

# MarsQuest Performance License Agreement

**AN AGREEMENT** is made between Loch Ness Productions, P. O. Box 1159, Groton, Massachusetts, 01450-3159, 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 and own certain rights with respect to a collection of copyrighted audio, visual, and textual materials hereinafter referred to as the planetarium show package **MarsQuest**, consisting of a book containing script and production notes; images in photographic slide and/or digital form; audio soundtrack; and reference video; and,

**WHEREAS** you wish to license the right to publicly perform **MarsQuest** as a planetarium show, according to the terms of this license,

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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 materials in the <b>MarsQuest</b> show package to present the program to public audiences. At your planetarium, <b>MarsQuest</b> may be performed as a planetarium show as often as you desire; admission may be charged for the performances.
2. PERFORMANCE CONDITIONS	You agree that <b>MarsQuest</b> must always be presented in its entirety. No audio material may be edited from the soundtrack. All the visuals provided in the show package (all-skies, panoramas, video, and slides) must appear when and in the form indicated in the script/production notes book.
3. SYNCHRONIZATION RIGHTS	We grant you permission to synchronize certain visuals with those provided in the show package, such as pointer indicators, or those from the planetarium projector or its equivalent -- e.g., stars, planets, Moon. We also grant permission to synchronize display of the text of the script using captioning or other text-display devices. Beyond this, you agree not to add or substitute visuals from other sources without first obtaining our written approval. We grant you permission to record and synchronize translated narration tracks with the narrationless soundtrack provided by us for such purpose. Beyond those, you agree not to add or substitute audio material from other sources without first obtaining our written approval.
4. COPIES	We grant you permission to copy only the materials necessary for producing <b>MarsQuest</b> as an effective planetarium show presentation at your site. For example, copies of the script may be made for distribution to production staff members; copies of the soundtrack may be made onto various media for playback and/or archiving. Beyond these production copies, no portion of <b>MarsQuest</b> -- visuals, script text or soundtrack -- may be reproduced, stored in a data retrieval system, or transmitted by any means, whether electronic, mechanical, photocopying, slide transfer or otherwise, without first obtaining our written approval.
5. COPYRIGHT	The copyright law of the United States (Title 17, U.S. Code) governs the making of reproductions of copyrighted material without permission; certain international copyrights also apply. <b>MarsQuest</b> contains materials which are copyrighted by Loch Ness Productions, and others which are used under strictly limited 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 unauthorized copies of copyrighted material, and to take all steps as reasonably necessary to prohibit others from doing the same.
6. OTHER VENUES AND MEDIA	You agree that no portion of <b>MarsQuest</b> will be used in any other planetarium program, or transferred to another medium, such as radio or television broadcast, cable or Internet, without first obtaining our written approval.
7. REPORTING	You agree to install and present <b>MarsQuest</b> to audiences, and to return attendance reports to us on a quarterly basis during the program's use. You agree that all expenses incurred or related to such reporting and licensed uses of <b>MarsQuest</b> shall be your sole responsibility.
8. PUBLICITY	In all forms of advertising -- e.g., posters, press releases, public service announcements -- which you create for <b>MarsQuest</b> , the credit phrase <i>"MarsQuest was created by Loch Ness Productions in collaboration with the Space Science Institute of Boulder, Colorado, with funding from the National Science Foundation."</i> must be included. You agree not to state or in any way suggest that <b>MarsQuest</b> was created or produced by your staff or facility, nor that any of the organizations mentioned in the credit phrase are presenting the program at your facility. Phrases such as "The McKluth Planetarium presents..." are acceptable in billing the program. Biographical and promotional material provided with the show package about the people involved in the production may be used in publicity releases for the show, but it may not be altered to state or in any way suggest that any individual or the organizations in the above-mentioned credit phrase is endorsing, starring in, or making a personal appearance at your presentation.

9. NON-TRANSFER	You agree that neither this License nor use of any or all parts of the materials provided in <b>MarsQuest</b> shall be transferred, conveyed, granted, assigned or sublicensed to any of your officers, employees, agents or assignees, or to other individuals or organizations, without first obtaining our written approval.
10. AUTHORITY AND VOLUNTARINESS	You and we expressly represent and warrant that we each have the requisite power and authority to enter into and to perform the obligations under this Agreement, and have entered into this Agreement voluntarily and without compulsion.
11. TERMINATION	We retain the unqualified and irrevocable right to terminate this Agreement at any time, without cause, upon verbal, written or electronically transmitted notice to you.
12. NON-WAIVER	A failure to enforce any provision of this Agreement at any time shall not nullify our right to enforce the same or any other provision in the future.
13. TERM	This License shall continue for a term of fifty (50) years, or until otherwise terminated.
14. BREACH	Use of <b>MarsQuest</b> for any purpose outside the scope of this License without first obtaining our permission shall be a breach of this License. In such event, or if you fail in any of your obligations under this Agreement, this License shall automatically terminate, and you shall promptly return all <b>MarsQuest</b> materials to us at the above-indicated address. If the termination is due to a breach or an unauthorized advertisement, broadcast, production or reproduction of <b>MarsQuest</b> , we shall be entitled to all proceeds of any kind received by you for such unauthorized use.
15. INDEMNIFY AND HOLD HARMLESS	We and you agree to indemnify and hold harmless from and reimburse the other for all claims, causes of action, actions, suits, judgments, losses, damages, liabilities, costs, and expenses, including attorneys' fees, asserted against and/or incurred by the other party arising out of, attributable to, or resulting from the indemnifying party's breach or nonperformance of its obligations under this Agreement, or from any conduct undertaken pursuant to this Agreement by the indemnifying party or any of its employees, agents, or anyone acting on its behalf. This indemnity and hold harmless provision shall survive the termination or expiration of this Agreement.
16. AMENDMENTS	This Agreement constitutes the entire agreement between you and us, and shall not be modified, except in a written document you and we both sign.
17. JURISDICTION	The interpretation and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
18. SEVERABILITY	In the event that a court of competent jurisdiction enters a final judgment holding invalid any material provision of this Agreement, the remainder of this Agreement shall be fully enforceable.

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

**LICENSOR**

By: \_\_\_\_\_

For: Loch Ness Productions

Date: \_\_\_\_\_

**LICENSEE**

For \_\_\_\_\_  
Planetarium/Institution (licensed site)

By: \_\_\_\_\_  
(authorized signature)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date \_\_\_\_\_