking the appropriate blank on the first page of this agreement, the borrower agrees

...the borrower's policy which must meet the specifications set forth above in this paragraph, in which case a policy that Repository and History Colorado (State of Colorado) is an additional insured under the policy, must be shipping date;

...over, the borrower shall review their condition and report to Repository any disagreements with the condition report all loaned objects in the condition in which they are received.

...is received until they are shipped back to Repository, the loaned objects will not leave the custody of the borrower and

...be reasonably necessary to protect them against loss, breakage, deterioration, or other damage; such care to include all bound volumes) must be in locked cases or in frames using glass or ultraviolet filtering Plexiglas and acid-free matting or behind glass must have sufficient distance from the public to prevent touching. Exhibit areas must be under open to the public.

...damage by the use of (1) ultraviolet filters on fluorescent and incandescent lights, or (2) ultraviolet filtering Plexiglas in element (or at least the baliseit) is outside the enclosed area.

...performed by the borrower without Repository's prior permission in the form of a Repository work order form. Requests by the borrower to the object.

...adequate 24-hour-a-day alarm security guard systems, or in any other security system, which are required by

...set forth on the first page of this agreement. Loaned objects shall be returned to Repository at the end of the loan period or to the expiration of the loan period. However, Repository reserves the right to require the early return of loaned

...labeling that they are on loan from the Repository. If requested by Repository, labels will also include the name of the donor

...any publication or catalogue regarding an exhibit involving objects loaned by Repository.

...is terms or conditions of which the borrower is bound by Repository in writing. Repository may impose such additional condition of the loaned objects covered by this agreement.

...agreement of the borrower, the terms of this agreement shall be controlling.

Borrower Initials: