

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): Social Media Account(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:	Producer(s):		
	Executive Producer(s):		
	Director(s):		
	Writer(s) of Underlying Materials:		
	Writer(s) of Scripts/Screenplays:		
7. Desired Effective Date:		Desired Term of Policy (in years):	
8. Title of Insured Production:			
9. Title Report a) Has a Title Report been obtained from any one of the Title Clearance Services?			<input type="checkbox"/> Yes <input type="checkbox"/> No
b) If "Yes" to question 9.a), name the Clearance Service:			
c) If "Yes" to question 9.a), specify the date the report was completed:			
10. Dates for:	Start of Principal Photography:		
	Completion of Principal Photography:		
11. Coverage requested: <input type="checkbox"/> CAD <input type="checkbox"/> USD	Limit for any one Claim:	\$	
	Limit in the Aggregate:	\$	
	Deductible:	\$	

NOTE: Claims Expenses are inclusive within the Limits of Liability unless otherwise specified.

12. Production Budget and Estimated Gross Revenues:

CAD USD

Gross Production Cost: \$

Estimated Gross Revenue: \$

13. Synopsis of Insured Production (including time frame and setting):

14. Distribution of Insured Production:

First Release or Air Date:

Name of the Distributor(s):

Projected Distribution Territory:

Canada USA Other (please specify):

15. Insured Production Type (check all that apply):

- Motion Picture for Theatrical Release
- Motion Picture for Television Release
- TV Pilot – *Running Time:*
- Platform/Streamer Series – *Running Time:*
- TV Special – *Running Time:*
- Radio or Podcast Program – *Running Time:*
- TV Series – *Number of Episodes:*
- TV Mini-Series – *Number of Episodes:*
- Direct to Video/Blu-ray
- Live Stage Presentation
- Webisode – *Number of Episodes:*
- Mobisode – *Number of Episodes:*
- Industrial/Training Film
- Commercial
- Other – *Describe:*

16. Insured Production is:

- Entirely fictional
- Fictional, but inspired by real events or happenings
- A true portrayal of real events or happenings
- A true portrayal of real events or happenings, but includes some fictionalization
- Other – *Describe:*
- Based on another work(s) or source material. If Yes:
 - a) Name the other work(s):
 - b) Has a license been acquired from the owner(s) of the work? Yes No
 - c) If a license has not been acquired, why not? Please explain:

17. Insured Production Genre(s):

<input type="checkbox"/> Game Show	<input type="checkbox"/> Interview or Forum	<input type="checkbox"/> Variety
<input type="checkbox"/> Musical	<input type="checkbox"/> Drama	<input type="checkbox"/> Children's Show
<input type="checkbox"/> Documentary	<input type="checkbox"/> Comedy	<input type="checkbox"/> Docudrama
<input type="checkbox"/> Investigative	<input type="checkbox"/> Reality	<input type="checkbox"/> Animation
<input type="checkbox"/> Sports	<input type="checkbox"/> Lifestyle	
<input type="checkbox"/> Other – Describe:		

18. Please provide the following information for the Applicant's production counsel who clears acquisitions, rights, and contracts:

a) Name:

b) Law Firm:

c) Phone #:

d) Email:

e) Years of Experience in Entertainment Law:

19. Has the Applicant's production counsel read the Clearance Procedures attached to this Application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a) If "No", please explain:		

20. Has the Applicant's production counsel approved the Clearance Procedures attached to this Application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a) If "No", has the Applicant provided the production counsel with adequate information and materials to approve clearance procedures prior to the completion of the Insured Production or its commercial distribution or release?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) If "No" to either question 20. or 20.a), please describe all clearance procedures that the production counsel proposes to use in lieu of the Clearance Procedures set out herein, including which Clearance Procedures the production counsel proposes not to use or has not approved:		

21. Script Clearance Report		
a) Has a script clearance report been obtained (i.e., to clear business and character names, brands/logos, etc.)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) If "Yes", have suggested changes been made and suggested permissions obtained?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) If "No" was answered for either question 21.a) or 21.b), please explain:		
d) If "No" was answered for either question 21.a) or 21.b), will the script clearance report be obtained, and suggested changes made, and permissions obtained prior to the release of the Insured Production?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

22. Use of Likeness		
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 the Insured Production?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) If “Yes” to question 22.a), have clearances been obtained in all cases?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) If “No” to question 22.b), please explain:		
d) Is the name or likeness of any deceased person used, or is any deceased person portrayed (with or without name or likeness) in the Insured Production?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e) If “Yes” to question 22.d), have clearances been obtained from personal representatives, heirs, estates. or other owners of such rights?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f) If “No” to question 22.e), please explain:		
g) Is there a possible risk that a living person could claim (without regard to the merits) to be identifiable in the Insured Production, whether or not the person’s name or likeness is used or the Insured Production purports to be fictional?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
h) If “Yes” to question 22.g), has a release been obtained from such person?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
i) If “No” to question 22.h), please explain:		
j) If “No” was answered for 22.b), 22.e), or 22.h), will the clearances be obtained prior to the release of the Insured Production?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

23. Copyright		
a) Has a Copyright Report been obtained?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) If “No” to question 23.a), please explain:		
c) If “Yes” to question 23.a), is there an ambiguity or gap in the line of ownership?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d) If “Yes” to question 23.c), please explain:		
e) If all necessary copyright clearances have not been obtained, will the Applicant do so prior to the release of the Insured Production?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f) If all necessary copyright clearances cannot be obtained, what steps will the Applicant be taking prior to the release of the Insured Production to ensure copyright compliance by other means. Please explain:		

24. Film/Video Clips and Photographs			
a) Are any film/video clips used in the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) If “Yes” to question 24.a), have all necessary rights, licenses, or consents for such clips been obtained from:			
(i) Copyright owners of the clips?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(ii) Copyright owners of any underlying works?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(iii) Music copyright owners (synchronization rights, performing rights, and master use or sound recording rights)?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(iv) Writers and directors?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(v) Performers or persons appearing in the clips?	<input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) If “No” to any questions in 24.b), please explain:			
d) Are any photographs used in the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
e) If “Yes” to question 24.d), have all necessary rights, licenses, or consents been obtained from copyright holders of the photographs?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
f) If “Yes” to question 24.d), have all consents been obtained prior to commercial distribution or release of the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
g) If “No” to either question 24.e) or 24.f), please explain:			
h) If “No” to any part of questions 24.b), 24.e), or 24.f), will the Applicant obtain these rights prior to the release of the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
25. Music			
a) Have all music rights been cleared?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) Have all synchronization rights been cleared?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) Have all performing rights been cleared?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
d) Have all master use or sound recording rights been cleared?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
e) Will the Insured Production be distributed to the public via videogram/physical form(s) including but not limited to CD, DVD, Blu-ray, streaming services, etc.?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
f) If “Yes” to question 25.e), has Applicant acquired and cleared the necessary distribution rights in connection with such music?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
g) If “No” to any of questions 25.a), 25.b), 25.c), 25.d), or 25.f), will the Applicant obtain these rights prior to the release of the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
h) If “No” to question 25.g), please explain:			
i) Is original music commissioned for the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
j) If “Yes” to question 25.i), has a composer agreement or similar contract including industry standard terms such as indemnification and music ownership been obtained from the composer(s)?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
k) If “No” to question 25.j), please explain:			
l) If “No” to question 25.j), will the Applicant obtain the aforementioned agreements prior to the release of the Insured Production?		<input type="checkbox"/> Yes	<input type="checkbox"/> No

<p>26. Product Placement</p> <p>a) Will product placement or the display of trademarked or copyright protected products be included in the Insured Production? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b) If “Yes” to question 26.a):</p> <p style="padding-left: 20px;">(i) Did the Applicant obtain releases from owners of these products? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="padding-left: 20px;">(ii) Is the Applicant contractually obligated to give the owners of these products any control, input, or approval into how their products are displayed? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c) If “No” to question 26.b).(i), please explain:</p> <p>d) If “No” to question 26.b).(i), will the Applicant obtain the necessary clearances prior to the release of the Insured Production? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>27. Additional Material</p>		
<p>a) Will any of the following be made in connection with the Insured Production?</p> <p style="padding-left: 20px;">(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. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="padding-left: 20px;">(ii) Internet Components includes but is not limited to, websites (not including websites made in connection with the Insured Production being used for advertising and promotion of the Insured Production only), chatrooms, blogs, material posted on Twitter, Facebook, LinkedIn, other social media platforms, bulletin boards, online games, contests, puzzles, or any other online public forums. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="padding-left: 20px;">(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. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b) If “Yes” to any of questions 27.a).(i) to 27.a).(iii), please describe in detail by category:</p> <p>If “Yes” to any of questions 27.a).(i) to 27.a).(iii), please complete questions 27.c) to 27.v) below.</p> <p>c) Will the additional material be made under the control and direction of the Applicant? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>d) If “No” to question 27.c), under whose control will it be made and what rights of approval will the Applicant have? Please explain:</p> <p>e) 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? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>f) If “No” to question 27.e), please explain:</p> <p>g) Will the Applicant do trademark or other searches in relation to the additional material that may be subject to trademark, unfair competition, or other similar claims? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>h) Have all licenses and rights been obtained for use of all matter and excerpts in the additional materials? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>i) Is the additional material being designed and/or produced by licensees of the Applicant? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>j) If “Yes” to question 27.i), are the licensees providing warranties and indemnities that their designs, marketing, production, and packaging will not infringe upon the rights of others? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		

<p>k) Will there be a website for the Insured Production?</p> <p>If “Yes” to question 27.k):</p> <p>(i) Is the website being designed and/or produced by licensees of the Applicant?</p> <p>(ii) If independent contractors are designing the website, will they provide warranties and indemnities that all aspects of their designs and content will not infringe upon the rights of others?</p> <p>(iii) Will the website have any “chat rooms”, “bulletin boards”, or other areas in which members of the public can post material?</p> <p>(iv) Will the website have blogs?</p> <p>(v) If “Yes” to either question 27.k).(iii) or 27.k).(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> <p>l) Does the Applicant use (or plan to use) social media platforms to distribute content relating the Insured Production?</p> <p>m) If “Yes” to question 27.l), please list the platforms and explain:</p> <p>n) If “Yes” to question 27.l), 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>	<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
<p>o) Will any webisodes, mobisodes, or any other version of the Insured Production be created?</p> <p>p) If “Yes” to question 27.o), please describe:</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>q) Have all rights been obtained from the performers, authors, artists etc. for this version(s)?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>r) Will the Applicant and/or their production counsel monitor all clearance procedures for the content of the additional material on an ongoing basis?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>s) Will a soundtrack be produced?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>t) If “Yes” to question 27.s), does Applicant have all necessary rights and licenses for all formats in which the soundtrack will be released?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>u) Has any separate insurance been obtained by any of the Applicant’s licensees for the additional material?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>v) If “Yes” to question 27.u), who obtained the insurance and what kind of coverage is it? Please explain:</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Prior Insurance & Loss History</p>		
<p>28. 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

29. 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 this or any other Insured Production, 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 the Insured Production including title thereof, or any material upon which the Insured Production is 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:

30. 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

31. Due Diligence

- a) Applicant agrees to obtain from third parties from whom it obtains matter, material or services for the Insured Production 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 Production.

Please Initial

- b) Applicant agrees that it will use due diligence to determine whether any matter or materials to be used in the Insured Production 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 Production.

Please Initial

THIS APPLICATION IS SUBMITTED WITH THE FOLLOWING SPECIFIC UNDERSTANDING:

- a) The 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 the 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 the Applicant after execution or filing of this Application with the Insurer but before a Policy issues, the 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) The 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 the 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 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.