

PERFORMANCE LICENSE AGREEMENT



A LIMITED AGREEMENT is made between MTPE, Inc. (dba ePlanetarium) whose principal place of business is P.O. Box 271344, Houston TX 77277-1344 USA (referred to below as "LICENSOR", "We", "Our", "Us", etc.), and the planetarium or institution identified below, (referred to as "LICENSEE", "You", "Your", etc.).

WHEREAS we have obtained certain rights with respect to the audio, visual, and textual materials embodied in the planetarium program "**TOTALITY!**" (*Also available with alternate title and script "**TOTALITY OVER TEXAS!**"*) and

WHEREAS you wish to license the right to use "**TOTALITY!**" as described below,

NOW THEREFORE, we and you agree to the following terms and conditions:

1. IN-HOUSE PERFORMANCE RIGHTS

We grant you limited and non-exclusive rights to use the "**TOTALITY!**" show package materials. In your planetarium, "**TOTALITY!**" may be performed as a planetarium show as often as you desire; admission may be charged for the performances.

2. PERFORMANCE CONDITIONS

We agree that "**TOTALITY!**" may be clipped for performance in your planetarium but cannot be used within any other planetarium pre-recorded program. It can be used in clipped format within a live presentation.

3. SYNCHRONIZATION RIGHTS

We grant permission to synchronize display of the text of the script using captioning or other text-display devices. We provide a time-encoded subtitle file that can be translated into other languages.

4. DELIVERABLES & WARRANTY

You shall be delivered all materials required to play and exhibit "**TOTALITY!**" 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

Installation and on-going presentation of, "**TOTALITY!**" in your theatre shall be your responsibility. We shall not be responsible for any difficulties in the presentation of "**TOTALITY!**" due to the failure of your exhibition equipment or unusual formatting needed.

6. COPIES

We grant you permission to copy the delivered materials for exhibiting "**TOTALITY!**" as an effective planetarium show presentation in your theater. Beyond these production copies, no portion of "**TOTALITY!**" -- 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. We will provide you with trailers and/or images that can be posted for advertising purposes. You may refer customers to the web site

<https://www.eplanetarium.com/shows/ddome/hmns/totality/>

where scripts, activities, previews, and other materials are posted.

7. COPYRIGHT

"**TOTALITY!**" is protected by applicable copyright law which governs the making of reproductions of copyrighted material without permission; certain international copyrights also apply. "**TOTALITY!**" contains materials, which are copyrighted by us, and/or others, which are used under strictly limited licenses and permissions from their respective copyright owners. You and your employees agree to abide by all applicable copyright laws, and not reproduce, recreate, duplicate or otherwise

make illegal copies of copyrighted material, and not knowingly allow anyone else to do the same.

8. OTHER VENUES AND MEDIA

You agree that no portion of "**TOTALITY!**" 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 first obtaining our written approval. Such approval may require payment of incur an additional licensing fee.

9. NON-TRANSFER

You agree that neither this License nor use of any or all parts of the materials provided in "**TOTALITY!**" shall be granted, assigned or permitted to any of your officers, employees, agents or assignees, or to other individuals or organizations, without first obtaining our written approval.

10. PUBLICITY

You agree not to imply or state that "**TOTALITY!**" was created or produced by any person, organization or party other than "HMNS in Conjunction with Rice University and ePlanetarium". Phrases such as "The (insert your name) Planetarium presents..." are acceptable in billing the program.

11. LICENSEE'S OBLIGATIONS

11.1 **After installation and presentation of "**TOTALITY!**" to audiences, you agree to provide attendance reports to us on an annual basis while in use.**

11.2 You agree that all expenses incurred or related to the licensed installation, promotion and presentation of "**TOTALITY!**" shall be your sole responsibility.

11.3 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.

12. 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 in which to cure such breach. If it is determined that this Agreement should be terminated, you shall return all materials provided by us to us at your expense.

13. TERM

This License shall continue for fifty years or until otherwise terminated. An additional ten years may be requested at the end of this license.

14. BREACH

Use of "**TOTALITY!**" 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 "**TOTALITY!**" 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 "**TOTALITY!**" we shall be entitled to all proceeds of any kind received by you for such unauthorized use.

15. INDEMNIFICATION

We and you each agree to accept full and exclusive responsibility for your own acts and those of your respective employees, agents and subordinates, and to indemnify, hold harmless from and reimburse us 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.

16. AMENDMENTS

This Agreement may be amended only in a written document that we and you sign.

17. JURISDICTION

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the United States and the laws of the State of Texas (without regard to the conflicts or choice of law principles thereof). We and you irrevocably consent to the jurisdiction of the State of Texas and agree that any court of competent jurisdiction sitting in Harris County, Texas, shall be an appropriate and convenient place of venue to resolve any dispute with respect to this Agreement. In the event either of us commences any proceeding against the other party with respect to this Agreement, the prevailing party (as determined by the authority before whom such proceeding is commenced) shall be entitled to recover reasonable attorneys' fees and costs as may be incurred in connection therewith in addition to any such other relief as may be granted.

18. 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: MTPE

By: _____
(authorized signature)

Printed Name: Patricia H. Reiff

Title: President **Date:** April 8, 2023

LICENSEE

For: _____
Planetarium/Institution (licensed site)

By: _____
(authorized signature)

Printed Name: _____

Title: _____ **Date:** _____

Address: _____

Email: _____

Website: _____