

To confirm your subscription to Digital Theatre+ please confirm the details below, then fill and sign this form using our eSignature platform.

<b>Subscription start date:</b>	04 Sept 2020	<b>Subscription end date:</b>	03 Sept 2021
<b>Currency:</b>	USD	<b>Net price:</b>	2850
<b>Sales Tax (if applicable):</b>	0	<b>Gross price:</b>	2850
<b>Special terms (if applicable):</b>	28 day payment terms. Invoice to be paid on Friday 2 October 2020.		

### Customer information

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<b>Accounts payable contact</b> (if different from the above)			
<b>Email:</b>		<b>Tel no:</b>	
<b>DT+ Unique ID:</b>	1241882279		

I confirm that I have read the Agreement and the Terms and Conditions at <https://www.digitaltheatreplus.com/education/terms-and-privacy/united-states> including the cancellation policy and payment terms and that I (on behalf of the institution named above) am authorised to agree to purchase a subscription to Digital Theatre+. I confirm that I have read the Privacy Policy (Schedule 1 to the Agreement) and that I (on behalf of the institution named above) am authorised to consent to such collection and processing of data in accordance with the Agreement.

**Signed:**

**Dated:**

## DIGITAL THEATRE PLUS LICENSE AND TERMS OF USE AGREEMENT

**DIGITAL THEATRE.COM LIMITED**, a company registered in England and Wales under company number 06570330, having its registered office at Ground Floor, Peninsular House, 30-36 Monument Street, London United Kingdom EC3R 8NB

("Digital Theatre").

**THIS LICENCE AGREEMENT** gives to you, the Institution, on payment of the Licence Fee, permission to access the Licensed Material and use such material only on the terms and conditions as set out in this agreement ("**Agreement**"). Please read carefully the following terms and conditions which apply to the Digital Theatre.Com Limited ("**Digital Theatre**") Service and which apply in addition to the Digital Theatre privacy policy set out in Schedule 1.

### BACKGROUND

A. Digital Theatre is a company specialising in the creation, marketing, delivery and distribution of high quality filmed versions of theatrical productions ("Films"). Digital Theatre runs an educational website WWW.DIGITALTHEATREPLUS.COM on which Films, documentaries and other educational materials and content are made available on a subscription basis to educational institutions (the service provided to subscribers by Digital Theatre on the Digital Theatre Plus Website is referred to in this Agreement as "**Digital Theatre Plus**" and Digital Theatre will notify Institution if the name of the service should change).

B. The Institution wishes to be granted a licence to the Films, documentaries and other educational materials and content made available on Digital Theatre Plus.

### IT IS AGREED AS FOLLOWS

#### 1. DEFINITIONS

1.1 In this Agreement, the following terms shall have the following meanings:

**"Authorised User"** means an individual who is authorised by the Institution to have access to its information services (whether on-site or off-site) via Secure Authentication and who is:

- a current student of the Institution (including current pupils, current undergraduates, and current postgraduates as applicable);
- a member of staff of the Institution (whether permanent or temporary);
- a contractor of the Institution whose contract requires access to the Licensed Material; or
- a walk-in user: patrons not affiliated with Institution who are physically present at Institution's site(s) ("walk-ins").

**"Commercial Use"** means use for the purpose of monetary reward (whether by or for the Institution or an Authorised User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Material.

**"Digital Theatre Plus Website"** means the website based at WWW.DIGITALTHEATREPLUS.COM which url may be changed by Digital Theatre from time to time.

**"Educational Purposes"** means use for the purpose of education, teaching, distance learning, private study and/or research.

**"Intellectual Property Rights"** means any patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing-off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Licence Fee"** means the fee for the Licence as stated on the Order Form and paid to Digital Theatre.

**"Licence Commencement Date"** means the date the Institution has access to the Films under this Agreement, unless otherwise stated in the Order Form.

**"Licensed Material"** means the materials licensed in this Agreement and included in the service known as Digital Theatre Plus being the Films, documentaries and any other educational materials and content made available on Digital Theatre's Website on a subscription basis via the Institution to Authorised Users.

**"Material Breach"** means a breach that substantially deprives the non-breaching party of the principal benefit of this agreement or that causes the non-breaching party to suffer irreparable or significant harm, such as but not limited to: non-payment of fees, a breach of the restrictions listed in Clause 4 or Intellectual Property Rights listed in Clause 9.

**"Metadata"** means information about one or more aspects of the data, such as:

- **Mode and method of creation of the data**
- **Purpose of the data**
- **Time and date of creation**
- **Creator or author of the data**
- **Location on a computer network where the data were created**
- **Standards used.**

For example, a digital image may include metadata that describe how large the picture is, the colour depth, the image resolution, when the image was created, and other data. A text document's metadata may contain information about how long the document is, who the author is, when the document was written, and a short summary of the document.

**"Modifications"** means alterations, additions to, deletions from, manipulations and/or modifications of parts of the Metadata supplied by Digital Theatre in accordance with section 21 of the United Kingdom's Copyright, Designs and Patents Act 1988.

**"Modify"** means to alter, add to, delete from, manipulate and/or modify parts of the Metadata.

**"Order Form"** means the form on Digital Theatre Plus Website through which Institution places a request for access to the Licensed Material as described in more detail in Clause 2.

**"Secure Authentication"** means a user authenticating to the website using at least one of the following mechanisms: username and password, SAML 2 Single Sign On or IP Authentication.

**"Special Terms"** means any terms agreed between Digital Theatre and the Institution which supplement and/or amend the terms of this Agreement, and are set out in Schedule 2 to this Agreement (if applicable).

## **2. LICENSE GRANT**

2.1 To request a licence to the Licensed Material, Institution must fill out the Order Form on the Digital Theatre Plus Website stating the desired date for the licence to start. Digital Theatre will review the Order Form and Institution's request and confirm acceptance or not to Institution within 72 hours of receipt of the Order Form via e-mail.

2.2 On acceptance of Institution's Order Form, Digital Theatre grants to the Institution, subject to and in accordance with the terms of the Order Form and this Agreement, a non-exclusive non-transferable, limited licence to access and use the Licensed Material and to allow Authorised Users where applicable to access and use the Licensed Material on the Digital Theatre Plus Website via Secure Authentication and for Educational Purposes.

## **3. PERMITTED USES**

3.1 This Agreement permits the Institution to, for Educational Purposes only, and ensuring that at all times each item shall carry appropriate acknowledgement of the source and copyright owner:

3.1.1 display, download and print those parts of the Licensed Material which are made available on the Digital Theatre Plus Website as downloadable PDF documents (for the avoidance of doubt this excludes any audio visual material) for the purpose of promoting or testing the Licensed Material or for training Authorised Users or at the request of Authorised Users;

3.1.2 make and distribute copies of training material as may be required for the purpose of using the Licensed Material in accordance with this Agreement;

3.1.3 mount and use Metadata in bespoke and commercially available library systems to manage library operations;

3.1.4 allow Authorised Users, for Educational Purposes only to:

(a) access the Licensed Material by Secure Authentication in order to search, retrieve, display and view the Licensed Material as permitted on the Digital Theatre Plus Website;

- (b) modify the Metadata and create new Metadata of the Licensed Material;
- (c) electronically save those parts of the Licensed Material which are made available on the Digital Theatre Plus Website as downloadable PDF documents;
- (d) print out single copies of those parts of the Licensed Material which are made available on Digital Theatres' Website as downloadable PDF documents;
- (e) incorporate parts of the Licensed Material which are made available on the Digital Theatre Plus Website as downloadable PDF documents and or links to other parts of the Licensed Material in printed and electronic course packs to be used in the course of instruction and/or in virtual learning environments hosted securely and only accessible by Authorised Users. Authorised Users must specify the title and copyright owner of the Licensed Material used in the course packs. Course packs in other formats, such as Braille, may also be offered to Authorised Users;
- (f) incorporate those parts of the Licensed Material which are made available on the Digital Theatre Plus Website as downloadable PDF documents in printed or electronic form in assignments and portfolios, theses and in dissertations ("the Academic Works"), and to make reproductions of the Academic Works for personal use and library deposit; and
- (g) use the Licensed Material to perform and engage in text mining/data mining activities solely for academic research and Educational Purposes.

3.2 This Agreement shall be deemed to complement and extend the rights of the Institution and Authorised Users under the United Kingdom's Copyright, Designs and Patents Act 1988 and Copyright (Visually Impaired Persons) Act 2002 and nothing in this Agreement shall constitute a waiver of any statutory rights held by the Institution and Authorised Users from time to time under these Acts or any amending legislation.

#### **4. RESTRICTIONS**

4.1 Except where this Agreement states otherwise, the Institution and Authorised Users may not:

4.1.1 sell or resell the Licensed Material, Metadata and/or Modifications unless Digital Theatre has given the Institution or an Authorised User specific prior permission in writing to do so;

4.1.2 remove, obscure or alter copyright notices, acknowledgments or other means of identification or disclaimers other than Metadata;

4.1.3 alter or adapt the Licensed Material (save for Metadata), except to the extent necessary to make it perceptible on a computer screen, or as otherwise allowed under this Agreement. For the avoidance of doubt, no alteration of the words or the order of audio visual material is allowed;

4.1.4 [clause intentionally deleted] ;

4.1.5 use all or any part of the Licensed Material for any Commercial Use or for any purpose other than Educational Purposes; and

4.1.6 provide access and/or allow use of the Licensed Material by anyone other than Authorised Users.

4.2 Digital Theatre reserves the right to suspend access to Digital Theatre Plus, upon notice to Institution:

4.2.1 for all Authorised Users and the Institution, in the event that Digital Theatre reasonably believes that such Authorised User has exceeded the scope of their authorised use of Digital Theatre Plus hereunder, violated the restrictions and limitations on such use specified in this Agreement, or such use will result in liability to Digital Theatre; and

4.2.2 for all Authorised Users and the Institution, in the event that: (a) an Authorised User who is an employee or agent of Institution, while acting within the scope of his or her employment or agency, exceeds the scope of their authorised use of Digital Theatre Plus hereunder, or violates the restrictions and limitations on such use specified in this Agreement, or (b) the Institution violates the terms of this Agreement.

4.3 This Clause will continue to apply after termination of this Agreement for any reason.

## **5. RESPONSIBILITIES OF DIGITAL THEATRE**

5.1 Digital Theatre agrees to use reasonable endeavours to:

5.1.1 make the Licensed Material available to the Institution and Authorised Users following acceptance of this Agreement by both parties and continued availability of the Licensed Material will be dependent upon Institution paying the Licence Fee in cleared funds by the date requested of them;

5.1.2 make the Licensed Material available to the Institution and Authorised Users 24 hours a day (except when routine maintenance is carried out), and to restore access to the Licensed Material as soon as possible after any interruption or suspension of the Digital Theatre Plus service;

5.1.3 provide customer support services relating to the Digital Theatre Plus service to Authorized Users during normal working hours in the United Kingdom. Digital Theatre will aim to respond to all customer enquiries via email within 1 business day;

5.1.4 provide such electronic product documentation (for example: user guides and promotional materials) to the Institution free of charge as Digital Theatre shall have available. Digital Theatre will allow copies of all such documentation to be made and distributed by the Institution to Authorised Users provided it is either duplicated in full, or a proper ownership acknowledgement is included;

5.1.5. collect and process any personal data received from the Institution in accordance with the privacy notice annexed to this Agreement which is compliant with the Data Protection Act 2018 and (for so long as and to the extent that the law of the EU has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable EU regulation relating to privacy. The Institution will sign and date the privacy notice which is part of the Order Form to confirm Institution's consent to such collection and processing of data and the Institution will ensure that they obtain the same consent for such storage and processing from their users; and

5.1.6 commit to providing a website that is accessible to the widest possible audience and much of our content is accessible. Upon request by the Institution, Digital Theatre can provide a VPAT that describes our compliance in terms of WCAG standards

## **6. RESPONSIBILITIES OF INSTITUTION**

6.1 The Institution agrees to:

6.1.1 give passwords or other secure access information only to Authorised Users and use all reasonable efforts to ensure that Authorised Users do not give their passwords or other Secure Authentication information to anyone else (where SAML 2 Single Sign On is used, which is the preferred authentication method of Digital Theatre, the Institution agrees to configure their SAML 2 Single Sign On Identity Provider and Digital Theatre agrees to configure its Service Provider to provide access accordingly);

6.1.2 only when applicable, provide lists of valid IP addresses to Digital Theatre and update those lists regularly as agreed by the parties from time to time;

6.1.3 use all reasonable efforts to ensure that only Authorised Users are permitted access to the Licensed Material;

6.1.4 use all reasonable efforts to ensure that all Authorised Users are made aware of and undertake to abide by the terms of this Agreement; and

6.1.5 use all reasonable efforts to work with Digital Theatre to monitor compliance with the terms of this Agreement and notify Digital Theatre immediately and provide full particulars on becoming aware of any of the following:

(a) any unauthorised access to or use of the Licensed Material or unauthorised use of any of Institution's password(s); or

(b) any breach by itself or an Authorised User of the terms of this Agreement.

As soon as the Institution is aware of any breach of the terms of this Agreement by itself or an Authorised User, the Institution further agrees promptly to fully investigate and initiate procedures in accordance with the Institution's standard practice and use all reasonable efforts to ensure that such activity ceases and to prevent any recurrence.

6.2 The Institution undertakes to Digital Theatre that the computer system through which the Digital Theatre Plus Website and therefore the Licensed Material will be used is configured, and procedures are in place, to prohibit access to the Licensed Material by any person other than an Authorised User, that it shall inform the Authorised Users about the conditions of use of the Licensed Material including using a Secure Authentication process, and that during the term of this Agreement, the Institutions will make best efforts to bar non-permitted access and to convey appropriate use information to its Authorised Users.

## **7. LICENCE FEE**



7.1 Digital Theatre will issue an invoice to the Institution upon signing of the Agreement and the Order Form. The Institution will pay to Digital Theatre the Licence Fee within 15 days after receipt of Digital Theatre's invoice or before the first day of the start of the subscription period per the Order Form, whichever is earlier.

7.2 Payments to Digital Theatre shall be made by wire/electronic transfer to applicable bank and currency account details as indicated on your invoice.

7.3 After the Initial Term, except as otherwise provided on the Order Form, the License Fee may increase for renewal terms, provided Digital Theatre provides at least 2 months' notice to Institution prior to renewal.

7.4 All payments to be made by the Institution under this Agreement (except any deduction or withholding which is required by law) shall be paid free and clear of any bank fees, deductions or withholdings for, or on account of tax, set-offs and counterclaims. If the Institution is required by law to make any deduction or withholding from any payment to Digital Theatre under this Agreement, the Institution must hold Digital Theatre harmless from such deduction or withholding and must increase the amount of such payment by an amount equal to such deduction or withholding.

7.5 If payment is not received within 15 calendar days of the due date set out in clause 7.1 or as otherwise agreed under Special Terms, Digital Theatre reserves the right to charge the Institution on any amount outstanding, both before and after any judgement, at the rate of 3% per annum from time to time in force from the due date until the date of payment, and any such interest shall be payable on demand. Any payment made shall first be applied to accrued interest and then to the unpaid principal. Digital Theatre reserves the right to suspend access to Digital Theatre Plus and any of the Licensed Material in the event Institution fails to timely pay the Licensee Fee.

## **8. TERM AND TERMINATION**

8.1 This Agreement will be effective from the date Institution receives Digital Theatre's acceptance of Institution's signed Order Form and the term of this Agreement will be for the term specified in the Order Form (the "Initial Term") and will remain in full force and effect for the duration of that term, unless terminated earlier or extended as provided for in this Clause 8.

8.2 [clause intentionally deleted]

8.3 The Institution may cancel their subscription, and therefore terminate this Agreement, within 30 days of signing the Order Form, for any reason. If the Licence Fee has been paid to Digital Theatre prior to the cancellation, Digital Theatre will reimburse the Institution with the Licence Fee in full. The Institution may not cancel their subscription more than 30 days after signing the Order Form.

8.4 Either Digital Theatre or the Institution may terminate this Agreement at any time for a Material Breach by serving a written notice on the other identifying the nature of the breach. The termination will become effective thirty days after receipt of the written notice unless during the relevant period of thirty (30) days the defaulting party remedies the breach forthwith and confirms this by written notice to the other party who shall, acting reasonably and without unnecessary delay, confirm the breach has been satisfactorily remedied.



8.5 Upon termination of this Agreement by Digital Theatre due to a Material Breach Digital Theatre shall have the right to immediately cease to authorise online access to the Licensed Material by the Institution and Authorised Users and the Institution shall immediately pay any License Fees owing to Digital Theatre, but in the event that License Fees have been paid in advance, the Institution shall not be entitled to any refund of such License Fees. The Institution and its Authorised Users shall not use any of the copies made of the Licensed Material after the date of termination and the Institution shall be responsible for destroying all such copies of the Licensed Material and, if so requested by Digital Theatre, shall send a certificate confirming the destruction to Digital Theatre.

8.6 Upon termination of this Agreement by the Institution due to a Material Breach by Digital Theatre under Clause 8.3, the Institution (i) shall have the right to a pro-rata refund of the Licence Fee for the amount of Initial Term remaining and (ii) shall cease to authorise online access to the Licensed Material by the Institution and Authorised Users.

## **9. ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

9.1 The Institution acknowledges and agrees that all Intellectual Property Rights in the Licensed Material are either the sole and exclusive property of Digital Theatre or are duly licensed to Digital Theatre and that this Agreement does not assign or transfer to the Institution any right, title or interest except for the right to access and use the Licensed Material in accordance with the terms and conditions of this Agreement.

9.2 The Institution acknowledges and agrees that Digital Theatre may suspend access to the Licensed Material with notice in the event of any breach or suspected breach of this Agreement by the Institution or Authorised Users (including any suspected or actual infringement of Digital Theatre's Intellectual Property Rights) until such time as any issue has been determined and resolved.

9.3 The Institution acknowledges and agrees that Digital Theatre shall have the right to alter, replace or remove any part of the Licensed Material, in the event that such part of the Licensed Material might breach Digital Theatre's agreement with one or more of its partner archives or might involve any rights clearance issues. Digital Theatre shall be entitled to remove such content at short notice and any replacement materials shall then be deemed to form part of the Licensed Material. If any such removal results in a reduction of more than 30% of the Licensed Material as at the date of the Agreement, Institution may terminate this Agreement with one (1) month's written notice to Digital Theatre, and Digital Theatre shall promptly refund to Institution the pro rata portion of the License Fee attributable to the remaining part of the Initial Term or applicable renewal period.

## **10. REPRESENTATION and WARRANTIES**

10.1 Solely to the extent permitted under applicable law, Institution hereby agrees to indemnify, defend and hold harmless, Digital Theatre from and against any and all third party claims arising out of or related to: (a) Institution's breach of this Agreement; (b) Institution's use of Digital Theatre Plus or the Licensed Material; and (c) an Authorised User's use of Digital Theatre Plus or the Licensed Material.

10.2 Digital Theatre warrants to the Institution to the best of its knowledge that the Licensed Material and all Intellectual Property Rights therein are owned by or licensed to Digital Theatre and that the Licensed Material used as contemplated in this Agreement does not infringe any third party Intellectual Property Rights, subject to Clauses 9.2 and 9.3.

10.3 While Digital Theatre has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, Digital Theatre makes no representation and gives no warranty express or implied with regard to the information contained in or any part of the Licensed Material including (without limitation) the fitness of such information or part for any purposes whatsoever and Digital Theatre accepts no liability for loss suffered or incurred by the Institution or Authorised Users as a result of their reliance on the Licensed Material.

10.4 In no circumstances will Digital Theatre be liable to the Institution for any loss resulting from a cause over which Digital Theatre does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorised access, theft, or operator errors.

10.5 The Institution agrees to notify Digital Theatre immediately and provide full particulars in the event that it becomes aware of any actual or threatened claims by any third party in connection with any works contained in the Licensed Material and do all things reasonably required to assist Digital Theatre in such claims. It is expressly agreed that upon such notification, or if Digital Theatre becomes aware of such a claim from other sources, Digital Theatre may remove such work(s) from the Licensed Material. Failure to report knowledge of any actual or threatened claim by any third party shall be deemed a Material Breach of this Agreement.

10.6 Except as provided for in Clause 10.1, neither the Institution nor Digital Theatre will be liable to the other in contract or negligence or otherwise for:

10.6.1 any special, indirect, incidental, punitive or consequential damages;

10.6.2 loss of direct or indirect profits, business, contracts, revenue or anticipated savings; or

10.6.3 for any increased costs or expenses.

10.7 Digital Theatre's aggregate liability (I.E. not per claim) of any kind arising out of or related to the subject matter of this agreement and regardless of whether any action or claim is based on contract, tort or otherwise, will not exceed 2x the total amount actually paid or payable by the Institution to Digital Theatre during the Initial term of renewal term in which the events giving rise to the claim occurred.

10.8 No party limits its liability for:

10.8.1 death or personal injury to the extent it results from its negligence, or of its employees or agents in the course of their engagement; and

10.8.2 its own fraud or that of its employees or agents in the course of their engagement.

## **11. FORCE MAJEURE**

11.1 Either party's failure to perform any term or condition of this Agreement as a result of circumstances beyond the control of the relevant party (including without limitation, war, strikes, flood, governmental restrictions, and power, telecommunications or Internet failures or damages to or destruction of any network facilities ("**Force Majeure**") shall not be deemed to be, or to give rise to, a breach of this Agreement.

11.2 If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.

## **12. ASSIGNMENT**

12.1 Except as permitted for under this Agreement, neither this Agreement nor any of the rights and obligations under it may be assigned by the Institution without obtaining the prior written consent of Digital Theatre, such consent shall not unreasonably be withheld or delayed. In any permitted assignment by Institution, the Institution shall procure and ensure that the assignee shall assume all rights and obligations of the Institution under this Agreement and agrees to be bound to all the terms of this Agreement.

## **13. GOVERNING LAW AND DISPUTE RESOLUTION**

13.1 In relation to the operation of this Agreement and as between each other, the parties shall conduct themselves in good faith.

13.2 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

13.3 Any disagreement about the operation of this Agreement shall be settled by the matter being promptly referred to a senior executive from each of the parties, authorised to agree a solution. The senior executives shall have 30 days from the raising of the disagreement to discuss and resolve the matter. If the senior executives cannot resolve the matter it shall be referred for resolution to an arbitrator from the London Court of International Arbitration agreed by the parties. The expert shall act as an amicable mediator and each of the parties shall in good faith co-operate with his reasonable requests. If the expert is unable to mediate a resolution within 60 days of his appointment, either of the parties may resort to formal legal action.

## **14. NOTICES**

14.1 All notices required to be given under this Agreement shall be given in writing in English and sent by courier, email or special delivery to the relevant addressee at its address set out below, or to

such other address as may be notified from time to time under this Agreement, and all such notices shall be deemed to have been received three (3) days after the date of posting in the case of special delivery or dispatch in the case of courier:

if to the Institution:

the address notified by the Institution on the Order Form or as otherwise agreed in Schedule 2

if to Digital Theatre:

Digital Theatre.com Limited

Ground Floor, Peninsular House, 30-36 Monument Street, London United Kingdom EC3R 8NB

Email: [LEGAL@DIGITALTHEATRE.COM](mailto:LEGAL@DIGITALTHEATRE.COM)

Attention: Allison Yamoyany

## **15. GENERAL**

15.1 This Agreement and its Schedules, including any Special Terms (where applicable), constitute the entire agreement between the parties relating to the Licensed Material and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.

15.2 The Schedules shall have the same force and effect as if expressly set in the body of this Agreement and any reference to this Agreement shall include the Schedules.

15.3 The provisions of this Agreement are separable and, if any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of this Agreement.

15.4 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

## **SCHEDULE 1: THE PRIVACY POLICY**

Digital Theatre respects your privacy and is committed to protecting your personal data. This privacy notice will inform you as to how we look after your personal data when you visit our website (regardless of where you visit it from) and tell you about your privacy rights and how the law protects you.

This privacy notice aims to give you information on how Digital Theatre collects and processes your personal data through your use of this website, including any data you may provide through this website when you subscribe to our service.

It is important that you read this privacy notice together with any other privacy notice or fair processing notice we may provide on specific occasions when we are collecting or processing personal data about you so that you are fully aware of how and why we are using your data. This privacy notice supplements the other notices and is not intended to override them.

## **1. CONTROLLER**

Digital Theatre.com Limited is the controller and responsible for your personal data (collectively referred to as "COMPANY", "we", "us" or "our" in this privacy notice).

"You" refers to the Institution.

If you have any questions about this privacy notice, including any requests to exercise your legal rights, please contact us using the details set out below.

## **CONTACT DETAILS**

Postal address:

Data Privacy  
Digital Theatre.com Limited  
Ground Floor, Peninsular House  
30-36 Monument Street  
London, EC3R 8NB

You have the right to make a complaint at any time to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues ([WWW.ICO.ORG.UK](http://WWW.ICO.ORG.UK)). We would, however, appreciate the chance to deal with your concerns before you approach the ICO so please contact us in the first instance. Our data protection officer is Allison Yamoyany who can be contacted at [DPO@DIGITALTHEATRE.COM](mailto:DPO@DIGITALTHEATRE.COM) or via our postal address written above in "Contact Details", please mark the envelope "Data Protection Officer".

## **THIRD-PARTY LINKS**

This website may include links to third-party websites, plug-ins and applications. Clicking on those links or enabling those connections may allow third parties to collect or share data about you. We do not control these third-party websites and are not responsible for their privacy statements. When you leave our website, we encourage you to read the privacy notice of every website you visit.

## **2. THE DATA WE COLLECT ABOUT YOU**

Personal data, or personal information, means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data).

We may collect, use, store and transfer different kinds of personal data about you which we have grouped together follows:

- **Identity Data** includes first name, maiden name, last name, username or similar identifier, title.
- **Contact Data** includes billing address, delivery address, email address and telephone numbers.
- **Financial Data** includes bank account and payment card details.
- **Transaction Data** includes details about payments to and from you and other details of products and services you have purchased from us.
- **Technical Data** includes internet protocol (IP) address, your login data, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform and other technology on the devices you use to access this website.
- **Profile Data** includes your username and password, purchases or orders made by you, your interests, preferences, feedback and survey responses.
- **Usage Data** includes information about how you use our website, products and services.
- **Marketing and Communications Data** includes your preferences in receiving marketing from us and our third parties and your communication preferences.

We also collect, use and share **Aggregated Data** such as statistical or demographic data for any purpose. Aggregated Data may be derived from your personal data but is not considered personal data in law as this data does not directly or indirectly reveal your identity. For example, we may aggregate your Usage Data to calculate the percentage of users accessing a specific website feature. However, if we combine or connect Aggregated Data with your personal data so that it can directly or indirectly identify you, we treat the combined data as personal data which will be used in accordance with this privacy notice.

We do not collect any **Special Categories of Personal Data** about you (this includes details about your race or ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health and genetic and biometric data). Nor do we collect any information about criminal convictions and offences.

## IF YOU FAIL TO PROVIDE PERSONAL DATA

Where we need to collect personal data by law, or under the terms of a contract we have with you and you fail to provide that data when requested, we may not be able to perform the contract we have or are trying to enter into with you (for example, to provide you with goods or services). In this case, we may have to cancel a product or service you have with us but we will notify you if this is the case at the time.

## 3. HOW IS YOUR PERSONAL DATA COLLECTED?

We use different methods to collect data from and about you including through:

- **Direct interactions.** You may give us your Identity, Contact, Financial and Marketing and Communications Data by filling in forms or by corresponding with us by post, phone, email or otherwise. This includes personal data you provide when you:

- apply for our products;
- create an account on our website;
- subscribe to our service;
- request marketing to be sent to you; or
- give us some feedback.

• **Automated technologies or interactions.** As you interact with our website, we may automatically collect Technical and Usage Data about your equipment, browsing actions and patterns. We collect this personal data by using cookies, server logs and other similar technologies.

• **Third parties or publicly available sources.** We may receive personal data about you from various third parties and public sources as set out below:

- Technical Data from parties such as Google (analytics provider based outside the UK)
- Identity and Contact Data from data brokers or aggregators such as The Education Company Ltd based inside the EU.
- Identity and Contact Data from publicly available sources such as Dept for Education, OFSTED, school websites based inside the EU.

#### 4. HOW WE USE YOUR PERSONAL DATA

We will only use your personal data when the law allows us to. Most commonly, we will use your personal data in the following circumstances:

- Where we need to perform the contract we are about to enter into or have entered into with you.
- Where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests.
- Where we need to comply with a legal or regulatory obligation.

Generally we do not rely on consent as a legal basis for processing your personal data other than in relation to sending third party direct marketing communications to you via email or text message. You have the right to withdraw consent to marketing at any time by contacting us using the details in section 1 above or our contact us form.

#### PURPOSES FOR WHICH WE WILL USE YOUR PERSONAL DATA

We have set out below, in a table format, a description of all the ways we plan to use your personal data, and which of the legal bases we rely on to do so. We have also identified what our legitimate interests are where appropriate.

Note that we may process your personal data for more than one lawful ground depending on the specific purpose for which we are using your data. Please contact us, using the details in section 1 above or our contact us form, if you need details about the specific legal ground we are relying on to process your personal data where more than one ground has been set out in the table below.



<b>Purpose/Activity</b>	<b>Type of data</b>	<b>Lawful basis for processing including basis of legitimate interest</b>
To register you as a new customer	(a) Identity (b) Contact	Performance of a contract with you
To process and deliver your order including:  (a) Manage payments, fees and charges  (b) Collect and recover money owed to us	(a) Identity (b) Contact (c) Financial (d) Transaction (e) Marketing and Communications	(a) Performance of a contract with you  (b) Necessary for our legitimate interests (to recover debts due to us)
To manage our relationship with you which will include:  (a) Notifying you about changes to our terms or privacy policy  (b) Asking you to leave a review or take a survey	(a) Identity (b) Contact (c) Profile (d) Marketing and Communications	(a) Performance of a contract with you  (b) Necessary to comply with a legal obligation  (c) Necessary for our legitimate interests (to keep our records updated and to study how customers use our products/services)
To enable you to partake in a prize draw, competition or complete a survey	(a) Identity (b) Contact (c) Profile (d) Usage (e) Marketing and Communications	(a) Performance of a contract with you  (b) Necessary for our legitimate interests (to study how customers use our products/services, to develop them and grow our business)
To administer and protect our business and this website (including troubleshooting, data analysis, testing, system maintenance, support, reporting and hosting of data)	(a) Identity (b) Contact (c) Technical	(a) Necessary for our legitimate interests (for running our business, provision of administration and IT services, network security, to prevent fraud and in the context of a business reorganisation or group

## **MARKETING**

We strive to provide you with choices regarding certain personal data uses, particularly around marketing and advertising.

## **PROMOTIONAL OFFERS FROM US**

We may use your Identity, Contact, Technical, Usage and Profile Data to form a view on what we think you may want or need, or what may be of interest to you. This is how we decide which products, services and offers may be relevant for you (we call this marketing).

You will receive marketing communications from us if you have requested information from us or purchased a Subscription from us and, in each case, you have not opted out of receiving that marketing.

We will get your express opt in consent before we contact you regarding participation in a prize draw, competition or to complete a survey.

## **OPTING OUT**

You can ask us to stop sending you marketing messages at any time by following the opt-out links on any marketing message sent to you or by contacting us at any time, using the details in section 1 above or our contact us form.

Where you opt out of receiving these marketing messages, this will not apply to personal data provided to us as a result of a product/service Subscription.

## **COOKIES**

The Digital Theatre Plus website stores small pieces of information in your web browser. These pieces of information are called cookies and we need your consent to store them. Some of these cookies are set by third parties that we use to deliver the website. There are cookies that are strictly necessary for any user to use the website, whereby if refused, some parts of the website may become inaccessible or not function properly. You can renew or change your cookie consent at any time by selecting the link on the bottom right hand corner of the website.

## **CHANGE OF PURPOSE**

We will only use your personal data for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If you wish to get an explanation as to how the processing for the new purpose is compatible with the original purpose, please contact us, using the details in section 1 above or our contact us form.

If we need to use your personal data for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.

Please note that we may process your personal data without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

## **5. DISCLOSURES OF YOUR PERSONAL DATA**

We may have to share your personal data with the parties set out below for the purposes set out in the table in paragraph 4 above.

- Specific third parties including financial auditors, legal advisors, marketing agencies engaged to promote our business and products
- Third parties to whom we may choose to sell, transfer, or merge parts of our business or our assets. Alternatively, we may seek to acquire other businesses or merge with them. If a change happens to our business, then the new owners may use your personal data in the same way as set out in this privacy notice.

We may disclose your personal data if we believe doing so is required or appropriate to comply with law enforcement requests or legal process, such as a court order or subpoena.

We require all third parties to respect the security of your personal data and to treat it in accordance with the law. We do not allow our third-party service providers to use your personal data for their own purposes and only permit them to process your personal data for specified purposes and in accordance with our instructions.

## **6. INTERNATIONAL TRANSFERS**

Your personal data is stored and processed in the European Economic Area (EEA) and the United States of America, in compliance with the General Protection Data Regulation (GDPR).

Please contact us, using the details in section 1 above or our contact us form, if you want further information on the specific mechanism used by us when transferring your personal data out of the EEA.

## **7. DATA SECURITY**

We have put in place appropriate security measures to prevent your personal data from being accidentally lost, used or accessed in an unauthorized way, altered or disclosed. In addition, we limit access to your personal data to those employees, agents, contractors and other third parties who have a business need to know. They will only process your personal data on our instructions and they are subject to a duty of confidentiality.

We have put in place procedures to deal with any suspected personal data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

## **8. DATA RETENTION**

### **HOW LONG WILL YOU USE MY PERSONAL DATA FOR?**

We will only retain your personal data for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorized use or disclosure

of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

Details of retention periods for different aspects of your personal data are available in our retention policy which you can request from us by contacting us, using the details in section 1 above or our contact us form.

In some circumstances you can ask us to delete your data: see below for further information.

In some circumstances we may anonymise your personal data (so that it can no longer be associated with you) for research or statistical purposes in which case we may use this information indefinitely without further notice to you.

## 9. YOUR LEGAL RIGHTS

Under certain circumstances, you have rights under data protection laws in relation to your personal data. You have the right to:

**Request access** to your personal data (commonly known as a “data subject access request”). This enables you to receive a copy of the personal data we hold about you and to check that we are lawfully processing it.

**Request correction** of the personal data that we hold about you. This enables you to have any incomplete or inaccurate data we hold about you corrected, though we may need to verify the accuracy of the new data you provide to us.

**Request erasure** of your personal data. This enables you to ask us to delete or remove personal data where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal data where you have successfully exercised your right to object to processing (see below), where we may have processed your information unlawfully or where we are required to erase your personal data to comply with local law. Note, however, that we may not always be able to comply with your request of erasure for specific legal reasons which will be notified to you, if applicable, at the time of your request.

**Object to processing** of your personal data where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground as you feel it impacts on your fundamental rights and freedoms. You also have the right to object where we are processing your personal data for direct marketing purposes. In some cases, we may demonstrate that we have compelling legitimate grounds to process your information which override your rights and freedoms.

**Request restriction of processing** of your personal data. This enables you to ask us to suspend the processing of your personal data in the following scenarios: (a) if you want us to establish the data’s accuracy; (b) where our use of the data is unlawful but you do not want us to erase it; (c) where you need us to hold the data even if we no longer require it as you need it to establish, exercise or defend legal claims; or (d) you have objected to our use of your data but we need to verify whether we have overriding legitimate grounds to use it.

**Request the transfer** of your personal data to you or to a third party. We will provide to you, or a third party you have chosen, your personal data in a structured, commonly used, machine-readable format. Note that this right only applies to automated information which you initially provided consent for us to use or where we used the information to perform a contract with you.

**Withdraw consent at any time** where we are relying on consent to process your personal data. However, this will not affect the lawfulness of any processing carried out before you withdraw your consent. If you withdraw your consent, we may not be able to provide certain products or services to you. We will advise you if this is the case at the time you withdraw your consent. If you wish to exercise any of the rights set out above, please contact us, using the details in section 1 above or our contact us form.

### **NO FEE USUALLY REQUIRED**

You will not have to pay a fee to access your personal data (or to exercise any of the other rights). However, we may charge a reasonable fee if your request is clearly unfounded, repetitive or excessive. Alternatively, we may refuse to comply with your request in these circumstances.

### **WHAT WE MAY NEED FROM YOU**

We may need to request specific information from you to help us confirm your identity and ensure your right to access your personal data (or to exercise any of your other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. We may also contact you to ask you for further information in relation to your request to speed up our response.

### **TIME LIMIT TO RESPOND**

We try to respond to all legitimate requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made a number of requests. In this case, we will notify you and keep you updated.

## **10. STUDENT INFORMATION**

Digital Theatre **do not collect** or disclose to third parties, the following Personally Identifiable Information on Authorised Users who are students:

- Name: full name, maiden name, mother's maiden name, or alias
- Personal identification numbers: passport number, driver's license number, taxpayer identification number, patient identification number, financial account number, or credit card number
- Personal address information: street address, or email address (exceptions apply – see further below)
- Personal telephone numbers
- Personal characteristics: photographic images (particularly of face or other identifying characteristics), fingerprints, or handwriting
- Biometric data: retina scans, voice signatures, or facial geometry

- Information identifying personally owned property: VIN number or title number
- Other personal information: student records

To enable Digital Theatre to effectively deliver services to the Institution and Authorized Users, the following **data is collected because it is considered strictly necessary** for Authorised Users (who can be students) to use the website:

### 1. Email Address of Authorised Users

The preferred log in/signing mechanism for Digital Theatre+ is **Single Sign On (SSO)**, which requires something that uniquely identifies the Authorized User. This unique identifier may be an email address of the Authorised User or may be some other Institution based internal system identifier. This personal data is securely stored on the Digital Theatre Plus Web Server (located in Ireland) and is processed by Digital Theatre in accordance with its Privacy Policy and GDPR.

### 2. Internet Protocol (IP addresses) of Authorised Users

The reason for collection of the IP address is to identify the network address that the request came from for monitoring service health, preventing network attacks and investigating operational issues.

The IP addresses are transferred to:

- The Digital Theatre+ Web Server (located in Ireland) for providing a logged in user experience. Data is processed by Digital Theatre and stored in the local web server logs. Data is deleted after 4 hours.
- Google Analytics for reporting on content usage as part of our contractual obligations. Data is processed by Google whereby Digital Theatre has instructed Google Analytics to anonymise the IP address before storage, using the anonymize function. This instructs Google to remove the last octet of the IP address and replace it with a zero prior to storage.
- Amazon Web Services (AWS) for handling browser requests and load balancing. Data is processed by AWS and stored in AWS Load balancer. Data is deleted after session expiry.
- Cloudflare for monitoring network traffic and securing our site against attack. Data is processed by Cloudflare and stored in Cloudflare network devices. Data is deleted after request completion.
- Keen.IO. for providing account based usage COUNTER reports to customers who require them. Data is collected and stored by Keen.IO.

## 11. GLOSSARY

### LAWFUL BASIS

**Legitimate Interest** means the interest of our business in conducting and managing our business to enable us to give you the best service/product and the best and most secure experience. We make sure we consider and balance any potential impact on you (both positive and negative) and your rights before we process your personal data for our legitimate interests. We do not use your personal data for activities where our interests are overridden by the impact on you (unless we have your consent or are otherwise required or permitted to by law). You can obtain further information

about how we assess our legitimate interests against any potential impact on you in respect of specific activities by contacting us.

**Performance of Contract** means processing your data where it is necessary for the performance of a contract to which you are a party or to take steps at your request before entering into such a contract.

**Comply with a legal or regulatory obligation** means processing your personal data where it is necessary for compliance with a legal or regulatory obligation that we are subject to.