

LOCH NESS PRODUCTIONS LICENSE AGREEMENT FOR CAS SHOWS

THIS LICENSE AGREEMENT (this "Agreement") is made by and between LOCH NESS PRODUCTIONS, INC., whose principal place of business is Post Office Box 924, Nederland, Colorado 80466-0924 ("LICENSOR" or "We" or "Our"), and the planetarium or institution indicated below ("LICENSEE" or "You" or "Your").

WHEREAS Licensor represents the California Academy of Sciences ("CAS", the "Academy") which holds all rights to the audio, visual, and textual materials embodied in the planetarium show indicated below ("the Show"); and

WHEREAS Licensee wishes to license the right to use the Show as described below,

NOW THEREFORE, the parties agree to the following terms and conditions:

- 1. IN-HOUSE PERFORMANCE RIGHTS.** We grant to You the limited and non-exclusive rights to publicly perform the Show at Your planetarium (the "Venue"), and to copy and distribute the Show marketing materials, solely in support of Your public performance of the Show at the Venue. The Show may be performed as a planetarium show at the Venue on an unlimited basis and admission may be charged for the performances.
- 2. PERFORMANCE CONDITIONS.** You agree that the Show must always be presented in its entirety. No audio material may be edited from the soundtrack. No visuals may be edited, added or deleted in any way. You agree not to (a) decompile, disassemble or otherwise reverse-engineer the Show, (b) modify or create derivative works of the Show, (c) remove any credits or copyright or other proprietary designations for the Show, or (d) translate or otherwise alter the Show without the prior written consent of Academy.
- 3. SYNCHRONIZATION RIGHTS.** You shall have the right to synchronize display of the Show's script text using captioning or other text-display devices.
- 4. DELIVERABLES & WARRANTY.** We shall provide You with all materials required to play and exhibit the Show and any other associated materials. The materials shall be suitable for playing on a full dome video system. We warrant that the supplied materials shall be complete, in good order and ready for installation.
- 5. INSTALLATION & PRESENTATION.** You shall be responsible for installation and on-going presentation of the Show in the Venue. We shall not be responsible for any difficulties in the presentation of the Show due to the failure of Your exhibition equipment.
- 6. COPIES.** We grant You permission to copy the delivered materials ("Production Copies") as necessary for exhibiting the Show as an effective planetarium show presentation at the Venue. Beyond these Production Copies, no portion of the Show -- visuals, script text or soundtrack -- may be reproduced, stored in a data retrieval system, or transmitted by any means, whether electronic, mechanical, photocopying, or otherwise, without first obtaining our written approval.
- 7. COPYRIGHT.** You agree and acknowledge that all rights in the Show are held by Academy, that the copyright laws of the United States govern the making of reproductions, distribution and public performance of copyrighted material without permission, and that certain international copyright laws also apply. Your use, copying, and performance of the Show are solely pursuant to the limited licenses and permissions granted herein. You and your employees agree to abide by all applicable copyright laws, and to not reproduce, recreate, duplicate, distribute, perform, make derivative works of or otherwise infringe upon the copyright in the Show and associated materials, nor allow any other party to do the same.
- 8. REPRESENTATIONS, INDEMNIFICATION.** We represent and warrant that we have the right to grant the public performance rights in the Show granted herein. We agree to indemnify and hold you harmless for any claims, damages or liability of any kind arising out of the failure to obtain such rights.
- 9. OTHER VENUES AND MEDIA.** You agree that no portion of the Show will be used in any other planetarium program, or transferred to another medium, such as photographic, slide, magnetic tape, digital media formats, radio or television broadcast, cable or Internet, without obtaining our prior written approval, which may be withheld in our sole discretion.
- 10. NON-TRANSFER.** You agree that neither this License nor use of any or all parts of the materials provided in the Show shall be granted, assigned or permitted to any of your officers, employees, agents or assignees, or to other individuals or organizations, without our written approval, which may be withheld in our sole discretion.
- 11. PUBLICITY.** In all advertising, posters, press releases, etc. which you create for the Show, the credit phrase indicated below must be included. You agree not to imply or state that the Show was created, produced or distributed by any person, organization or party other than us. Phrases such as "The (insert your name) Planetarium presents..." are acceptable in billing the program. Biographical material (if provided) about the people involved in the production of the Show may be used in your publicity releases.

12. **LICENSEE'S OBLIGATIONS.** You agree that all expenses incurred or related to the licensed installation, promotion and presentation of the Show shall be your sole responsibility. We will provide playback files to you for purposes of preparing files for Your presentation of the Show in Your Venue. Other than creating a backup copy of the playback files, You may not create or retain copies of any of the media provided by Us.
13. **TERMINATION.** This Agreement may be terminated upon the occurrence of a breach of any material terms of the Agreement, provided that the party claiming a breach has provided written notice to the other party and offered such party thirty (30) days from the date notice is given to cure such breach. If the breach is not cured, the Agreement shall terminate effective sixty (60) days following the date of notice. Upon termination, You shall immediately return all materials provided by Us to Us at your expense.
14. **TERM.** This License shall extend for the term indicated below, or until otherwise terminated.
15. **LICENSE FEES.** The licensing fee is derived from criteria such as annual attendance and size of the theater. According to these criteria, the license fee indicated below, to cover the license term indicated below, shall be paid within thirty (30) days after receipt of the presentable materials.
16. **BREACH.** Use of the Show for any purpose outside the scope of this License without first obtaining Our permission shall be a material breach of this License. In such event, or if You fail in any of Your obligations, this License shall automatically terminate, and You shall promptly return all supplied files and materials of the Show to us at the above-indicated address. If the termination is due to a material breach or an unauthorized advertisement, broadcast, production or reproduction of the Show, we shall be entitled to all available remedies under United States law for such unauthorized use.
17. **RECIPROCAL INDEMNIFICATION.** We and You each agree to accept full and exclusive responsibility for Our own acts and those of Our respective employees, agents and subordinates, and to indemnify, hold harmless from and reimburse the other for any liabilities, claims, demands, costs and expenses incident to any claim, loss, damage or injury of any kind, including attorney's fees and court costs incurred arising from our Respective acts and omissions.
18. **AMENDMENTS.** This Agreement may be amended only in a written document signed by both parties.
19. **JURISDICTION.** The interpretation and performance of this Agreement shall be governed by the laws of the State of California.
20. **VALIDITY.** If any provision or portion of this Agreement or its application to any circumstance shall be found to be invalid or unenforceable, the remainder of this Agreement and its application to other circumstances shall nevertheless be valid. In place of such invalid and unenforceable provision, another provision as similar in terms to such invalid or unenforceable provision as may be possible, legal, valid and enforceable shall be added automatically.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective on the later of the execution dates shown below.

LICENSOR:

For: Loch Ness Productions

By:

Printed Name:

Title:

Date:

LICENSEE:

For: _____
Planetary/Theater/Institution (licensed site)

Location: _____
(address, primary place of business)

By: _____
(authorized signature)

Printed Name: _____

Title: _____ Date: _____

Show Title: ***Incoming!***

License Term: _____

License Fee: _____

SHOW CREDIT PHRASE:

"Incoming! is a production of the California Academy of Sciences, and is distributed by Loch Ness Productions."