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**AXIS HAS THE ABILITY TO OFFER COVERAGE ON AN OCCURRENCE FORM POLICY BASIS, ON A CLAIMS-MADE POLICY BASIS, AND WITH CLAIMS-MADE COVERAGES ATTACHED TO AN OCCURRENCE FORM POLICY.**

**SOLELY AS RESPECTS CLAIMS-MADE LIABILITY COVERAGES UNDER THE POLICY FOR WHICH THIS APPLICATION IS BEING SUBMITTED: THIS INSURANCE POLICY MAY CONTAIN COVERAGES THAT ARE PROVIDED ON A CLAIMS-MADE AND REPORTED BASIS AND APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD AND REPORTED TO THE INSURER AS SET FORTH IN THE REPORTING OF CLAIMS AND EVENTS SECTION. DEFENSE COSTS ARE INCLUDED IN THE LIMITS OF INSURANCE, AND PAYMENT THEREOF WILL ERODE, AND MAY EXHAUST, THE LIMITS OF INSURANCE.**

#### **ABOUT THIS APPLICATION**

- The term "Applicant," herein refers individually and collectively to all proposed insureds. All responses shall be deemed made on behalf of all proposed insureds.
- This Application and all materials submitted herewith shall be held in confidence.
- The submission of this Application does not obligate the Applicant to buy insurance nor is the Insurer obligated to sell insurance or to offer insurance upon any specific terms requested.
- If the policy applied for is issued, this Application, which shall include all Supplemental Applications and material and information submitted in connection with this Application, will be deemed attached to and will form a part of the policy.

#### **INSTRUCTIONS**

- Respond to all questions completely, leaving no blanks. Check responses when requested.
- If space is insufficient, continue responses on your letterhead.
- This Application must be completed, dated, and signed by an authorized officer of the entity identified in the section entitled "Applicant Information" below.

#### **CHECK ALL MEDIA ACTIVITIES FOR WHICH YOU ARE APPLYING FOR INSURANCE:**

- Film Producer Liability
- Acquisition & Development Liability
- Distributor Liability
- Film Library Liability
- ICE Producer (Industrial, Commercial, Educational Productions for Others)

#### **TO COMPLETE THIS APPLICATION, PLEASE SUBMIT:**

- Experience résumés of the Producer and Executive Producer for each production (if less than three years experience)
- Standard contract with authors, distributors, etc.
- Title Search and Report, if Title Coverage is desired
- Top sheet of budget for production(s)
- Completed, signed and dated Film & Entertainment Reality Television Supplement, if production is of the Reality Television genre.



**APPLICANT INFORMATION**

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**1. First Named Insured (including DBAs):**

**Mailing Address:**

**Primary Website:**

**Telephone Number:**

**Date applicant was established:**

**2. Applicant is:**

Individual  Partnership  Corporation  Joint Venture  Other (describe):

**3. Are there other Named Insureds and/or subsidiaries, affiliates, branch offices or other related entity(ies), including DBAs, for which coverage is desired?**

Yes  No

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

\_\_\_\_\_

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

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

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

**5. A. Is applicant wholly or partially owned by, affiliated with or controlled by any other entity(ies) not previously listed in Question 1. or 3.?  Yes  No**

**B. Does applicant wholly or partially own, operate, manage or control any other businesses or entity(ies) not previously listed in Question 1. or 3.?  Yes  No**

If 5.A. or 5.B. are answered yes, provide complete details:

**6. Within the past five years has applicant:**

A. Changed name?  Yes  No

B. Changed ownership structure?  Yes  No

C. Purchased or acquired another entity?  Yes  No

D. Merged or consolidated with another entity?  Yes  No

E. Previously been wholly or partially owned by, affiliated with, employed by or controlled by any other entity(ies) not listed in Question 1. or 3.?  Yes  No

If yes, name of entity: \_\_\_\_\_

If any of 6.A. – 6.E. are answered yes, please attach a summary of relevant transactions.

**7. Is the Applicant a single purpose entity set up to produce this production?  Yes  No**  
If yes, who owns this entity?

**8. Is Applicant performing work on a work-for-hire basis?  Yes  No**  
If yes, please attach a copy of the work-for-hire agreement.



**PROPOSAL REQUIREMENTS**

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

*FILM PRODUCTION INFORMATION (if applicable)*

- 1. **Gross Production Costs/Budget** \$\_\_\_\_\_ **Estimated Gross Revenues** \$\_\_\_\_\_
- 2. **Title(s) of production(s) to be insured:** \_\_\_\_\_
- 3. **Estimated dates for first release or air date:** \_\_\_\_\_
- 4. **Type of production:**
  - Motion Picture for Full Theatrical Release
  - Motion Picture for Limited Theatrical Release (Ten (10) or less theatres/art houses in the U.S.)
  - Motion Picture for Television Release
  - Film Festivals
  - TV Series - Number of Episodes: \_\_\_\_\_
  - TV Special
  - TV Pilot - Airing, Number of Episodes: \_\_\_\_\_
  - TV Pilot - Non-Airing, Number of Episodes: \_\_\_\_\_
  - Direct to DVD/VOD
  - Live Event: - Describe: \_\_\_\_\_
  - Radio Program - Number of Episodes: \_\_\_\_\_
  - Webisodes - Number: \_\_\_\_\_
  - Theatrical Stage Presentation
  - Industrial, Commercial or Educational (ICE)
  - Documentary (please advise how it will be disseminated)
  - Other - Describe: \_\_\_\_\_
- 5. **If the production is for DVD/VOD release, will additional bonus material be included on the DVD/VOD?**  Yes  No  
If yes, will the bonus material go through the same clearance procedures as the rest of the production?  Yes  No  
If no, please explain: \_\_\_\_\_
- 6. **Production is:**

<input type="checkbox"/> Drama	<input type="checkbox"/> Comedy	<input type="checkbox"/> Children's Show	<input type="checkbox"/> Documentary
<input type="checkbox"/> Reality	<input type="checkbox"/> Variety	<input type="checkbox"/> Game or Quiz	<input type="checkbox"/> Music Video
<input type="checkbox"/> Investigative	<input type="checkbox"/> Animated	<input type="checkbox"/> Educational/Industrial	<input type="checkbox"/> "How To"
<input type="checkbox"/> Commentary or Forum	<input type="checkbox"/> Sports	<input type="checkbox"/> Commercial	<input type="checkbox"/> Previously released film
<input type="checkbox"/> Other - please explain: _____			
- 7. **Running time of production:** \_\_\_\_\_
- 8. **Summary of plot and/or description of the production:**  
\_\_\_\_\_
- 9. **Names of Producer and Executive Producer:** \_\_\_\_\_
- 10. **Names of Authors or Writers of:**
  - A. Underlying Works: \_\_\_\_\_
  - B. Screenplays, etc.: \_\_\_\_\_



**11. Production is:**

- Entirely fictional
- Entirely fictional but inspired by real events or occurrences
- True portrayal of real events or occurrences
- True portrayal of real events or occurrences but includes some fictionalization
- Other - please explain: \_\_\_\_\_

**12. Is the production based on another work?**  Yes  No

Name of other work: \_\_\_\_\_

Have the necessary agreements from the owners of the other work been obtained?  Yes  No

If yes, please submit document granting rights. If no, please explain: \_\_\_\_\_

**13. Applicant's projected distribution:**  International  National  Regional  Local

**14. Will production be distributed in a foreign language?**  Yes  No

If yes, what language(s)? \_\_\_\_\_

**15. Name of Distributor:** \_\_\_\_\_

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

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

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

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

If yes, please provide a copy of this process.

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

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

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

If releases have not been obtained, please explain: \_\_\_\_\_

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

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

Yes  No

If not already obtained, will releases be obtained in all cases prior to the first airing, distribution or public display of the production?  Yes  No

If releases will not be obtained, please explain: \_\_\_\_\_

**19. 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 not already obtained, 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 will not be obtained from such person, please explain: \_\_\_\_\_

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

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

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

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

**21. 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. \_\_\_\_\_

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

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



23. Has a Copyright Report been obtained?  Yes  No

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

If yes, please explain: \_\_\_\_\_

Please attach a copy of the Copyright Report.

24. 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: \_\_\_\_\_

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

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

If not already obtained, will licenses and consents be obtained in all cases prior to the first airing, distribution or public display of the production?  Yes  No

If no, please explain: \_\_\_\_\_

26. Is the Applicant relying on the Fair Use Doctrine?  Yes  No

A. If yes, please attach the following items for our review and consideration of coverage:

B. Copy of the final production.

C. Clip log - detailing every clip used (licensed and unlicensed); the copyright owner for each clip; and the time location of each clip within the documentary.

D. Copy of an opinion letter from the clearance attorney.

27. Has a script clearance report been obtained (to clear character and business names, etc.)?  Yes  No

If yes, have suggested changes from the report been made and suggested permissions obtained?  Yes  No

If no to either question, please explain: \_\_\_\_\_

28. Have musical rights been cleared:

A. Recording and synchronization rights?  Yes  No

B. Performing rights?  Yes  No

C. Right to distribute for all forms contemplated (home video, DVD, etc.)?  Yes  No

D. If any part is answered no, will these rights be obtained prior to the first airing, distribution or public display of the production?  Yes  No

29. Has original music been commissioned for the production(s) to be insured?  Yes  No

If yes, has a warranty of originality and an indemnity against third party claims been obtained from the composer?

Yes  No

If not already obtained, will a warranty of originality and an indemnity against third party claims be obtained from the composer prior to the first airing, distribution or public display of the production?  Yes  No

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### MERCHANDISING INFORMATION (if applicable)

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

If yes, please describe all such merchandise: \_\_\_\_\_

If yes, what is expected revenue from merchandise sales? \_\_\_\_\_

B. Have all necessary consents and licenses been obtained from performers, authors, artists, etc., to produce and distribute this merchandise?  Yes  No

C. Will appropriate trademark or other searches be made before merchandising characters or other matter that might be subject to trademark, unfair competition or other similar claims?  Yes  No

D. Is the merchandise being designed and/or produced by Applicant?  Yes  No Licensees?  Yes  No

If yes, are the licensees providing warranties and indemnities that their contributions to the design, marketing and production of the merchandise and packaging will not infringe upon the rights of others?  Yes  No

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### ACQUISITION AND DEVELOPMENT INFORMATION (if applicable)

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1. Estimated number and types of productions to be acquired or developed:

- A. Features for Theatrical Release:
- B. Features for Television Release:
- C. Television Pilots and Specials:
- D. Television Series:
- E. Reality Television Series:
- F. Mini-Series and Docu-dramas:
- G. Documentaries:
- H. Industrial & Short Films:
- I. Short Subjects:
- J. CD-Rom, Computer or Video games:
- K. Other (describe): \_\_\_\_\_

2. Average budget of productions acquired or developed: \$ \_\_\_\_\_

3. What percentage of projects that you acquire or develop are produced by the Applicant?

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

5. Briefly describe clearance procedures: \_\_\_\_\_

6. What is the Applicant's policy and procedure with regard to submission of unsolicited materials? \_\_\_\_\_

7. Does Applicant utilize outside writers, producers, musicians, etc.?  Yes  No

If yes, please explain and provide details as to Applicant's contractual protection: \_\_\_\_\_

8. For Acquisition & Development activities, estimated gross annual revenues:

Past Year	Current Year	Upcoming Year
\$ _____	\$ _____	\$ _____

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*DISTRIBUTOR/ FILM LIBRARY INFORMATION (if applicable)*

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1. Describe in detail the planned distribution and exhibition of productions to be insured: \_\_\_\_\_

2. Estimated number of productions to be distributed annually for each genre listed below:

Documentaries:	_____	Mini-Series & Docu-Dramas:	_____
Features for Television Release:	_____	Industrial & Training Films:	_____
Features for Theatrical Release:	_____	Short Subjects:	_____
Reality Television Series:	_____	Video Games:	_____
Television Pilots & Specials:	_____	Webisodes & Mobisodes:	_____
Television Series:	_____	Other - specify: _____	_____

3. Territory in which titles are to be distributed:  International  National  Regional  Local

4. A. Number of titles presently on hand for distribution: \_\_\_\_\_

B. Average number of additional titles to be acquired per year: \_\_\_\_\_

C. What percentage of your library titles have been produced by the Applicant? \_\_\_\_\_%

D. What percentage of your library titles have been acquired, purchased or licensed? \_\_\_\_\_%

5. Have all titles been previously exhibited?  Yes  No

6. Have all necessary rights been acquired?  Yes  No

7. Does Applicant obtain full indemnities from sellers or licensors against liability arising out of the distribution, exhibition or other use of the productions distributed?  Yes  No

If no, please explain: \_\_\_\_\_

8. Does Applicant require seller or licensor to maintain current and continuous in-force Producers Errors & Omissions



liability insurance on each production acquired for distribution?  Yes  No

9. For Distributor or Film Library activities, estimated gross annual revenues from all distribution activities:

Past Year  
\$ \_\_\_\_\_

Current Year  
\$ \_\_\_\_\_

Upcoming Year  
\$ \_\_\_\_\_

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*ICE (INDUSTRIAL/ COMMERCIAL/ EDUCATIONAL) PRODUCTIONS FOR OTHERS INFORMATION  
(if applicable)*

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1. What types of productions are you producing?

2. Please advise the third parties to whom you intend to supply programs in the upcoming year:

Third Party	Type of Program
_____	_____
_____	_____
_____	_____

3. Please provide your gross revenue from these productions:

Past Year  
\$ \_\_\_\_\_

Current Year  
\$ \_\_\_\_\_

Upcoming Year  
\$ \_\_\_\_\_

4. Average Production Budget \$ \_\_\_\_\_ Estimated Number of productions per year \_\_\_\_\_

5. Do you always obtain, from all clients, writers and other content providers to the productions, written warranties that the content with which they provide you does not infringe the rights of any third party?  Yes  No  
Do you obtain an indemnity for any breach of this warranty?  Yes  No

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**PROCEDURES**

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

Firm: \_\_\_\_\_  
Individual: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

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

2. Have the Applicant and Applicant's media attorney read the Clearance Procedures attached to this application and agreed to exercise due diligence to ensure that these procedures are followed in relation to the production(s) for which Applicant is seeking coverage?

Yes  No

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

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**PRIOR INSURANCE AND CLAIM EXPERIENCE**

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1. A. During the past three years, has any similar insurance been issued to applicant?  Yes  No

If yes, complete the following:



Company:  
Policy Number:  
Limits:  
Deductible:  
Coverage Dates:  
Premium:

**B. Has any insurer declined, canceled or refused to renew any similar insurance issued to applicant?** (Not applicable in Missouri.)  Yes  No If yes, give details:

**2. A. Has the Applicant, or any person or entity associated with the Applicant, received any correspondence and/or communication within the last five years from any person or entity asserting ownership to any aspect of the production(s) to be insured or disputing the use of any matter, material or services associated with the production, and/or has any claim, lawsuit or proceeding been made during the past five years against the Applicant or any of the Applicant's predecessors in business, subsidiaries or affiliates or against any of their past or present partners, owners, officers or employees?**  
 Yes  No

If yes, provide complete details. Include type of claims, gist of offending matter, name of claimant, amount of defense costs, judgment or settlement, status or final disposition of the claim. \_\_\_\_\_

**The policy for which the Applicant is applying, if issued, will not insure any claims, suits or proceedings made against the Applicant before the Inception Date of the policy or any subsequent claims, suits or proceedings arising there from.**

**B. Is the Applicant aware of any actual or alleged fact, circumstance, situation or error or omission arising out of the activities described in this application that may reasonably be expected to result in a claim being made against the Applicant or any of the person or entities described in 2.A. above?**  Yes  No

If yes, please explain and provide details: \_\_\_\_\_

**The policy for which the Applicant is applying, if issued, will not insure any claims that can reasonably be expected to arise from any actual or alleged fact, circumstance, situation, error or omission known to the Applicant before the Inception Date of this policy.**

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## REPRESENTATIONS AND SIGNATURE

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By signing this document, the undersigned authorized representative of the Applicant represents on behalf of all persons and entities proposed for coverage, after inquiry, that to the best of their knowledge:

1. The statements and answers given in and all materials submitted with this Application are true, accurate and complete.
2. No facts or information material to the risk proposed for insurance have been misstated or concealed.
3. These representations are a material inducement to the Insurer to provide a proposal for insurance.
4. Any policy the Insurer issues will be issued in reliance upon these representations.
5. The Applicant will report to the Insurer immediately in writing any material change in the Applicant's activities, products and services.
6. The Applicant will report to the Insurer immediately in writing any material changes to the answers provided in this Application which occur or are discovered between the date of this Application and the effective date of the policy for which coverage is sought by submission this Application.
7. The Insurer reserves the right, upon receipt of any such notice, to modify or withdraw any proposal for insurance the Insurer has offered.





**WARNING**

**PLEASE REVIEW THE STATE FRAUD STATEMENT CONTAINED AT THE END OF THIS APPLICATION APPLICABLE TO THE STATE IN WHICH THE APPLICANT RESIDES.**

***Any person who, with intent to defraud or knowingly facilitates a fraud against the insurer, submits an application or files a claim containing a false or deceptive statement may be guilty of insurance fraud.***

*This Application must be signed by the Applicant's Chief Executive Officer, Chief Financial Officer, Chief Operations Officer or General Counsel, or their functional equivalent, unless the Insurer instructs the Applicant otherwise.*

<b>Name</b>	<b>Name (signature)</b>
<b>Title</b>	<b>Date</b>

**TO BE COMPLETED BY PRODUCERS ONLY:**

RETAIL PRODUCER		WHOLESALE PRODUCER	
<b>Producer Name:</b>		<b>Producer Name:</b>	
<b>City, State:</b>		<b>City, State:</b>	
<b>Telephone No.:</b>		<b>Telephone No.:</b>	
<b>License No.:</b>		<b>License No.:</b>	

**PRODUCER SIGNATURE:**



## STATE FRAUD STATEMENT

### ALABAMA

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to restitution fines or confinement in prison or any combination thereof.

### ARKANSAS

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.

### COLORADO

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.

### DISTRICT OF COLUMBIA

Warning: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

### FLORIDA

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.

### KANSAS

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 electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or 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.

### KENTUCKY

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

### LOUISIANA

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.

### MAINE



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.

#### **MARYLAND**

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.

#### **NEW JERSEY**

Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

#### **NEW MEXICO**

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.

#### **NEW YORK**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

#### **OHIO**

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.

#### **OKLAHOMA**

WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

#### **OREGON**

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents materially false information in an application for insurance may be guilty of a crime and may be subject to fines and confinement in prison.

In order for us to deny a claim on the basis of misstatements, misrepresentations, omissions or concealments on your part, we must show that:

- A. The misinformation is material to the content of the policy;
- B. We relied upon the misinformation; and
- C. The information was either:
  1. Material to the risk assumed by us; or
  2. Provided fraudulently.



For remedies other than the denial of a claim, misstatements, misrepresentations, omissions or concealments on your part must either be fraudulent or material to our interests.

With regard to fire insurance, in order to trigger the right to remedy, material misrepresentations must be willful or intentional.

Misstatements, misrepresentations, omissions or concealments on your part are not fraudulent unless they are made with the intent to knowingly defraud.

#### **PENNSYLVANIA**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

#### **PUERTO RICO**

Any person who knowingly and with the intention of defrauding presents false information in an insurance application, or presents, helps, or causes the presentation of a fraudulent claim for the payment of a loss or any other benefit, or presents more than one claim for the same damage or loss, shall incur a felony and, upon conviction, shall be sanctioned for each violation with the penalty of a fine of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000), or a fixed term of imprisonment for three (3) years, or both penalties. Should aggravating circumstances be present, the penalty thus established may be increased to a maximum of five (5) years, if extenuating circumstances are present, it may be reduced to a minimum of two (2) years.

#### **RHODE ISLAND**

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.

#### **TENNESSEE**

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.

#### **VIRGINIA**

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.

#### **WASHINGTON**

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.

#### **WEST VIRGINIA**

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.

## **CLEARANCE PROCEDURES**

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

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

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

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

9. All releases must give the Applicant the rights to edit, modify, add to and/or delete material, juxtapose any part of the film with any other film, change the sequence of events or of any questions posed and/or answers given, fictionalize persons or events, and make any other changes in the film that the Applicant deems appropriate. If a minor, consent has to be legally binding.
10. If music (pre-existing or original) is used, the Applicant must obtain all necessary synchronization and performance licenses from copyright proprietors. All necessary licenses must also be obtained for recordings of such music. **MUSIC COVERAGE WILL NOT BE OFFERED UNTIL WRITTEN CONFIRMATION THAT ALL LICENSES HAVE BEEN OBTAINED IS SUBMITTED TO AND APPROVED BY THE COMPANY.**
11. Written agreements must exist between the Applicant and all creators, authors, writers, performers and any other persons providing material (including quotations from copyrighted work(s) or on-screen services).
12. If distinctive locations, buildings, businesses, personal property or products are filmed, written releases must be secured. This is not necessary if such real property is seen only as non-distinctive background.
13. If the production involves actual events, it should be ascertained that the author's major sources are independent and primary (contemporaneous newspaper reports, court transcripts, interviews with witnesses, etc.) and not secondary (another author's copyrighted work, autobiographies, etc.).
14. Shooting script and rough-cuts should be checked to assure compliance with all of the above. During photography, a person might be photographed on location, dialogue added or other matter included that was not originally contemplated.
15. If the intent is to use the production or its elements on videocassettes, websites, multimedia formats or other technology, rights to manufacture, distribute and release the production must include the above rights and must be obtained from all writers, directors, actors, musicians, composers and other necessary therefore, including proprietors of underlying materials.
16. Film/video clips are dangerous unless licenses and authorizations for the second use are obtained from the owner of the clip, as well as licenses from all persons rendering services in or supplying material contained in the clip; e.g., owners of underlying literary rights, writers, directors, actors, music owners or musicians. Special attention should be paid to music rights as music owners often take the position that new synchronization and performance licenses are required.
17. Living persons and even the deceased (through their personal representatives or heirs) may have a "right of publicity." Clearances must be obtained where necessary. Where the work is fictional in whole or in part, the names of all characters must be fictional. If for some special reason particular names need not be fictional, full details must be provided to the Company in an attachment to the application.