

ACQUISITION & DEVELOPMENT ERRORS & OMISSIONS LIABILITY INSURANCE APPLICATION (Cont'd)

11. Have all necessary rights been acquired (theatrical, pay-TV, etc.)? Yes No

12. Name, Address and Telephone of Applicant's attorney who clears Acquisitions, Rights and Contracts: _____

13. Does Applicant's attorney approve as adequate the steps taken for Clearance Procedures in connection with the acquisition of each production? Yes No If "No", please explain: _____

14. Briefly describe clearance procedures: _____

15. What is Applicant's policy and procedure with regard to submissions from unsolicited materials? _____

16. Does Applicant utilize outside writers, producers, musicians, etc? If yes, please explain and provide details as to Applicant's contractual protection: _____

17. Does Applicant have an existing library requiring coverage? Yes No If Yes, please request and complete Acquisition and Development Schedule A.

18. Applicant represents and warrants that neither his counsel nor any of its partners, directors, or senior employees have any knowledge, actual or constructive:

a. Of any claims or legal proceedings made or commenced against, applicant, or any of its officers, directors, partners, agents, or subsidiary or affiliated corporations, within the last three (3) years for invasion of privacy, infringement of copyright (statutory or common law), defamation, unauthorized use of titles, formats, characters, plots, ideas, other program material embodied in any production, or breach of implied contract arising out of the alleged submissions of any literary or musical material.

No Exceptions

Exceptions as follows: _____

b. Of any existing or threatened claims or legal proceedings of any kind based on the productions to be insured or any material contained in or upon which such productions are based, that would be covered by the policy sought by applicant.

No Exceptions

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Exceptions as follows: _____

c. Of any injury, fact or consequence or prior negotiation which might reasonably be expected to lead to a claim or legal proceeding instituted against the applicant that would be covered by the policy sought by applicants.

No Exceptions

Exceptions as follows: _____

Applicant's Warranties and Representations

Applicant Warrants and Represents:

1. That the information supplied herein is in all respects true, and material to the issuance of an insurance policy, and that no information has been omitted, suppressed or misstated; and
2. That Applicant and its counsel have supplied Company with all information required to be furnished pursuant to the Clearance Procedures, and to the extent such information is not known at the time of application, such information will be furnished in writing to the Company as soon as known; and
3. Applicant agrees to procure from all third parties, from whom it obtains any material for the insured Product to be insured, written warranties and indemnities against all claims arising out of any use of such material; and
4. Applicant and its counsel will use due diligence to determine whether any portrayal, matter or materials used in the production to be insured violates the right of any person or entity, and, where necessary, applicant will obtain from such person or entity, the right to use the same in connection with the insured product; and
5. It is understood that this Application is for insurance covering the productions set forth in SCHEDULE "A" as attached hereto. If Applicant desires coverage on future acquisitions, a separate Schedule "A" must be filed and approved by counsel for the insurer on each such Production and endorsed onto the policy. If pursuant to (2) above, information is hereafter furnished to Company, Company shall have the right to limit to the insurance coverage at its discretion.

This application and all attachments will be attached to and form a part of this policy which may be issued as a result of this application. The signing of this application does not bind the Applicant or the Company to

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complete the insurance unless and until a Policy of Insurance is issued in response to this application. All exclusions in any policy which may be issued by the Company shall apply regardless of any answers or statements in this application. Applicant understands that the limit of liability and deductibles under any policy which may be issued by the Company, shall include both loss payments and claims expenses, as defined in the policy.

Date Signed: _____

Applicant's Signature: _____

By: _____

Title: _____

As attorney's for the above applicant, we believe the statements contained in the application are correct. We are familiar with the company's standard clearance procedures, which are attached hereto, and have been retained by the applicant to, and will, use our best efforts to see that those clearance procedures are followed.

Date Signed: _____

Attorney's Signature: _____

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As attorney(ies) for the above applicant, we believe the statements contained in the application are correct. We are familiar with the Company's standard clearance procedures, which are attached hereto, and have been retained by the applicant to, and will, use our best efforts to see that those clearance procedures are followed on all productions produced by the applicant or where applicant controls production. For all other productions that have been acquired for distribution by the applicant, we will use our best efforts to see that the following conditions are satisfied: (i) such a production had been publicly exhibited or broadcast prior to the acquisition by the applicant; (ii) the distribution of such a production was covered by other insurance from the date of its first public exhibition; (iii) the applicant does not cancel such other insurance; (iv) such other insurance names the applicant as an Additional Insured; and (v) satisfactory evidence of such other insurance is provided to and approved by the company:

Date Signed: _____

Attorney's Signature: _____

Clearance Procedures

Insured's attorney should assure himself of the following before first exhibition of the insured production:

1. A copyright report must be obtained, covering domestic and foreign copyright, as well as all extensions and renewals thereof, for all literary material (other than original and unpublished) contained in the production. If the Insured is acquiring the production as a completed work (such as a pick-up of a motion picture) a copyright report must also be obtained covering the completed work. In the case of an unpublished original work, the origin of the work must be traced in order to ascertain that the Insured has all required rights in the work.
2. Written agreements must exist between the Insured and the creators, authors, writers and owners of all material, including quotations from copyrighted works, used in the insured production, authorizing the Insured to use the material in the insured production.
3. If the production is in any way based on actual facts, it must be ascertained if the source material is primary (e.g. direct interview, court records) and not secondary (e.g. another copyrighted work). Use of secondary sources may be permissible, but full details must be provided to Company in an attachment to the application.
4. Written releases must be obtained from all persons who are recognizable or who might reasonably claim to be identifiable in the insured production, or whose name, image or likeness is used, and if such person is a minor, the minor's consent must be legally binding. If the recognizable or identifiable person is deceased, releases must be obtained from the personal representative of such person. Releases of the type described in the preceding two sentences may not be required in certain instances, but full details must be

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provided Company in an attachment to the application. Releases are not necessary if the recognizable person is part of a crowd or background shot and his image is not shown for more than a few seconds or given special emphasis.

5. Where the work is fictional in whole or in part, the names of all characters must be fictional. In certain limited instances, particular names need not be fictional, but full details must be provided Company in an attachment to the application.
6. Where scenes are filmed depicting or referring to distinctive businesses, personal property or products identifiable with any person, firm or corporation, or depicting or referring to distinctive real property of any person, firm or corporation, written **releases must be** obtained from such person, firm or corporation granting the Insured the right to film and use such property in the insured production. In certain instances releases may not be required, but full details must be provided Company in an attachment to the application. Releases are not necessary if property is non-distinctive background only.
7. All releases must give the Insured the right to edit, modify, add to and/or delete any or all of the material supplied by the releaser. Releases from recognizable persons must grant the Insured the right to fictionalize the Insured's portrayal of the releaser.
8. All contracts and releases must give the Insured the right to market the production for use in all media and markets (e.g. video discs, cassettes, supplemental markets), except to the extent the Insured qualifies the application to exclude insurance coverage for particular media.
9. Synchronization and performance licenses must be obtained from the composer or copyright owner of all music used in the insured production. Licenses are unnecessary if the music (and its arrangement) is in the public domain. Licenses must also be obtained for the use of previously recorded music.
10. If the production contains any film clips, the Insured must obtain authorization to use the film clip from the owner of the clip who has the right to grant such authorization and must obtain authority from the appropriate persons for "secondary use" of all material contained in the film clip, e.g. underlying literary and musical rights, performances of actors and musicians.
11. A report (generally known as a "title report") covering the title of the production must be obtained from a recognized source setting forth prior uses of the same or similar titles, and the title of the production must be changed to avoid any conflict.
12. It must be determined whether the applicant, or any of its officers, directors, partners or agents received any submission of any similar material or production, and if so, Company must be fully advised of all circumstances relating to each such occurrence, in an attachment to the application.
13. It must be determined that the insured production does not contain any material which constitutes defamation, invasion of privacy or violation of the right of publicity or of any other right of any person, firm or corporation.

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14. Prior to any public exhibition of the production, it must be previewed to assure that the Clearance Procedures have been followed.
15. To the extent that any information required to be furnished pursuant to these Clearance Procedures is not known at the time of the application, such information must be furnished in writing to Company as soon as known.

The foregoing Clearance Procedures should not be construed as exhaustive; nor do they cover all situations which may arise, given the great variety of productions. Rather, applicant and its counsel must continually monitor the production at all stages, and in light of any special circumstances, to make certain that the production contains no material which could give rise to a claim.