

# The Solution Application Video, Film and Television Producers

NOTICE: The liability coverage parts provide claims made coverage, which applies only to claims first made against the insureds during the policy period. The limit of liability to pay judgments or settlement amounts shall be reduced and may be exhausted by payment of defense costs. Please read this policy carefully.

## General Information

### 1. Applicant Information:

Name of Applicant \_\_\_\_\_

Street Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

City \_\_\_\_\_

Website Address \_\_\_\_\_

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

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

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

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

Policy limit required: \$ \_\_\_\_\_

Self-Insured Retention \$ \_\_\_\_\_

Year Applicant's Business Was Established \_\_\_\_\_

## Coverage Request

Desired term of policy  one year  two years  three years

Each loss Aggregate Desired retention

Desired policy limit \$ \$ \$

## Production Details

1. Title of the production \_\_\_\_\_

2. Please give your estimated gross production budget and anticipated revenues for the production:

Production budget \$ \_\_\_\_\_ Revenues \$ \_\_\_\_\_

3. Name(s) of the script writers \_\_\_\_\_

Name(s) of the producer/executive producer \_\_\_\_\_

4. Is this production

a. Entirely original to you?  Yes  No

b. Based on another work (published or unpublished)?  Yes  No

If the answer to b. is Yes, please advise the name of the author(s) and the title(s) and date(s) of the publication of the work upon which the production is based \_\_\_\_\_

**5. The production is:**

- Film for full theatrical release
- Film for limited theatrical release (ten or less theatre/ art houses in the US)
- Direct to DVD/Video
- Film for television release
- Television series
- Television pilot/special
- Documentary
- Commercials, industrial or educational
- Music videos
- Webisodes
- Theatrical stage production
- Radio Series
- Other

**6. If the production is for DVD or any other home video format release:**

Will additional bonus material be included with the release?  Yes  No

Will additional bonus material be included with the release? If Yes, will this bonus material go through the same clearance procedures as the rest of the production?  Yes  No

**7. If the production is for DVD or any other home video format release:**

a. Entirely fictional?  Yes  No

b. Fictional, but inspired by specific events, occurrences and/or characters?  Yes  No

c. A dramatic portrayal of actual facts which includes fictionalization?  Yes  No

**8. Please provide a brief description of the storyline (including time frame and setting):**

**9. If the production is a 'series', please advise the number of episodes:** \_\_\_\_\_

**10. Running time of production (hr/min per episode):** \_\_\_\_\_

**11. Distributor of the production:** \_\_\_\_\_

**12. Date of distribution contract:** \_\_\_\_\_ **Territory of distribution:** \_\_\_\_\_

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

**13. Estimated date for first release or air date:** \_\_\_\_\_

**Clearance Procedures**

**1. Is the name or likeness of any living person used in the production?**  Yes  No

If Yes, will all necessary rights be obtained prior to the first airing distribution or public display of the production?  Yes  No

**2. Is the name or likeness of any deceased person used in the production?**  Yes  No

If Yes, will all necessary permissions be obtained prior to the first airing, distribution or public display of the production?  Yes  No

**3. 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:

**4. Have you obtained a title report from a recognized agency? If Yes, please attach a copy of the title report.**  Yes  No

**5 a. If your production is not entirely original, have copyright reports been obtained?**  Yes  No

**b. Are there any ambiguities, gaps or problems in the chain of title?**  Yes  No

**c. Has the chain of title of all works on which the production is based been thoroughly investigated and cleared back to the original copyright owners to determine that all grants or transfers in the chain of title permit you to assign or sublicense the material as incorporated in your production?**  Yes  No

- 6 a. If the production is based upon an original format, are you aware of any similar format or concept?**  Yes  No
- b. Has any similar format or similar material been submitted to you at any time?**  Yes  No
- If Yes, to a. or b., has your attorney confirmed that they are satisfied you can safely proceed with your exploitation of the work?  Yes  No
- If No, please explain.
- 7. Does the Applicant have a process for processing unsolicited submissions?**  Yes  No  
If yes, please provide a copy of this process.
- 8 a. Have you obtained, from all writers and other content providers to the production, written warranties that the content with which they provide you does not infringe the rights of any third party and have you obtained an indemnity for any breach of this warranty?**  Yes  No
- b. Have you obtained a written agreement from all performers or persons appearing in your production consenting to their appearance?**  Yes  No
- If No to a. or b. above, will warranties and agreements be obtained prior to the first airing, distribution or public display of the production?  Yes  No
- 9. Will any film clips, TV clips, photographs or other third party visual works be used in the production?**  Yes  No
- If Yes:
- a. have all licenses and consents been obtained from the copyright owner without restriction and are you authorized to assign or sublicense the licensed materials as incorporated in your production?  Yes  No
- b. do you have the authorization of any person or entity depicted in the film clip, TV clip, photograph or other work to use their depiction in your production and to assign or sublicense that depiction in your production?  Yes  No
- If No, to a. or b. above, will all licenses and consents be obtained prior to the first airing, distribution or public display of the production?  Yes  No
- If no, please give details:
- 10. If the production is a documentary, are you relying on the Fair Use Doctrine?**  Yes  No
- If Yes, please attach a copy of an opinion letter from your clearance attorney that states they have reviewed the final production and the use of the clips.
- 11. 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:
- 12. Have the following musical rights been obtained from the composer and/or performers of specially commissioned music and/or cleared with the owners of pre- existing music and/or recordings:**
- a. Recording and synchronization?  Yes  No
- b. Performing rights?  Yes  No
- c. Right to distribute for all forms of distribution contemplated (home video, etc.)?  Yes  No
- If No, to a., b., or c. above, will all musical rights and/or all clearances be obtained prior to the first airing, distribution or public display of the production?  Yes  No
- 13. Has original music been commissioned for the production(s)?**  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 warrant 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

14. 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:

15. Have you or any of your agents been unable to obtain or been refused an agreement or release after having:

a. negotiated for any rights in literary, musical or other materials?

Yes  No

a. negotiated for release from any persons in respect of any material incorporated in the production?

Yes  No

If yes, please explain:

16. 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.

## Attorney Used For Clearances

1. Name of attorney (individual name)

Firm name and address

City

State

Zip

Telephone

Email

2. Has any insurer declined, cancelled or refused to renew any similar insurance issued to you?  
(THIS QUESTION DOES NOT APPLY TO MISSOURI APPLICANTS)

Yes  No

If Yes, please provide full details:

## Claims Representation

1. In the past 10 years have you suffered any loss or has any claim, whether successful or not, ever been made against you that would be covered by this insurance?

Yes  No

If Yes, please attach details including the date of each claim or loss, the amount of the claim and any remedial action taken.

2. Are you aware of any problem which is likely to lead to you suffering a loss or a claim being made against you that would be covered by this insurance?

Yes  No

If Yes, please attach details of each problem.

It is understood and agreed that with respect to questions 1. and 2. that if such knowledge of information exists any claim or action arising there from is excluded from this proposed coverage.

## Supplemental Information

Please attach the following additional information:

- Video/DVD copy of the production or copy of script if production is not complete
- Title and Trademark Reports
- Resume of Producer and Executive Producer (if less than three years experience)

## Fraud warnings

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 Alaska residents:** "A person who knowingly and with intent to injure, defraud or deceive an insurance company files a claim containing false, incomplete, or misleading information may be prosecuted under state law."

**Notice to Arizona residents:** "For your protection Arizona law requires the following statement to appear on this form. Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties."

**Notice to California residents:** "For your protection California law requires the following to appear on this form. Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison."

**Notice to Colorado residents:** "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 Delaware residents:** "Any person who knowingly, and with intent to injure, defraud or deceive any insurer, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony."

**Notice to Florida residents:** "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 Idaho residents:** "Any person who knowingly and with intent to defraud or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony."

**Notice to Indiana residents:** "A person who knowingly and with intent to defraud an insurer files a statement of claim containing any false, incomplete or misleading information commits a felony."

**Notice to Kansas residents:** "A 'fraudulent insurance act' means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto."

**Notice to Kentucky residents:** "Any person who knowingly and with intent to defraud any insurance company or other person files a statement of claim or an application containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits an fraudulent insurance act, which is a crime."

**Notice to Maryland residents:** "Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or 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 Maine residents:** "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 Minnesota residents:** "A person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime."

**Notice to New Hampshire residents:** "Any person who, with a purpose to injure, defraud, or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is subject to prosecution and punishment for insurance fraud, as provided in RSA 638:20."

**Notice to New Jersey residents:** "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

**Notice to New Mexico residents:** "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 Ohio residents:** "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 residents:** "WARNING: Any person who knowingly, and with intent to injure, defraud or deceive an 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 Oregon residents:** "Any person who knowingly and with intent to defraud or solicit another to defraud the insurer by submitting an application containing a false statement as to any material fact may be violating state law."

**Notice to Pennsylvania residents:** "Any person who knowingly and with intent to defraud any insurance company or other person files a 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 Tennessee, Virginia and Washington residents:** "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."

## Fraud warnings (continued)

**Notice to Texas residents:** “Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.”

**Notice to Vermont residents:** “Any person who knowingly presents a false statement in an application for insurance may be guilty of a criminal offense and subject to penalties under state law.”

**Notice to New York residents:** “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 violation.”

## Signatures

Applicant's name (please print)	Title (please print)
Applicant's signature	Date

If this application is completed in Florida, please provide the insurance agent's name and license number as designated. If this application is completed in Iowa, please provide the insurance agent's name only.

Name of insurance agent	License number
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## Clearance Procedures

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 with a view to eliminating material that could give rise to a claim. 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?
2. The producer and the lawyer need to read the script prior to commencement of production to eliminate material that is defamatory, invades privacy or is otherwise potentially actionable.
3. A script clearance report should also be prepared prior to 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 or real people. Living persons and even the deceased (through their personal representatives or heirs) may have a “right of publicity”. Where the work is fictional in whole or in part, the names of all characters must be fictional. If for some reason particular names need not be fictional, full details must be provided to the Insurer in an attachment to the Application. 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 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 business, the producer should provide counsel with full details about the allegations and their merit. During filming, the producer should be careful to avoid (or consult with counsel about) possible problem areas. 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. The names, faces and likenesses of any recognizable living persons should not be used unless written releases have been obtained regardless of whether the production is fictional or factual. 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 Insurer with specific reasons, in writing, as to why such releases are unnecessary and such reasons are accepted by the Insurer.
6. 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. If a completed film is being acquired, a similar review should be made of copyright and renewals on any copyrighted underlying property.
7. 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.
8. 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 Insurer.
9. 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 Insurer.
10. 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 serviced.

## Clearance Procedures (continued)

11. 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.
12. 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.
13. If the production involves actual events, it should be ascertained that the author's major sources are independent and primary and not secondary (another author's copyrighted work, autobiographies, etc.).
14. 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.
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 others necessary.