

**C&S INTERNATIONAL INSURANCE BROKERS, INC.**

Cannon's Walk at the South Street Seaport

19 Fulton Street Suite 308A

New York, NY 10038

Tel: 212 406 4499

Fax: 212 406 7584

www.csins.com

[www.documentary-insurance.com](http://www.documentary-insurance.com)

**APPLICATION FOR DISTRIBUTORS ERRORS&OMISSIONS LIABILITY INSURANCE**

1. Name of Applicant : \_\_\_\_\_

2. Street and Mailing Address: \_\_\_\_\_

Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_

Web Address \_\_\_\_\_

3. Applicant is a : \_\_ Corporation \_\_ Individual \_\_ Other( Explain): \_\_\_\_\_

4. Names and Titles of Principles, Offices, Partners, or Individuals: \_\_\_\_\_

5. Names and Addresses of all Subsidiaries, State of Incorporation, and Percentage of Ownership by Applicant: \_\_\_\_\_

6. How long the Applicant has been in business: \_\_\_\_\_ Under Current Management: \_\_\_\_\_

7. Desired Effective Date: \_\_\_\_\_ for a term of \_\_\_\_\_

8. Limit of desired Coverage Any one claim :\$ \_\_\_\_\_

In the Aggregate:\$ \_\_\_\_\_

Deductible Amount: \$ \_\_\_\_\_

9. State Applicant's estimated Gross Annual Receipts from All Sources:

Next Year: \_\_\_\_\_ Two Years Ago: \_\_\_\_\_

This Year: \_\_\_\_\_ Three Years Ago: \_\_\_\_\_

Last Year: \_\_\_\_\_ Four Years Ago: \_\_\_\_\_

10. Estimated Number and Types of Productions to be Distributed Annually:

14. Features for Theatrical Release: \_\_\_\_\_

15. Features for Television Release: \_\_\_\_\_

16. Television Pilots and Specials: \_\_\_\_\_

17. Television Series (No. of Episodes): \_\_\_\_\_

18. Mini-series and Docu-dramas: \_\_\_\_\_

19. Documentaries: \_\_\_\_\_

20. Industrial and Short Films: \_\_\_\_\_

21. Short Subjects: \_\_\_\_\_

22. CD-ROM , Computer, or Video Games \_\_\_\_\_

23. Other (describe): \_\_\_\_\_

11. Describe in detail the planned distribution and exhibition of the Insured Production(s):

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a) Is the production to the public at large?  Yes  No

b) To a smaller group?  Yes  No

Explain fully: \_\_\_\_\_

c) How many prints of each production are made(on average)? \_\_\_\_\_

d) Are the prints for sale to the public?  Yes  No

e) Any television releases?  Yes  No

f) Any theatrical releases?  Yes  No

12. Have all productions been previously exhibited?  Yes  No

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

14. Does Application 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 “Yes”, please explain:

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15. Does the Applicant require Seller or Licensor to maintain current and continuous in-force Producers’ Errors and Omissions Liability insurance on each production acquired for distribution? \_\_Yes \_\_No If “Yes”, please explain: \_\_\_\_\_

16. Does applicant generally finance or otherwise participate in the Production of films distributed? \_\_Yes \_\_No If “Yes” , please explain: \_\_\_\_\_

17. Number of productions presently on hand for distribution: \_\_\_\_\_

Average number of additional productions to be acquired per year: \_\_\_\_\_

18. Name, Address and Telephone of Applicant’s attorney who clears Acquisitions, Rights and Contracts: \_\_\_\_\_

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19. 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: \_\_\_\_\_

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20. Please provide a complete list of all productions owned or licensed by the applicant for which insurance applied for herein is requested that is to be attached as Schedule A. For each production provide the following information: title; date of initial release; whether a current policy of errors and omission insurance is in force; the expiration date of any policy; the scope of the coverage of the policy (i.e., amounts, exclusions, etc.) the type of production (i.e. fiction, documentary, docudrama, etc); the genre ( i.e., action, comedy ,romance ,etc);term and territory of distribution rights and any other relevant information.

21. Application 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 of any material contained in or upon which such productions are based, that would be covered by the policy sought by applicant.

No Exceptions

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 the 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 insured as a result of this application. The signing of this application does not bind the Applicant or the Company to 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 insured 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 insured 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 (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 productions. For all other productions that have been acquired for the 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 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 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 to 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 precuts 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 owners of all music used in the insured production. Licenses are unnecessary if the music (and its arrangement) is in the public domain. Licensees must also be obtained for the use of previously recorded music.
10. If the production contains any film clips, the Insured must obtain authorization and must obtain authority from the appropriate persons for "secondary use" of all materials 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 offices, directors, partners or agents received any submission of any similar material or production, and if so, Company must be fully advised of all circumstances related 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 any other right of any person ,firm, or corporation.
14. Prior to any public exhibition of the production, it must be previews 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.