



Educational Alliance Agreement Between **Analytical Graphics, Inc.** and **EDUCATIONAL PARTNER**

This agreement is made and entered into on **DATE** by and between Analytical Graphics, Inc. (**AGI**), a Commonwealth of Pennsylvania Corporation whose principal place of business is 220 Valley Creek Blvd. Exton, Pennsylvania 19341, and **EDUCATIONAL PARTNER** (**Educational Partner**), whose principal place of business is **ADDRESS**.

1.0 Purpose

The purpose of this agreement is to establish and define a business relationship governing the licensing of AGI software to the Educational Partner **for use as a teaching and learning tool in a defined educational curriculum**. The software must be used in a teaching environment. It may not be used for fee earning contractual obligations.

However, use in funded independent research and cube sat projects will be allowed, if **all** of the following conditions are met:

1. The software is used exclusively by students and the professor identified in the application and used within a course identified in the application.
2. Students are receiving course credit for the work or the research directly supports their thesis efforts.
3. The results of the research remain the property of the Educational Partner or are in the public domain.
4. AGI has reviewed and approved the scope and deliverables of the program and funding source.
5. Educational Partner will provide a briefing/report that highlights how the AGI software is being used at least once every semester.
6. Educational Partner will recognize AGI's donation of the AGI software in any of the following ways:
 - List AGI as a sponsor on Educational Partner's website
 - Publicize AGI's software donation in newsletters/press releases/website news
 - Provide a copy of the final results or whitepaper in regards to the research

2.0 AGI Obligations Under This Agreement

AGI will issue software licenses and supporting teaching manuals and other resources via www.agi.com/education to Educational Partner so long as the software is used by Educational Partner as specified in this agreement. **Free version upgrades will be automatically provided in the summer before the beginning of the new academic year**, after completion of the annual renewal survey, and the Educational Partner will continue to use this version for the full academic year.

3.0 Educational Partner Obligations Under This Agreement

The Educational Partner agrees that all software provided by AGI under this agreement is provided to them for use as a **teaching and learning tool in a defined educational curriculum *only, unless the conditions in Section 1.0 Purpose are met for funded independent research and cube sat projects.***

The Educational Partner agrees not to use or allow use of the software for commercial, contractual, or other non-academic purposes.

The Educational Partner agrees not to modify, alter, change, reproduce, reverse engineer, de-compile or disassemble the software provided by AGI except as expressly authorized in writing by an authorized representative at AGI.

The Educational Partner agrees to complete a periodic survey which AGI may require.

The Educational Partner shall share with AGI any curriculum materials that involve the AGI software.

The Educational Partner gives permission for any educational materials submitted by Educational Partner to be posted on the resources pages of the AGI website and possibly be used in AGI marketing materials and efforts.

The Educational Partner agrees to provide a hyperlink from Educational Partner's Web site (if they have one) to the AGI web site, www.agi.com; and AGI will list the Educational Partner on their Partner's page and provide a link to the Educational Partner's website, when submitted. The specific banner and hyperlink is available at: http://www.agi.com/images/agi_banner.gif

4.0 License Grant and Technical Support

AGI may provide Educational Partner either a Nodelocked License or a Network License to the software listed in Table 1. At AGI's discretion, AGI may also provide access to On-Demand Licenses.

Definitions

"Nodelocked License" means a license tied to a specific computer based on that computer's Host ID.

"Network License" means a floating license that can be used by any computer that has access to a particular network server. A Network License is issued as a set of two (2) license files, including: a server license file that resides on the network server, and a client license file that is installed on each computer in order to access that server.

"On-Demand Licenses" requires that the specific individual's computer be connected to the internet at least once per day when starting STK in order to download a current set of licenses. These licenses may be used on any computer but are limited to one (1) specific user.

Wide Area Network (WAN)" means any combination of two or more computers that are connected to each other and capable of sharing files, applications or information and that can be accessed from more than one office location. A terminal server is a WAN if the computers capable of accessing applications and information on such server are located within more than one office location.

"Local Area Network (LAN)" means any combination of two or more computers that are connected to each other and capable of sharing files, applications or information and that can be accessed from a single office location.

"Designated License Server" refers to a centralized computer software system which provides access tokens, or keys, to client computers in order to enable the Software to run on them.

"Designated Computer" means a single electronic device for displaying, storing, and processing data

"Host Identification" or "Host ID" means the unique, physical address for the computer hardware.

Nodelocked License

If AGI provides a Nodelocked License, you may or you agree to:

- a. For each Nodelocked License provided, use the Software only on a Designated Computer at any one time;
- b. Make one (1) copy of the Software in any machine readable form for backup purposes only in support of your own use of the Software on a single computer; and.
- c. As a condition to the installation and use of the Software, provide AGI the Host ID of the Designated Computer. You further acknowledge and agree that in order to operate the Software on a different, newly Designated Computer, you will promptly obtain AGI's written consent to do so, and uninstall the Nodelocked License from the then current Designated Computer. You will also provide AGI with the Host ID of the newly Designated Computer.

Network License

If AGI provides a Network License, you may or you agree to:

- a. Use the Software on any Designated Computer capable of connecting over a LAN or WAN to a Designated License Server. The maximum concurrent number of Designated Licensed Servers in use at any time is limited to the number of Network Licenses purchased.
- b. As a condition to the installation and use of the Software, provide AGI the Host ID of the Designated

License Server. You further acknowledge and agree that in order to serve licenses from a different Designated License Server, you will promptly obtain AGI's written consent to do so, and uninstall the Network License and any licensing tools from the Designated License Server. You will also provide AGI with the Host ID of the new Designated License Server.

You shall not:

- a. build an external interface for the purpose of serving the functionality or output of a component of the Software to third parties; or
- b. except as otherwise provided herein, use the Software on a server or computer that is accessible to third parties over a network for the purpose of remotely providing the functionality or output of a component of the Software to a third party for any purpose.

STK Viewer

AGI may provide Educational Partner with "STK Viewer". "STK Viewer" means the software and associated modules, all of the contents of the files, disks(s), CD-ROM(s) or other media with which this Agreement is provided.

As long as you comply with the terms and conditions of this Agreement and subject to the conditions of use set forth below, AGI grants to you a non-exclusive, non-transferable license to use the STK Viewer solely for the purpose of viewing files created using an STK Authoring Application (a software product developed by or for AGI and released by AGI comprising file generation tools for saving source documents created using an AGI simulation product). You accept all responsibility and liability resulting from the selection of the STK Viewer to achieve your intended results, and for installation, use and results obtained from the STK Viewer, and for reliance on the results obtained.

You may make and distribute unlimited copies of the STK Viewer to third parties, provided all such copies include this Agreement and that use of the STK Viewer is conditioned on the assent of the recipient to the terms hereof. You must reproduce and include the copyright and other proprietary notices of AGI on all copies of all or any portion of the STK Viewer and the Documentation made by you.

Virtual Machine

"Virtual Machine" (VM) is a software implementation of a machine (i.e. a computer) that executes programs like a physical machine.

In so much as you may intend to deploy the Software in a virtual environment for the express purposes of maximizing hardware utilization, minimizing maintenance, or providing for disaster recovery:

You agree to the following:

- a. The use of the Software on a VM is only permitted when used in conjunction with a provided set of networked licenses served from a remote server;
- b. Each instance of a VM in which the Software is executed will consume a single and unique set of provided licenses; and
- c. The number of licenses in operation will never exceed the actual number of provided licenses unless otherwise specifically permitted by written agreement with AGI. AGI may, from time to time, request a certification of the foregoing.

You shall not, unless specifically approved by AGI, utilize a virtual environment in order to serve the Software out to multiple clients in excess of the number of provided licenses.

License Delivery

Licenses will be offered directly from the AGI website or via email only. Partners will be given a password to a secure website where they will be required to supply a Host ID for each license requested. There will be one Educational Alliance Partnership Educational license file, which will encompass all modules offered.

Upon request, AGI will provide 1 complete CD/DVD(s) to Educational Partner , which will contain all AGI software products that Educational Partner is eligible to use under this agreement. After Educational Partner's initial software installation, AGI will deliver via email, the licenses specified below in Table 1.

Licenses will be issued for the most recent version of the software at the time of signing the agreement or after completing the annual renewal process. AGI reserves the right to offer an upgrade to the software at AGI's convenience.

Technical Support

Through the Educational Alliance Program, the Partner shall receive limited technical support on AGI's products. This support will include licensing, installation, configuration and product capability review. The Educational Partner must elect a single Technical Support Contact and only that contact may receive support through AGI. Support requests received from other users (especially students) will be referred back to the Educational Partner's Technical Support Contact.

All manuals and instructions for the AGI software products can be found either on the install disk or at our website: www.agi.com/training.

5.0 Points of Contact

AGI and the Educational Partner designate the following individuals as points of contact for the business relationship AGI and Educational Partner define in this agreement:

AGI: Lauren Thomas
Analytical Graphics, Inc.
220 Valley Creek Blvd.
Exton, PA 19341-2380
610-981-8000 (voice) / 610-981-8001 (fax)

education@agi.com

Educational Partner: **EDUCATIONAL PARTNER**
DEPARTMENT
CONTACT NAME
ADDRESS
City, State Zip
VOICE (voice) / FAX(fax)
EMAIL

Educational Partner
Technical Support
Program Contact: **TECH POC**
VOICE (voice)
EMAIL

6.0 No Agency

This Agreement does not establish either party as an agent of the other. Neither party may bind the other to any other contract or obligation whatsoever. At all times the parties agree that they are independent contractors and shall not act on behalf of the other party in any capacity.

7.0 Term of Agreement

This agreement is valid from July 1 of the current year in which this Agreement is in place through June 30th of the following year. Thereafter, the agreement may be renewed annually upon the submittal and approval by AGI of an updated application. In any event, either party may terminate this agreement by providing 30 days written notice to the other party of its intent to terminate. This agreement shall be automatically terminated if any of the obligations and/or terms and conditions set forth in this agreement are not fulfilled as agreed. Upon termination, all software shall be uninstalled and all copies of AGI software and supporting materials distributed to the Educational Partner under this agreement shall be returned to AGI and no copies will be retained by the Educational Partner. At AGI's discretion, AGI may allow the Educational Partner to keep a copy/copies of the standard version of STK.

If there are any suspected violations of the terms of this Agreement, AGI reserves the right to request access to the names and addresses of all students who have used the AGI software in their course work. This information will not be sold or distributed in any way.

8.0 DISCLAIMER OF WARRANTY

THE SOFTWARE AND PRODUCT CONFIGURATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. YOU ASSUME THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE. AGI DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

9.0 LIMITATION OF LIABILITY

IN NO EVENT WILL AGI OR ITS THIRD PARTY CONTRIBUTORS, DISTRIBUTORS, OR DEALERS BE LIABLE TO YOU FOR ANY INDIRECT OR OTHER DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, OR A LOSS OF DATA OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, EVEN IF AGI OR ANY AUTHORIZED AGI BUSINESS PARTNER HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR SHALL AGI BE LIABLE FOR ANY SIMILAR CLAIM AGAINST YOU BY ANY OTHER PARTY.

AGI'S OBLIGATIONS UNDER THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY OR CONTRIBUTION, SHALL NOT EXCEED THE FAIR MARKET VALUE OF THE APPLICABLE LICENSE FEE PAID BY YOU FOR THE SOFTWARE.

AGI IS NOT LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.

10.0 INFRINGEMENT INDEMNIFICATION

AGI shall indemnify You against any loss, liability, cost or expense, including reasonable attorney's fees, that You incur as a result of any claims, actions, or demands by a third party alleging that Your licensed use of the Software infringes on a U.S. patent, copyright, or trademark, provided that:

- a. AGI is notified in writing within fifteen (15) business days of such claim;
- b. You provide AGI with documents describing the allegations of infringement;
- c. AGI has the sole control of defense of any action and negotiation related to the defense or settlement of any claim; and
- d. You reasonably cooperate in the defense of the claim at AGI's request and expense.

If the Software, or any part thereof, is found to infringe a U.S. patent, copyright, or trademark of another, AGI shall, at its sole option and at its own expense, either: (i) obtain for You the right to continue using such Software or part thereof, or (ii) modify the allegedly infringing elements of such Software while maintaining substantially similar functionality. If neither alternative is commercially reasonable, the license shall terminate, and You shall uninstall and return the infringing Software to AGI. AGI's entire liability shall then be to indemnify You pursuant to this section.

AGI shall have no obligation to indemnify you for any claims or demands alleging direct or contributory infringement to the extent arising out of (i) the operation, combination or integration of the Software with other software, a product, hardware, system or process not supplied by AGI or specified by AGI in its Documentation; (ii) alteration of the Software by someone other than AGI; or (iii) use of the Software after modifications have been provided by AGI for avoiding infringement; or use after a return is ordered by AGI under this Section.

AGI'S OBLIGATIONS UNDER THIS SECTION ARE SOLELY FOR INFRINGEMENT DAMAGES AND COSTS AWARDED AGAINST YOU. IN NO EVENT SHALL ANY OTHER LIABILITY OF AGI TO YOU EXCEED THE AGGREGATE AMOUNT OF THE FAIR MARKET VALUE OF THE SOFTWARE FOR THE ALLEGEDLY INFRINGING SOFTWARE, OR ANY PART THEREOF. YOU AGREE THAT THE FOREGOING STATES YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY ALLEGED PATENT OR COPYRIGHT INFRINGEMENT OR TRADE SECRET MISAPPROPRIATION.

11.0 EXPORT CONTROL REGULATIONS

You hereby acknowledge and agree that the Software and Product Configuration(s) provided under this Agreement are subject to U.S. Export Control Regulations and Laws, including but not limited to the Export Administration Regulations (EAR) and as may be applicable, the International Traffic in Arms Regulations (ITAR), and may be subject to the import or export regulations of other countries. You agree to strictly comply with all such laws and regulations and acknowledge your responsibility to obtain licenses for export, re-export or import of the Software, as may be required. Export and re-export includes providing access to the Software to foreign national students, regardless of where those students are physically located. You acknowledge and agree to comply with U.S. anti-boycott laws and regulations, including but not limited to those regarding foreign boycott of Israel, as administered by the U.S. Internal Revenue Service (IRS) and the U.S. Department of Commerce, Office of Anti-boycott Compliance (OAC). In the event that transfer of bank funds to AGI results from this Agreement, all transactions shall be exclusively and directly between your bank and AGI's bank, and shall not be used for transactions in violation of U.S. law, including but not limited to laws administered by the U.S. Department of Treasury, Office of Foreign Asset Control (OFAC). This export control provision shall survive the expiration or termination of this Agreement.

12.0 GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania without reference to the PA conflict of laws principles, except that U.S. Federal law shall govern in matters of intellectual property.

13.0 ASSIGNMENT

None of your rights, duties or obligations under this Agreement may be sold, sublicensed, assigned, rented, licensed, loaned or otherwise transferred without the prior written consent of AGI, and any attempt to so sell, sublicense, assign, rent, lease, loan or transfer without AGI's prior written consent is void.

14.0 INTELLECTUAL PROPERTY AND OWNERSHIP

AGI and its third party contributors respectively retain ownership of all rights, title and interest in and to all intellectual property rights associated with the Software and Documentation. This Agreement shall not be construed in any manner as transferring any rights of ownership or license to the Software, and/or to the features or information therein except as may be explicitly stated in writing in this Agreement. All rights not expressly granted by AGI are reserved. The Software and Documentation are protected by copyright and other intellectual property laws and treaties.

You must reproduce and include the copyright and other proprietary notices of AGI on any copy of all or any portion of the Software and Documentation, and all such copies shall be subject to all the terms and conditions of this Agreement.

15.0 THIRD PARTY CONTENT

The Software utilizes Third Party Content which is subject to the terms and conditions of such respective third parties. Third party terms, conditions and copyright attributions are included with the Software in the "About" section under the Help Menu, and may also be viewed at www.agi.com/sla.

16.0 ACKNOWLEDGEMENTS

YOU HAVE READ THIS ENTIRE AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE UNDERSTANDING AND CONTRACT BETWEEN US AND SUPERSEDES ANY AND ALL PRIOR ORAL OR WRITTEN COMMUNICATIONS RELATING TO THE SUBJECT MATTER HEREOF.

THIS AGREEMENT MAY NOT BE MODIFIED, AMENDED OR IN ANY WAY ALTERED EXCEPT BY A WRITTEN AGREEMENT SIGNED BY BOTH YOU AND AGI.

ANY PROVISION FOUND BY A COURT OF LAW TO BE ILLEGAL, INVALID, OR UNENFORCEABLE SHALL AUTOMATICALLY BE DEEMED CONFORMED TO THE MINIMUM REQUIREMENTS OF LAW AND IT, WITH ALL OTHER PROVISIONS, SHALL BE GIVEN FULL FORCE AND EFFECT. WAIVER OF A PROVISION IN ONE INSTANCE SHALL NOT PRECLUDE ITS ENFORCEMENT ON FUTURE OCCASIONS. SUCH FINDINGS OF ILLEGALITY, INVALIDITY,

AND/OR UNENFORCEABILITY OF ONE OR MORE OF THE PROVISIONS HEREIN SHALL NOT AFFECT THE REMAINING PROVISIONS.

YOU HEREBY AGREE THAT AGI WOULD BE IRREPARABLY DAMAGED IF THE TERMS AND CONDITIONS OF THIS AGREEMENT WERE NOT SPECIFICALLY ENFORCED, AND THEREFORE YOU AGREE THAT AGI SHALL BE ENTITLED TO APPROPRIATE EQUITABLE REMEDIES, INCLUDING, BUT NOT LIMITED TO, INJUNCTIVE RELIEF WITH RESPECT TO BREACHES OF THIS AGREEMENT, IN ADDITION TO SUCH OTHER REMEDIES AS AGI MAY OTHERWISE HAVE AVAILABLE TO IT UNDER APPLICABLE LAWS.

IN THE EVENT THAT EITHER PARTY IS REQUIRED TO BRING AN ACTION, SUIT, OR OTHER PROCEEDING FOR THE ENFORCEMENT OF ANY PROVISION OF OR UNDER THIS AGREEMENT, EACH PARTY WILL BE RESPONSIBLE FOR THEIR OWN COSTS AND EXPENSES, INCLUDING ATTORNEY AND PROFESSIONAL OR EXPERT FEES.

17.0 Authorization

Both AGI and Educational Partner have caused this Agreement to be executed by their duly authorized representatives, signed and dated below:

EDUCATIONAL PARTNER

Analytical Graphics, Inc.

Accepted By

Printed Name

Title

Date

Accepted By
Washington Wedderburn

Printed Name
Director, STK Product Management

Title

Date

Table 1 – AGI Software Provided to Educational Partner

Table 1 - AGI Software Provided to Educational Partner by AGI

AGI Software
Systems Tool Kit EDU Bundled License File
<i>Includes:</i>
STK
STK Pro
STK Analysis Workbench
STK Satellite Pro
STK Integration
STK Astrogator
STK Coverage
STK Comm
STK Conjunction Analysis Tool (CAT)
STK Radar
STK Scheduler
Aviator
Orbit Determination Tool Kit (ODTK)
Space Environment & Effects Tool (SEET)
