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# FILM & ENTERTAINMENT PRODUCER LIABILITY APPLICATION FOR INSURANCE

## TO COMPLETE THIS APPLICATION, PLEASE SUBMIT:

- Experience résumés of the Producer and Executive Producer for each production (if less than three years experience)
- Standard contract with authors, distributors, etc.
- Video/DVD copy of production or copy of script if motion picture for theatrical release; if docu-drama, please provide an annotated script
- Copyright Report & Script Clearance Report if motion picture for theatrical release
- Title Search and Report, if Title Coverage is desired
- Top sheet of budget for production(s)
- Description of procedure for checking accuracy, infringements, etc.
- Description of procedure for processing unsolicited ideas, scripts, screenplays, etc.
- Completed, signed and dated Film & Entertainment Reality Television Supplement, if production is reality
- Completed, signed and dated Media/Cyber Liability Supplement if Internet coverage is desired

Submission of a completed application incurs no obligation to purchase or bind insurance.

**NOTE: All questions must be answered. All requested attachments must accompany application.**

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## I. GENERAL INFORMATION –

1. Applicant / First Named Insured (including DBAs):

**NOTE: First Named Insured is responsible for premium payment, cancellation and changes – refer to specimen policy.**

Street Address:

City, State, Zip Code: Telephone Number:

Website Address(es):

2. Are there other Named Insureds and/or subsidiaries, affiliates, branch offices or other related entity(ies), including DBAs, for which coverage is desired?  Yes  No If yes, please provide a list of entities for which coverage is desired.

3. Are there any entities seeking coverage as an “Additional Insured” arising from their vicarious liability (i.e. distributors, licensees, exhibitors, bond companies, financiers, etc.)?  Yes  No

If yes, please provide a list of entities for which coverage is desired.

**NOTE: These entities may already be covered by the definition of “Additional Insured” within the policy (refer to specimen policy).**

All remaining questions on this application apply to all of the persons and entities described in Questions 1. and 2. above, collectively referred to as “Applicant”.

4. Date Applicant was established: \_\_\_\_\_

5. Applicant is a:  Corporation  Individual  Partnership  Joint Venture  Other – specify:

6. A. Is Applicant wholly or partially owned by, affiliated with or controlled by any other entity(ies) not previously listed in Question 1. or 2.?  Yes  No
- B. Does Applicant wholly or partially own, operate, manage or control any other businesses or entity(ies) not previously listed in Question 1. or 2.?  Yes  No

If 6.A. or 6.B. are answered yes, provide complete details:

7. Within the past five years has Applicant:
- A. Changed name?  Yes  No
- B. Changed ownership structure?  Yes  No
- C. Purchased or acquired another entity?  Yes  No
- D. Merged or consolidated with another entity?  Yes  No
- E. Previously been wholly or partially owned by, affiliated with, employed by or controlled by any other entity(ies) not listed in Question 1. or 2.?  Yes  No

If yes, name of entity:

If any of 7.A. – 7.E. are answered yes, please attach a summary of relevant transactions.

8. Is the Applicant a single purpose entity set up to produce this production?  Yes  No

If yes, who owns this entity? \_\_\_\_\_

9. Is Applicant performing work on a work-for-hire basis?  Yes  No

If yes, please attach a copy of the work-for-hire agreement.

10. List professional societies and trade associations of which the Applicant is a member or officer:

## II. PROPOSAL REQUIREMENTS –

11. Desired Effective Date: \_\_\_\_\_
12. Desired Policy Term:  1 Year  2 Years  3 Years  4 Years  5 Years
13. Desired Policy Limit: \$\_\_\_\_\_ Each Loss  
\$\_\_\_\_\_ Total Limit of Insurance
14. Desired Self-Insured Retention: \$\_\_\_\_\_

## III. PRODUCTION INFORMATION:

15. Applicant's estimated total gross revenues and production costs/budget for production:  
Gross Production Costs/Budget \$\_\_\_\_\_ Estimated Gross Revenues \$\_\_\_\_\_
16. Title(s) of production(s) to be insured:
17. Estimated dates for first release or air date: \_\_\_\_\_
18. Type of production:
- Motion Picture for Full Theatrical Release
  - Motion Picture for Limited Theatrical Release (Ten (10) or less theatres/art houses in the U.S.)
  - Motion Picture for Television Release
  - Film Festivals
  - TV Series - Number of Episodes: \_\_\_\_\_
  - TV Special
  - TV Pilot - Airing, Number of Episodes: \_\_\_\_\_
  - TV Pilot - Non-Airing, Number of Episodes: \_\_\_\_\_
  - Direct to DVD/VOD
  - Live Event: - Describe: \_\_\_\_\_
  - Radio Program - Number of Episodes: \_\_\_\_\_
  - Webisodes - Number: \_\_\_\_\_
  - Theatrical Stage Presentation
  - Industrial, Commercial or Educational (ICE)
  - Other - Describe: \_\_\_\_\_

19. If the production is for DVD release, will additional bonus material be included on the DVD?  Yes  No  
If yes, will the bonus material go through the same clearance procedures as the rest of the production?  Yes  No  
If no, please explain:

20. Production is:

- |  |                                   |   |   |
|--|-----------------------------------|---|---|
| <input type="checkbox"/> Drama                   | <input type="checkbox"/> Comedy   | <input type="checkbox"/> Children's Show        | <input type="checkbox"/> Documentary              |
| <input type="checkbox"/> Reality                 | <input type="checkbox"/> Variety  | <input type="checkbox"/> Game or Quiz           | <input type="checkbox"/> Music Video              |
| <input type="checkbox"/> Investigative           | <input type="checkbox"/> Animated | <input type="checkbox"/> Educational/Industrial | <input type="checkbox"/> "How To"                 |
| <input type="checkbox"/> Commentary or Forum     | <input type="checkbox"/> Sports   | <input type="checkbox"/> Commercial             | <input type="checkbox"/> Previously released film |
| <input type="checkbox"/> Other - please explain: |                                   |   |   |

21. Running time of production: \_\_\_\_\_

22. Summary of plot, including time frame and setting:

23. Names of Producer and Executive Producer: \_\_\_\_\_

24. Names of Authors or Writers of:

- A. Underlying Works: \_\_\_\_\_  
B. Screenplays, etc.: \_\_\_\_\_

25. Production is:

- Entirely fictional  
 Entirely fictional but inspired by real events or occurrences  
 True portrayal of real events or occurrences  
 True portrayal of real events or occurrences but includes some fictionalization  
 Based on another work - Name of other work: \_\_\_\_\_  
Have the necessary agreements from the owners of the other work been obtained?  Yes  No  
If yes, please submit document granting rights. If no, please explain:  
 Other - please explain:

26. Applicant's projected distribution:  International  National  Regional  Local

27. Name of Distributor: \_\_\_\_\_

Date of contract: \_\_\_\_\_

Term of Insurance required by contract: \_\_\_\_\_

Territory: \_\_\_\_\_

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#### **IV. MERCHANDISE INFORMATION –**

28. A. Will any merchandise (such as toys, dolls, clothing, etc.) be created from the production?  Yes  No

If yes, please describe all such merchandise:

If yes, what is expected revenue from merchandise sales?

- B. Have all necessary consents and licenses been obtained from performers, authors, artists, etc., to produce and distribute this merchandise?  Yes  No
- C. Will appropriate trademark or other searches be made before merchandising characters or other matter that might be subject to trademark, unfair competition or other similar claims?  Yes  No
- D. Is the merchandise being designed and/or produced by Applicant?  Yes  No and/or Licensees?  Yes  No  
If yes, are the licensees providing warranties and indemnities that their contributions to the design, marketing and production of the merchandise and packaging will not infringe upon the rights of others?  Yes  No

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#### **V. PROCEDURES –**

29. A. Name, address and phone number of Applicant's media attorney who has, or will, clear acquisitions, rights and contracts in relation to the production(s) for which Applicant is seeking coverage:

Firm: \_\_\_\_\_

Individual: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

B. Does the Applicant use in-house media attorneys?  Yes  No If yes, how many are on staff? \_\_\_\_\_

30. Have the Applicant and Applicant's media attorney read the Clearance Procedures attached to this application and agreed to exercise due diligence to ensure that these procedures are followed in relation to the production(s) for which Applicant is seeking coverage?  Yes  No

If no, please explain why not, and provide detailed description of Applicant's Clearance Procedures to be followed in relation to the production(s) for which Applicant is seeking coverage:

31. Does the Applicant have a process for processing unsolicited submissions?  Yes  No

If yes, please provide a copy of this process.

32. Is the name or likeness of any living person used or is any living person portrayed, with or without use of name or likeness in the production(s)?  Yes  No

If yes, have releases been obtained in all cases?  Yes  No

If no, will releases be obtained in all cases prior to the first airing, distribution or public display of the production?  Yes  No

If releases have not been obtained, please explain:

33. Is the name or likeness of any deceased person used or is any deceased person portrayed, with or without use of name or likeness, in the production(s)?  Yes  No

If yes, have releases been obtained in all cases from personal representatives, heirs or other owners of such rights?

Yes  No

If no, will releases be obtained in all cases prior to the first airing, distribution or public display of the production?  Yes  No

If releases have not been obtained, please explain:

34. Is there any reasonable expectation that a living person could claim to be identifiable in the production, whether or not the person's name or likeness is used or the production purports to be fictional?  Yes  No

If yes, has a release been obtained from such person?  Yes  No

If no, will a release be obtained from such person prior to the first airing, distribution or public display of the production(s)?

Yes  No

If a release has not been obtained from such person, please explain:

35. Has the Applicant or any of its agents or predecessors failed to obtain an agreement or release after bargaining for:

A. any rights in literary, musical or other material?  Yes  No

B. releases from any persons in connection with the production, including performers and persons appearing in the production(s)?  Yes  No

If yes to either, will rights and releases be obtained in all cases prior to the first airing, distribution or public display of the production(s)?  Yes  No

36. Is the Applicant the entity that has secured all clearances, releases and rights for this production?  Yes  No

If no, please explain and attach any supporting documentation.

37. Has the Title Report been obtained from any title clearance service?  Yes  No

If yes, please attach a copy of the Title Report.

38. Has a Copyright Report been obtained?  Yes  No

If yes, are there any ambiguities or gaps in the line of copyright ownership ("chain of title")?  Yes  No

If yes, please explain:

Please attach a copy of the Copyright Report.

39. Is there any literary or other material in the production that was copyrighted in the United States before January 1, 1978?

Yes  No

If yes, please explain:

40. Are any clips (film or video excerpts from other sources) or photographs used in this production?  Yes  No

If yes, have all licenses and consents for the clips been obtained?  Yes  No

If no, will licenses and consents be obtained in all cases prior to the first airing, distribution or public display of the production?

Yes  No

If no, please explain:

41. If production is a Documentary, is Applicant relying on the Fair Use Doctrine?  Yes  No  
If yes, please attach the following items for our review and consideration of coverage:
- A. Copy of the final production.
  - B. Clip log - detailing every clip used (licensed and unlicensed); the copyright owner for each clip; and the time location of each clip within the documentary.
  - C. Copy of an opinion letter from the clearance attorney.
42. Has a script clearance report been obtained (to clear character and business names, etc.)?  Yes  No  
If yes, have suggested changes been made and suggested permissions obtained?  Yes  No  
If no to either question, please explain:
43. Have musical rights been cleared:
- A. Recording and synchronization rights?  Yes  No
  - B. Performing rights?  Yes  No
  - C. Right to distribute for all forms contemplated (home video, DVD, etc.)?  Yes  No
  - D. If any part is answered no, will these rights be obtained prior to the first airing, distribution or public display of the production?  
 Yes  No
44. Has original music been commissioned for the production(s) to be insured?  Yes  No  
If yes, has a warranty of originality and an indemnity against third party claims been obtained from the composer?  Yes  No  
If no, will a warranty of originality and an indemnity against third party claims be obtained from the composer prior to the first airing, distribution or public display of the production?  Yes  No
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## VI. CLAIMS EXPERIENCE –

45. A. Has the Applicant, or any person or entity associated with the Applicant, received any correspondence and/or communication within the last five years from any person or entity asserting ownership to any aspect of the production(s) to be insured or disputing the use of any matter, material or services associated with the production, and/or has any claim, lawsuit or proceeding been made during the past five years against the Applicant or any of the Applicant's predecessors in business, subsidiaries or affiliates or against any of their past or present partners, owners, officers or employees?  Yes  No  
If yes, provide complete details. Include type of claims, gist of offending matter, name of claimant, amount of defense costs, judgment or settlement, status or final disposition of the claim.  
**The policy for which the Applicant is applying, if issued, will not insure any claims, suits or proceedings made against the Applicant before the Inception Date of the policy or any subsequent claims, suits or proceedings arising there from.**
- B. Is the Applicant aware of any actual or alleged fact, circumstance, situation or error or omission arising out of the activities described in this application that may reasonably be expected to result in a claim being made against the Applicant or any of the person or entities described in 45.A. above?  Yes  No  
If yes, please explain and provide details:  
**The policy for which the Applicant is applying, if issued, will not insure any claims that can reasonably be expected to arise from any actual or alleged fact, circumstance, situation, error or omission known to the Applicant before the Inception Date of this policy.**
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## VII. OTHER INSURANCE –

46. A. During the past three years, has any similar insurance been issued to Applicant for the production(s) for which the Applicant is currently seeking coverage?  Yes  No  
If yes, complete the following:  
Company:  
Policy Number:  
Limits:  
Deductible:  
Coverage Dates:  
Premium:
- B. Has any insurer declined, canceled or refused to renew any similar insurance issued to Applicant? (Not applicable in Missouri.)  Yes  No If yes, give details:
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**VIII. REPRESENTATIONS –**

**By signing this application, the Applicant agrees that:**

1. The statements and answers furnished to the Company in this application and any attachments to it are accurate and complete;
2. The statements and answers furnished to the Company are representations the Applicant makes to the Company on behalf of all persons and entities proposed for coverage;
3. Those representations are a material inducement to the Company to provide a proposal for insurance;
4. Any policy the Company issues will be issued in reliance upon those representations;
5. The Applicant will report to the Company immediately, in writing, any material change to the Applicant's operations, conditions or answers provided in this application that occur or are discovered between the date of this application and the effective date of any policy, if issued; and
6. The Company reserves the right, upon receipt of any such notice, to modify or withdraw any proposal for insurance the Company has offered.

**WARNING**

**ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT S(HE) IS FACILITATING A FRAUD AGAINST THE INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT MAY BE GUILTY OF INSURANCE FRAUD.**

NAME (PLEASE TYPE OR PRINT)

NAME (SIGNATURE OF AUTHORIZED REPRESENTATIVE)

TITLE

DATE

TO BE COMPLETED BY PRODUCER(S) ONLY:

<b>RETAIL PRODUCER:</b> Producer Name: City, State: Telephone No.:		<b>WHOLESALE PRODUCER:</b> Producer Name: City, State: Telephone No.:	
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**BROKER/AGENT SIGNATURE (NEW HAMPSHIRE):** \_\_\_\_\_

**NOTICE TO ARKANSAS APPLICANTS:**

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO COLORADO APPLICANTS:**

IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES.

**NOTICE TO DISTRICT OF COLUMBIA APPLICANTS:**

WARNING: IT IS A CRIME TO PROVIDE FALSE OR MISLEADING INFORMATION TO AN INSURER FOR THE PURPOSE OF DEFRAUDING THE INSURER OR ANY OTHER PERSON. PENALTIES INCLUDE IMPRISONMENT AND/OR FINES. IN ADDITION, AN INSURER MAY DENY INSURANCE BENEFITS IF FALSE INFORMATION MATERIALLY RELATED TO A CLAIM WAS PROVIDED BY THE APPLICANT.

**NOTICE TO FLORIDA APPLICANTS:**

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE, OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

**NOTICE TO KENTUCKY APPLICANTS:**

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME.

**NOTICE TO LOUISIANA APPLICANTS:**

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO MAINE APPLICANTS:**

IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

**NOTICE TO MARYLAND APPLICANTS:**

ANY PERSON WHO KNOWINGLY AND WILLFULLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR WHO KNOWINGLY AND WILLFULLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO NEW JERSEY APPLICANTS:**

ANY PERSON WHO INCLUDES ANY FALSE OR MISLEADING INFORMATION ON AN APPLICATION FOR AN INSURANCE POLICY IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO NEW MEXICO APPLICANTS:**

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

**NOTICE TO NEW YORK APPLICANTS:**

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

**NOTICE TO OHIO APPLICANTS:**

ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

**NOTICE TO OKLAHOMA APPLICANTS:**

WARNING: ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY.

**NOTICE TO PENNSYLVANIA APPLICANTS:**

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO RHODE ISLAND APPLICANTS:**

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**SURPLUS LINES NOTICE FOR RHODE ISLAND APPLICANTS:**

THIS INSURANCE CONTRACT HAS BEEN PLACED WITH AN INSURER NOT LICENSED TO DO BUSINESS IN THE STATE OF RHODE ISLAND BUT APPROVED AS A SURPLUS LINES INSURER. THE INSURER IS NOT A MEMBER OF THE RHODE ISLAND INSURERS INSOLVENCY FUND. SHOULD THE INSURER BECOME INSOLVENT, THE PROTECTION AND BENEFITS OF THE RHODE ISLAND INSURERS INSOLVENCY FUND ARE NOT AVAILABLE.

**SURPLUS LINES NOTICE FOR SOUTH CAROLINA APPLICANTS:**

THIS COMPANY HAS BEEN APPROVED BY THE DIRECTOR OR HIS DESIGNEE OF THE SOUTH CAROLINA DEPARTMENT OF INSURANCE TO WRITE BUSINESS IN THIS STATE AS AN ELIGIBLE SURPLUS LINES INSURER, BUT IT IS NOT AFFORDED GUARANTY FUND PROTECTION.

**NOTICE TO TENNESSEE, VIRGINIA AND WASHINGTON APPLICANTS:**

IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS.



## CLEARANCE PROCEDURES

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The Clearance Procedures below should not be construed as exhaustive and they do not cover all situations that may arise in any particular circumstance or any particular production.

1. Applicant and its counsel should monitor the production at all stages, from inception through final cut, with a view to eliminating material that could give rise to a claim.

Consideration should be given to the likelihood of any claim or litigation. Is there a potential claimant portrayed in the production who has sued before or is likely to sue again? Is there a close copyright or other legal issue? Is the subject matter of the production such as to require difficult and extensive discovery in the event of necessity to defend? Are sources reliable? The above factors should be considered during all clearance procedures.

2. The producer and the lawyer need to read the script prior to commencement of production to eliminate matter that is defamatory, invades privacy or is otherwise potentially actionable.
3. A script clearance report should also be prepared *before* filming to alert the producer to potential problems. Such problems may include: names of fictional characters that are coincidentally similar to real people; script references to real products, businesses or people if not cleared; or uses of copyrighted or other protected materials, etc. Fictional character names should be checked in relevant telephone directories, professional directories or other sources to minimize the risk of accidental identification of real people. Similar checks should be done for the names of businesses, organizations and products used in the production. Special care should be taken to check names of persons, businesses, etc., that are negatively portrayed. The producer also must be alert to elements that do not appear in the script (such as art work(s) used on the set) but that may need clearances.
4. If the production is a documentary and there is no script, the producer should provide its counsel with a detailed synopsis of the project in advance of production. (If it is a documentary series, the lawyer should receive a detailed synopsis of each episode.) If the production will involve negative statements about people or businesses, the producer should provide counsel with full details about the allegations and their merit. Problem statements can then be identified and thus avoided while filming. During filming, the producer should be careful to avoid (or consult with counsel about) possible problem areas. (Examples include: filming identifiable copyrighted items or performances, trademarks, persons who have not specifically consented to be filmed or minors.) Relevant laws differ from place to place; some jurisdictions have very restrictive rules about filming persons, signs, buildings, public art, etc. Also, be careful to avoid narration or editing that accidentally implies negative things about pictured people, products and businesses
5. A copyright report on the underlying script, book or other work must be obtained, unless the work is an unpublished original, not based on any other work, and it is certain that it was not optioned or licensed to others prior to the Applicant's acquisition of rights. Both domestic and foreign copyrights and renewal rights should be checked. If a completed film is being acquired, a similar review should be made of copyright and renewals on any copyrighted underlying property.
6. The origins of the work should be ascertained — basic idea, sequence of events and characters. Have submissions of any similar properties been received by the Applicant or someone closely involved with the production? If so, the circumstances as to why the submitting party may not claim theft or infringement should be described in detail.
7. Prior to final title selection, a title report must be obtained. **TITLE COVERAGE WILL NOT BE OFFERED UNLESS A RECENT TITLE REPORT HAS BEEN SUBMITTED TO AND APPROVED BY THE COMPANY.**
8. Whether the production is fictional or factual, the names, faces and likenesses of any recognizable living persons should not be used unless written releases have been obtained. A release is unnecessary if the person is part of a crowd scene or shown in a fleeting background. Releases can only be dispensed with if the Applicant provides the Company with specific reasons, in writing, as to why such releases are unnecessary and such reasons are accepted by the Company. The term "living persons" includes thinly disguised versions of living persons or living persons who are readily identifiable because of identity of other characters or because of the factual, historical or geographic setting.
9. All releases must give the Applicant the rights to edit, modify, add to and/or delete material, juxtapose any part of the film with any other film, change the sequence of events or of any questions posed and/or answers given, fictionalize persons or events, and make any other changes in the film that the Applicant deems appropriate. If a minor, consent has to be legally binding.
10. If music (pre-existing or original) is used, the Applicant must obtain all necessary synchronization and performance licenses from copyright proprietors. All necessary licenses must also be obtained for recordings of such music. **MUSIC COVERAGE WILL NOT BE OFFERED UNTIL WRITTEN CONFIRMATION THAT ALL LICENSES HAVE BEEN OBTAINED IS SUBMITTED TO AND APPROVED BY THE COMPANY.**
11. Written agreements must exist between the Applicant and all creators, authors, writers, performers and any other persons providing material (including quotations from copyrighted work(s) or on-screen services.
12. If distinctive locations, buildings, businesses, personal property or products are filmed, written releases must be secured. This is not necessary if such real property is seen only as non-distinctive background.

13. If the production involves actual events, it should be ascertained that the author's major sources are independent and primary (contemporaneous newspaper reports, court transcripts, interviews with witnesses, etc.) and not secondary (another author's copyrighted work, autobiographies, etc.).
14. Shooting script and rough-cuts should be checked to assure compliance with all of the above. During photography, a person might be photographed on location, dialogue added or other matter included that was not originally contemplated.
15. If the intent is to use the production or its elements on videocassettes, websites, multimedia formats or other technology, rights to manufacture, distribute and release the production must include the above rights and must be obtained from all writers, directors, actors, musicians, composers and other necessary therefore, including proprietors of underlying materials.
16. Film/video clips are dangerous unless licenses and authorizations for the second use are obtained from the owner of the clip, as well as licenses from all persons rendering services in or supplying material contained in the clip; e.g., owners of underlying literary rights, writers, directors, actors, music owners or musicians. Special attention should be paid to music rights as music owners often take the position that new synchronization and performance licenses are required.
17. Living persons and even the deceased (through their personal representatives or heirs) may have a "right of publicity." Clearances must be obtained where necessary. Where the work is fictional in whole or in part, the names of all characters must be fictional. If for some special reason particular names need not be fictional, full details must be provided to the Company in an attachment to the application.