

## Blanket Producers' Errors & Omissions Application

NOTICE:		THIS IS AN APPLICATION FOR A CLAIMS MADE OR OCCURRENCE POLICY (IF SO ENDORSED). EXCEPT AS PROVIDED IN THE POLICY, ANY CLAIMS MADE INSURANCE POLICY ISSUED HEREAFTER WILL BE LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE INSURER DURING THE POLICY PERIOD; OR, IF AN OCCURRENCE POLICY, ONLY THOSE CLAIMS FROM WRONGFUL ACTS THAT AROSE AFTER THE RETROACTIVE DATE OR DURING THE PERIOD OF INSURANCE. PLEASE READ AND REVIEW THIS APPLICATION CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT, BROKER, AND/OR LEGAL REPRESENTATIVE.	
1. Name of Applicant(s):			
2. Address:			
3. Website(s):			
4. Applicant is a:		<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Other – please describe:	
5. Names and Titles of Principal Officers, Partners, or Individuals:			
6. Names of Subsidiaries (including ownership percentage):			
7. Desired Effective Date:		Desired Retroactive Date:	
8. Number of Years in Business:			
9. Limits of Desired Coverage:		For any one Claim: \$ <input type="checkbox"/> CAD <input type="checkbox"/> USD In the Aggregate: \$ Deductible Amount: \$	
<b>NOTE: Claims Expenses are inclusive within the Limits of Liability.</b>			
10. Considering all productions to be covered under this Policy, what is the Applicant's:			
a) Gross Revenue: \$ b) Gross Production Costs: \$			
11. Projected distribution territory of Insured Productions:			
<input type="checkbox"/> Canada <input type="checkbox"/> USA <input type="checkbox"/> Other (please specify):			
12. Estimated number AND types of Insured Productions to be produced annually:			
Motion Picture for Theatrical Release		Direct to Video/Blu-ray	
Motion Picture for TV Release		Live Stage Presentation	
TV Pilot		Webisode	
Platform/Streamer Series		Mobisode	
TV Special		Industrial/Training Film	
Radio or Podcast Program		Commercial	
TV Series		Other – <i>Please describe:</i>	
TV Mini-Series			



<p><b>18. Script Clearance Report</b></p> <p>a) Has a script clearance report been obtained for each Insured Production (i.e., to clear business and character names, brands/logos, etc.)?</p> <p>b) If “Yes” to question 18.a), have suggested changes been made and suggested permissions obtained?</p> <p>c) If “No” was answered for either question 18.a) or 18.b), please explain:</p> <p>d) If “No” was answered for either question 18.a) or 18.b), will script clearance reports be obtained, and suggested changes made, and permissions obtained prior to the release of these Insured Productions?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p>
<p><b>19. Use of Likeness</b></p> <p>a) 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 any Insured Productions?</p> <p>b) If “Yes” to question 19.a), have clearances been obtained in all cases?</p> <p>c) If “No” to question 19.b), please explain:</p> <p>d) Is the name or likeness of any deceased person used, or is any deceased person portrayed (with or without name or likeness) in any Insured Productions?</p> <p>e) If “Yes” to question 19.d), have clearances been obtained from personal representatives, heirs, estates, or other owners of such rights?</p> <p>f) If “No” to question 19.e), please explain:</p> <p>g) Is there a possible risk that a living person could claim (without regard to the merits) to be identifiable in any Insured Productions, whether or not the person’s name or likeness is used or such Insured Productions purports to be fictional?</p> <p>h) If “Yes” to question 19.g), has a release been obtained from such person?</p> <p>i) If “No” to question 19.h), please explain:</p> <p>j) If “No” was answered for 19.b), 19.e), or 19.h), will the clearances be obtained prior to the release of these Insured Productions?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> No</p>

<p><b>20. Copyright</b></p> <p>a) Has a Copyright Report been obtained for each Insured Production? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b) If “No” to question 20.a), please explain:</p> <p>c) If “Yes” to question 20.a), are there any ambiguity or gaps in the lines of ownership? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>d) If “Yes” to question 20.c), please explain:</p> <p>e) If all necessary copyright clearances have not been obtained, will the Applicant do so prior to the release of the Insured Productions? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>f) If all necessary copyright clearances cannot be obtained, what steps will the Applicant be taking prior to the release of the Insured Productions to ensure copyright compliance by other means. Please explain:</p>		
<p><b>21. Film/Video Clips and Photographs</b></p> <p>a) Are any film/video clips used in any of the Insured Productions? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b) If “Yes” to question 21.a), have all necessary rights, licenses, or consents for such clips been obtained? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c) If “No” to question 21.b), please explain:</p> <p>d) Are any photographs used in any of the Insured Productions? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>e) If “Yes” to question 21.d), have all necessary rights, licenses, or consents been obtained from copyright holders of the photographs? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>f) If “Yes” to question 21.d), have all consents been obtained prior to commercial distribution or release of the Insured Productions? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>g) If “No” to either question 21.e) or 21.f), please explain:</p> <p>h) If “No” to any part of questions 21.b), 21.e), or 21.f), will the Applicant obtain these rights prior to the release of these Insured Productions? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		

<p><b>22. Music</b></p> <p>a) Have all music rights been cleared?</p> <p>b) Have all synchronization rights been cleared?</p> <p>c) Have all performing rights been cleared?</p> <p>d) Have all master use or sound recording rights been cleared?</p> <p>e) Will the any Insured Productions be distributed to the public via videogram/physical form(s) including but not limited to CD, DVD, Blu-ray, streaming services, etc.?</p> <p>f) If “Yes” to question 22.e), has the Applicant acquired and cleared the necessary distribution rights in connection with such music?</p> <p>g) If “No” to any of questions 22.a), 22.b), 22.c), 22.d), or 22.f), will the Applicant obtain these rights prior to the release of the Insured Productions?</p> <p>h) If “No” to question 22.g), please explain:</p>   <p>i) Is original music commissioned for any of the Insured Productions?</p> <p>j) If “Yes” to question 22.i), has a composer agreement or similar contract including industry standard terms such as indemnification and music ownership been obtained from the composer(s) for each Insured Production?</p> <p>k) If “No” to question 22.j), please explain:</p>   <p>l) If “No” to question 22.j), will the Applicant obtain the aforementioned agreements prior to the release of these Insured Productions?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes    <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes    <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes    <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No    <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No    <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No    <input type="checkbox"/> No
<p><b>23. Product Placement</b></p> <p>a) Will product placement or the display of trademarked or copyright protected products be included in any Insured Productions (regardless of whether or not the Applicant is compensated for such placements)?</p> <p>b) If “Yes” to question 23.a), did the Applicant obtain releases from owners of these products?</p> <p>c) If “No” to question 23.b), please explain:</p>   <p>d) If “No” to question 23.b), will the Applicant obtain the necessary clearances prior to the release of these Insured Productions?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> Yes    <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> No    <input type="checkbox"/> No
<p><b>24. Title Report</b></p> <p>Are title reports obtained from one of the Title Clearance Services for each Insured Production? If “Yes”, please attach a recent sample copy of a standard title report/opinion accepted by the Applicant.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**25. Additional Material**

a) Will any of the following be made in connection with any Insured Productions?

(i) **Complementary Content** includes but is not limited to, 'making of documentaries, video games, desktop/smartphone applications, or any other new media product such as webisodes, mobisodes, mobile television products, and ring or voice tones.

Yes  No

(ii) **Internet Components** includes but is not limited to, websites, chatrooms, blogs, material posted on Twitter, Facebook, LinkedIn, other social media platforms, bulletin boards, online games, contests, puzzles, or any other online public forums.

Yes  No

(iii) **Merchandising** includes but is not limited to books, toys, board games or other physical representations of characters, objects, or other elements of the Insured Production.

Yes  No

b) If "Yes" to any of questions 25.a).(i) to 25.a).(iii), please describe in detail by category:

If "Yes" to any of questions 25.a).(i) to 25.a).(iii), please complete questions 25.c) to 25.m) below.

c) Does the Applicant have all rights, licenses, and/or consents from all stakeholders (e.g., performers, authors, artists, etc.) to produce, distribute, or market these additional materials?

Yes  No

d) If "No" to question 25.c), please explain:

e) Will the Applicant do trademark or other searches in relation to the additional materials that may be subject to trademark, unfair competition, or other similar claims?

Yes  No

f) Have all licenses and rights been obtained for use of all matter and excerpts in the additional materials?

Yes  No

g) Are the additional materials being designed and/or produced by licensees of the Applicant?

Yes  No

h) If "Yes" to question 25.g), are the licensees providing warranties and indemnities that their designs, marketing, production, and packaging will not infringe upon the rights of others?

Yes  No

i) Will there be websites created for the Insured Productions?

Yes  No

If "Yes" to question 25.i):

(i) Are any of the websites being designed and/or produced by licensees of the Applicant?

Yes  No

(ii) If independent contractors are designing these websites, will they provide warranties and indemnities that all aspects of their designs and content will not infringe upon the rights of others?

Yes  No

(iii) Will any of the websites have any "chat rooms", "bulletin boards", or other areas in which members of the public can post material?

Yes  No

(iv) Will any of the website have blogs?

Yes  No

(v) If "Yes" to either question 25.i).(iii) or 25.i).(iv), how will these be monitored on an ongoing basis to take down matter that may infringe, defame, or violate the rights of others? Please explain:

<p>j) Does the Applicant use (or plan to use) social media platforms to distribute content relating to the Insured Productions?</p> <p>k) If "Yes" to question 25.j), please list the platforms:</p> <p>l) If "Yes" to question 25.j), how will the Applicant monitor these platforms on an ongoing basis to take down matter that may infringe, defame, or violate the rights of others? Please explain:</p> <p>m) Will Applicant and/or their production counsel monitor all clearance procedures for the content of the additional materials on an ongoing basis?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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**Prior Insurance & Loss History**

<p>26. Has the Applicant ever had an application for Producers' or Distributors' Errors and Omissions Insurance declined, or had a Producers' or Distributors' Errors and Omissions policy cancelled or non-renewed by the Insurer?</p> <p>If "Yes", please explain:</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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27. Applicant represents and warrants that neither it, nor any of its Officers, Directors or Partners, or their production counsel have any knowledge, actual or constructive:

(a) of any claims or legal proceedings made or commenced against the Applicant, or any Officers, Directors, Partners, or subsidiary or affiliated corporations within the last five (5) years for invasion of privacy, infringement of copyright (statutory or common law), defamation, unauthorized use of titles, formats, ideas, characters, plots or other program material embodied in any Insured Productions, or breach of implied contract arising out of alleged submission of any literary or music material.

If no exceptions, please Initial

Except as follows (attach separate sheet if necessary):

(b) of any threatened claims or legal proceedings against the Applicant, or any Officers, Directors, Partners, or subsidiaries or against any other person, firm, or corporation arising out of or based upon any Insured Productions including title thereof, or any material upon which the Insured Productions are or will be based, that would be covered by the Policy sought to be obtained by the Applicant.

If no exceptions, please Initial

Except as follows:

(c) of any facts, circumstances, or prior negotiations by reason of which they, or any of them, believe that a claim might reasonably be asserted, or legal proceedings instituted against the Applicant that would be covered by the Policy sought to be obtained by the Applicant.

If no exceptions, please Initial

Except as follows:

28. Please attach a list of all Media and/or Producers' Errors and Omissions claims made during the last five (5) years against the Applicant or any Officers, Directors, Partners, or subsidiary or affiliated corporations.

If none, please Initial

**29. Due Diligence**

a) Applicant agrees to obtain from third parties from whom it obtains matter, material, or services for the Insured Productions written warranties, representations and indemnities against claims arising out of the use of such matter, material, or services, including advertising agencies, advertisers, independent contractors, and others providing copy, music, photographs, artwork, and other material to be used in the Insured Productions.

Please Initial

b) Applicant agrees that it will use due diligence to determine whether any matter or materials to be used in the Insured Productions are protected by law and, where necessary, to obtain from parties owning rights therein the right to use the same in connection with the Insured Productions.

Please Initial

**30. THIS APPLICATION IS SUBMITTED WITH THE FOLLOWING SPECIFIC UNDERSTANDING:**

- a) Applicant warrants and represents that the above answers and statements are in all respects true and material to the issuance of an Insurance Policy and that Applicant has not omitted, suppressed, or misstated any facts.
- b) If any claims, threatened claims, or other matters which might affect issuance of a Policy come to the attention of Applicant after execution or filing of this Application with the Insurer but before a Policy issues, Applicant must notify the Insurer immediately.
- c) All exclusions in the Policy apply regardless of any answers or statements in this Application.
- d) Deductible Provision – Please note that the Policy stipulates that any deductible or retention shall apply to investigation expenses and defense costs as well as indemnity.
- e) Applicant understands that the limit of liability, deductible, term of coverage and other terms and conditions in any Policy issued in response hereto may be different than those requested herein, and Applicant agrees to such differences.

This Application shall be attached to and become a part of any Policy, should a Policy be issued as a result of this Application. The Application shall be deemed a schedule to such Policy, but the signing of this Application does not bind the Applicant or the Insurer unless and until a Policy of Insurance is issued in response to this Application. An authorized representative of each Applicant company must sign and initial this Application.

Applicant's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**(SEE ATTACHED FOR CLEARANCE PROCEDURES)**



## CLEARANCE PROCEDURES

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

1. Applicant and its production counsel should continually monitor the Insured Production at all stages, from inception through final cut, with a view to eliminating material which could give rise to a claim.
2. Applicant and its production counsel must be certain that all necessary rights have been and will be obtained for production, exhibition, distribution, or other exploitation of the Insured Production in all media, whether now known or later invented, worldwide and in perpetuity (or for the full term of copyright for materials subject to copyright protection). Any use of copyrighted material in its renewal or extended term must be with, or authorized in writing by, those persons or entities who hold or may exercise those rights under copyright law. Where materials are licensed for shorter terms than perpetuity or the copyrighted term of protection, the Applicant will consult with consult and, on her or his advice, advise the Insurer of such license(s).
3. The script should be read prior to commencement of the Insured Production to eliminate matter which is defamatory, invades privacy or is otherwise potentially actionable.
4. If the Insured Production has a script or screenplay, a script clearance report should be obtained *before* filming to alert the Applicant 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 Insured Production. Special care should be taken to check names of persons, businesses, etc. that are negatively portrayed. The Applicant also must be alert to elements that do not appear in the script (such as art works used on the set) but that may need clearances.
5. If the Insured Production is a documentary and there is no script, the Applicant should provide its production counsel with a detailed synopsis of the Insured Productions in advance of production. (If it is a documentary series, the production counsel should receive a detailed synopsis of each episode). If the Insured Production will involve negative statements about people or businesses, the Applicant should provide production counsel with full details about the allegations and their merit. Problem statements can then be identified and thus avoided while filming. During filming, the Applicant should be careful to avoid (or consult with production 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 pictures, people, products, or businesses.
6. Unless work is an unpublished original not based on any other work or source material, a copyright report must be obtained. 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.
7. If the script is an unpublished original, the origins of the work or source material should be ascertained - basic idea, sequence of events and characters. It should be ascertained if submissions of any similar properties have been received by the Applicant and, if so, the circumstances as to why the submitting party may not claim theft or infringement should be described in detail.
8. Prior to final title selection, a Title Report must be obtained and reviewed by Applicant and its production counsel. Title coverage will not be offered unless a recent title report has been submitted to and approved by the Insurer.

9. Whether the Insured Production is fictional or factual, it should be made certain that no names, faces, or likenesses of any recognizable living persons are used unless written releases have been obtained. A release is unnecessary if a person is part of a crowd scene or shown in a fleeting background. Releases can only be dispensed with if the Applicant provides the Insurer with specific reasons, in writing, as to why such releases are unnecessary and such reasons are accepted by the Insurer. 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.
10. All releases must give the Applicant the right 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, fictionalize persons or events including the release and to make any other changes in the film that the Applicant deems appropriate. If a minor, consent has to be legally binding.
11. If music is used, the Applicant must obtain all necessary master use, sound recording, synchronization, and performance licenses from composers or copyright proprietors. Licenses must also be obtained on prerecorded music.
12. Written agreements must exist between the Applicant and all creators, authors, writers, performers, and any other persons providing material (including quotations from copyrighted works) or on-screen services. All agreements should include a waiver of moral rights.
13. If distinctive locations, buildings, businesses, personal property, or products are filmed, written releases must be secured. This is not necessary if non-distinctive background use is made of real property.
14. If the Insured Production involves actual events, it should be ascertained that the author's sources are independent and primary (contemporaneous newspaper reports, court transcripts, interviews with witnesses, etc.) and not secondary (another author's copyrighted work, autobiographies, copyrighted magazine articles, etc.).
15. If the intent is to use the Insured Production or its elements on videodiscs (DVD, Blu-ray), websites, streaming services, or other media or technology, the rights to manufacture, distribute, and release the Insured Production must be obtained, including the above rights, from all writers, directors, actors, musicians, composers, and others necessary therefore, including proprietors of underlying materials.
16. Film clips are challenging unless licenses and authorizations for the second use are obtained from the owners of the clip or parties authorized to license the same, as well as licenses from all persons rendering services in or supplying material contained in the film clip; e.g., underlying literary rights, performances of actors, or musicians. Special attention should be paid to music rights as music publishers and owners often take the position that new master use, sound recording, synchronization, and performance licenses are required.
17. Aside from living persons, even deceased persons (through their personal representatives or heirs) have a "right of publicity", especially where there is considerable fictionalization. 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.
18. Consideration should be given to the likelihood of any claim or litigation. Is there a potential claimant portrayed in the Insured 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 Insured 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 in your clearance procedures and recommendations.