



**Chubb Group of Insurance
Companies**
15 Mountain View Rd.
Warren, NJ 07059

MULTIMEDIA LIABILITY
Application for
Video/Film Producers

**BY COMPLETING THIS APPLICATION THE APPLICANT IS APPLYING
FOR COVERAGE WITH EXECUTIVE RISK INDEMNITY INC. ("Insurer")**

NOTICE: THE LIMIT OF LIABILITY TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE EXPENSES," AND "DEFENSE EXPENSES" WILL BE APPLIED AGAINST THE RETENTION AMOUNT. IN NO EVENT WILL THE INSURER BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. THE COVERAGE AFFORDED UNDER THIS POLICY DIFFERS IN SOME RESPECTS FROM THAT AFFORDED UNDER OTHER POLICIES. READ THE ENTIRE APPLICATION CAREFULLY BEFORE SIGNING.

APPLICATION INSTRUCTIONS:

1. Whenever used in this Application, the term "**Applicant**" shall mean the Company and its subsidiaries.
2. Provide a complete response to all questions and attach additional pages as needed.

I. APPLICATION INFORMATION:

1. Please attach a copy of the following for every **Applicant** seeking coverage:
 - Experience resume of its Producer and Executive Producer for each production (if less than three years experience);
 - Standard contract with authors, distributors, etc.;
 - Video/DVD copy of production or copy of script if production is not complete;
 - Financial statement or budget for production(s);
 - Title Search and Report; and
 - Any general information that would be helpful in evaluating the **Applicant**.
2. Name of **Applicant**: _____
 Address: _____
 City: _____ State: _____ ZIP: _____
 Telephone: _____ Fax: _____
 Web site address: _____

II. COVERAGE DESIRED:

1. Limits of Liability desired:
 Each Claim or Related Claims: \$ _____ Aggregate for all Claims: \$ _____
 Desired term of policy: 1 year 2 year 3 year
2. Retention desired for each Claim or Related Claims:
 \$10,000 \$25,000 \$50,000 \$100,000 Other: \$ _____



III. GENERAL INFORMATION:

1. The **Applicant** is:
- | | |
|---------------------------------------|--|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Non-profit |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Privately Held |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Publicly Traded |
| <input type="checkbox"/> Other: _____ | |
2. Year established: _____

IV. OTHER INSURANCE INFORMATION:

1. Has **Applicant** had prior liability insurance on this particular production or a related production, including but not limited to media liability insurance or producers E&O insurance (e.g., a pilot episode, prequel, or an earlier cycle of the series)? Yes No
- If Yes, attach a copy of prior policy and written history of any claims or threatened claims.
2. **MISSOURI APPLICANTS/AGENTS - DO NOT ANSWER THIS QUESTION.**
Has any liability insurance for the **Applicant** or this particular production(s) ever been declined or canceled? Yes No
- If Yes, please attach an explanation.
3. **Applicant's** estimated total gross revenues and production costs/budget for the production:
Production Costs/Budget _____ Estimated Gross Revenues _____

V. PRODUCTION DETAILS:

1. Title of production to be insured: _____
2. Estimated dates for first release or air date: _____
3. Type of production:
- | | |
|---|---|
| <input type="checkbox"/> Motion Picture for Theatrical Release
List distributor: _____ | <input type="checkbox"/> Motion Picture for Television Release
List network or cable outlet: _____ |
| <input type="checkbox"/> T.V. Series
Number of episodes: _____ | <input type="checkbox"/> T.V. Special
Program Running Time: _____ |
| <input type="checkbox"/> T.V Pilot
Number of episodes: _____ | |
| <input type="checkbox"/> Radio Program
Number of episodes: _____ | <input type="checkbox"/> Direct to Video/DVD
Program Running Time: _____ |
| <input type="checkbox"/> Other (e.g. theatrical stage presentation) Describe: _____ | |
4. Summary of plot, including time frame and setting: _____

5. Names of authors and writers of: a) underlying works: _____



b) screenplays, etc.: _____

6. 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
- Based on another work
Name of other work: _____
- Have the necessary agreements from the owners of the other work been obtained? Yes No
- Other (Please explain) _____

7. Production is:

- Drama Comedy Children's Show Documentary
- Reality Variety Game or Quiz Musical
- Investigative Animated Educational "How To"
- Commentary or Forum Sports
- Previously released film
- Other (Please explain) _____

8. **Applicant's** projected distribution:

- International National Regional Local

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

(a) If Yes, please describe all such merchandise: _____

(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 licensees of the **Applicant**? 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

VI. RISK MANAGEMENT PROCEDURES:

1. **Applicant's** attorney (individual's name): _____

Firm name and address: _____

Phone: _____ Fax: _____ Email: _____

2. Has the **Applicant's** attorney read the Clearance Procedures attached to this Application? Yes No



3. Has the **Applicant's** attorney approved as adequate the clearance procedures used by the **Applicant** in connection with the production? Yes No

If No, have the producer and attorney arranged that the producer will give the attorney adequate information and materials to approve clearance procedures prior to the completion of the production? Yes No

If No to any part of this question, please describe all clearance procedures that the attorney has not yet approved (such as chain of title, script clearance, or review of contracts): _____

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

If Yes, please provide a copy of this process.

5. 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 productions? Yes No

If Yes, have clearances been obtained in all cases? Yes No
If clearances have not been obtained, please explain: _____

6. Is the name or likeness of any deceased person used or is any deceased person portrayed (with or without name or likeness) in the production? Yes No

If Yes, have clearances been obtained in all cases from personal representatives, heirs or other owners of such rights? Yes No
If clearances have not been obtained, please explain: _____

7. 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 a release has not been obtained from such person, please explain: _____

8. 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; or Yes No

(b) releases from any persons in connection with the production? Yes No

9. Has a title report been obtained from any title clearance service? Yes No

If Yes, please attach copy of the title report.

10. 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")? _____

If No, please explain why not: _____



11. 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: _____

12. 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 No, please explain: _____

13. Has a script research 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: _____

14. Have musical rights been cleared? Yes No
(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 release? Yes No

15. If original music was commissioned, have a warranty of originality and an indemnity against third party claims been obtained from the composer? Yes No

16. In the past ten (10) years, has any **Applicant** or person or entity proposed for coverage been the subject of a claim or been sued or threatened with suit for any act, error, or omission relating to the gathering or communicating of information, including but not limited to libel, slander, any form of invasion of privacy or appropriation of name or likeness, infringement of copyright or trademark, infliction of emotional distress, false arrest, wrongful entry or trespass? Yes No

If Yes, please describe in detail the circumstances of each suit or threat of suit, including the identity of the claimant; the factual and legal basis for the claim; and the disposition, including the dollar amount of any defense expenses, settlements and judgments.

VII. REPRESENTATION: PRIOR KNOWLEDGE OF ACTS/CIRCUMSTANCES/SITUATIONS:

1. No person or entity proposed for coverage is aware of any fact, circumstance or situation which he or she has reason to suppose might give rise to a future claim that would fall within the scope of any of the proposed liability coverages for which the **Applicant** does not currently maintain insurance, or within any of the larger limits of liability sought by the **Applicant**, except: None or _____



Without prejudice to any other rights and remedies of the Insurer, the **Applicant** understands and agrees that if any such fact, circumstance, or situation exists, whether or not disclosed above, any claim or action arising from any such fact, circumstance, or situation is excluded from coverage under the proposed policy, if issued by the Insurer.

IX. MATERIAL CHANGE:

If there is any material change in the answers to the questions in this Application before the policy inception date, the **Applicant** must immediately notify the Insurer in writing, and any outstanding quotation may be modified or withdrawn.

X. DECLARATIONS, FRAUD WARNINGS AND SIGNATURES:

The **Applicant's** submission of this Application does not obligate the Insurer to issue, or the **Applicant** to purchase, a policy. The **Applicant** will be advised if the Application for coverage is accepted. The **Applicant** hereby authorizes the Insurer to make any inquiry in connection with this Application.

The undersigned authorized agents of the person(s) and entity(ies) proposed for this insurance declare that to the best of their knowledge and belief, after reasonable inquiry, the statements made in this Application and in any attachments or other documents submitted with this Application are true and complete. The undersigned agree that this Application and such attachments and other documents shall be the basis of the insurance policy should a policy providing the requested coverage be issued; that all such materials shall be deemed to be attached to and shall form a part of any such policy; and that the Insurer will have relied on all such materials in issuing any such policy.

The information requested in this Application is for underwriting purposes only and does not constitute notice to the Insurer under any policy of a Claim or potential Claim.

Notice to Arkansas, Louisiana, Maryland, Minnesota, New Mexico and Ohio Applicants: Any person who, with intent to defraud or knowing that he/she is facilitating a fraud against an insurer, submits an application or files a claim containing a false, fraudulent or deceptive statement is, or may be found to be, guilty of insurance fraud, which is a crime, and may be subject to civil fines and criminal penalties.

Notice to Colorado Applicants: 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 policy holder or claimant for the purpose of defrauding or attempting to defraud the policy holder 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 District of Columbia, Maine, Tennessee and Virginia Applicants: 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 Florida and Oklahoma Applicants: Any person who, knowingly and with intent to injure, defraud or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information is guilty of: a felony (in Oklahoma) or a felony of the third degree (in Florida).

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

Notice to New Jersey Applicants: Any person who includes any false or misleading information on an application for an C33900 (1/2005 ed.)



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insurance policy is subject to criminal and civil penalties.

Notice to Oregon and Texas Applicants: Any person who makes an intentional misstatement that is material to the risk may be found guilty of insurance fraud by a court of law.

Notice to New York and Pennsylvania Applicants: 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 (in New York) or criminal and civil penalties (in Pennsylvania).

Date	Signature*	Title
_____	_____	<u>Chief Executive Officer</u>
_____	_____	<u>Chief Financial Officer</u>

*This Application must be signed by the chief executive officer and chief financial officer of the **Applicant** acting as the authorized representatives of the person(s) and entity(ies) proposed for this insurance.

<u>Produced By:</u> Agent: _____ Agency: _____ Agency Taxpayer ID or SS No.: _____ Agent License No.: _____ Address (Street, City, State, Zip): _____ <u>Submitted By:</u> Agency: _____ Agency Taxpayer ID or SS No.: _____ Agent License No.: _____ Address (Street, City, State, Zip): _____
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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, 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 research 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 person, businesses, etc., that are negatively portrayed. The Producer 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.
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 INSURER.**



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 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.
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.
11. 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.
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, persons 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, web sites, 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 therefor, 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 Insurer in an attachment to the Application.