

Appendix H-3

ANALYTICAL GRAPHICS, INC.

CESIUM DEVELOPER NETWORK (CDN) LICENSE AGREEMENT

NOTICE TO USER: PLEASE READ THIS AGI CESIUM DEVELOPER NETWORK LICENSE AGREEMENT (“AGREEMENT”) CAREFULLY. THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND ANALYTICAL GRAPHICS, INC. (“AGI”), A PENNSYLVANIA CORPORATION, LOCATED AT 220 VALLEY CREEK BOULEVARD, EXTON, PA 19341. BY USING OR ACCESSING THE CESIUM DEVELOPER NETWORK (“CDN”) OR ANY PORTION OF THE AGI SOFTWARE PRODUCTS THEREIN YOU ARE AGREEING TO ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ANY OF THESE TERMS, DO NOT USE THE CDN OR AGI SOFTWARE PRODUCTS. YOU ACCEPT ALL RESPONSIBILITY AND LIABILITY RESULTING FROM THE SELECTION OF THE CDN AND AGI SOFTWARE PRODUCTS TO ACHIEVE YOUR INTENDED RESULTS, AND FOR YOUR USE AND THE RESULTS OBTAINED FROM THE CDN AND AGI SOFTWARE PRODUCTS AND FOR RELIANCE ON THE RESULTS OBTAINED.

1. DEFINITIONS

“AGI Software Products” means the following: Cesium Pro, STK Terrain Processing Server, Cesium 3D Model Converter, or any other software products that AGI may offer through the CDN.

“CDN License” means one of the following:

“CDN Individual Named User License” means an internet based subscription license that allows one (1) CDN Developer access to the CDN on a subscription basis. Within the CDN, the CDN Developer may access STK Terrain Processing Server, Cesium Pro, Cesium 3D Model Converter and a Private Forum within the CDN. The CDN Individual Named User License allows one (1) CDN Developer access to the CDN.

“CDN Workgroup Named User License” means an internet based subscription license that allows five (5) CDN Developers, within one physical office location on a local area network, to access the CDN on a subscription basis. Within the CDN, the CDN Developers may access STK Terrain Processing Server, Cesium Pro, Cesium 3D Model Converter, and a Private Forum within the CDN.

“Cesium Developer Network (CDN)” means an internet based subscription service that enables a CDN Developer(s) to gain access to certain AGI software products and services.

“Cesium Pro” means the AGI software product, including the source code, which provides an AGI commercially supported version of Cesium that also contains advanced features, including but not limited to: sensors, vectors and fan geometry (Az-El mask or view-sheds).

“Client(s)” means a Designated Computer that connects to and makes requests of a Designated Server.

“CDN Developer” means a person that creates or adds functionality to Software Applications or Libraries using the applicable AGI Software Products provided under a CDN License.

“Designated Computer” means a single electronic device for displaying, storing and processing data.

“Designated Server” means a single logical network entity that provides storage processing capability to Clients.

“Research and Development” means either Research; Applied Research; Development; and Systems and Other Concept Formulation Studies, as defined below.

“Research” means increasing knowledge in science.

“Applied Research” means effort which attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices or techniques

“Development” means the systematic use of scientific and technical knowledge in the design, development, test or evaluation of a potential new product or service (or improvement) for the purpose of meeting specific performance requirements or objectives.

“Systems and Other Concept Formulation Studies” means analyses and study efforts either related to specific R&D efforts or directed toward identifying desirable new systems, equipment or components, or modifications and improvements to existing systems, equipment, or components.

“Ordering Documents” means a sales quotation, purchase order or other contractual document that identifies the CDN License ordered.

“Private Forum” means a forum that is hosted and controlled by AGI for the purpose of asking questions and providing feedback related to implementing AGI Software Products and only made available through a given user id and password.

“Software Application” means a custom application created by a CDN Developer that incorporates AGI Software Products.

“Cesium 3D Model Converter” means the AGI software product, including the APIs, which provides the conversion and optimization of 3d models.

“STK Terrain Processing Server” means the AGI software product, including the APIs and/or data interfaces, which provides a terrain data management system that processes, stores, and shares terrain data.

“Subscription Term” means the period of time, as stated on the Ordering Document(s), during which the CDN Developer(s) may access and use the CDN. The Subscription Term for the AGI Software Products shall be one (1) year.

2. LICENSE GRANT

AGI grants to You a personal, non-exclusive, non-transferable license solely to use the CDN as set forth in the applicable Ordering Documents, for which: (i) the applicable license fees have been paid and, (ii) in accordance with the terms and conditions set forth in this Agreement.

2.1 If you purchased a CDN License, you may:

- a) Download Cesium Pro, STK Terrain Processing Server, and Cesium 3D Model Converter software from the CDN;
- b) Transfer the Cesium Pro java script libraries, install the STK Terrain Processing Server, and install the Cesium 3D Model Converter onto either a single Designated Computer or a single Designated Server for Research and Development use only and for use by licensed CDN Developers only;
- c) Develop Software Applications that invoke the APIs or data interfaces of the STK Terrain Processing Server;
- d) Develop Software Applications that use the source code of Cesium Pro or invoke the API of Cesium Pro;
- e) Distribute Software Applications built on Cesium Pro and the STK Terrain Processing Server for Research and Development purposes only, not to exceed (NTE) five (5) Clients on a Designated Server per each CDN Individual Named User License purchased and NTE twenty-five (25) Clients on a Designated Server per each CDN Workgroup Named User License purchased;
- f) Distribute Software Applications that contain the data generated from the Cesium 3D Model Converter;
- g) Allow other developers within your organization to access AGI Software Products found within the CDN solely to perform minor administrative tasks, such as recompiling a Software Application.; and

- h) Utilize the STK Terrain Processing Server for Research and Development purposes only, not to exceed NTE five (5) Clients on a Designated Server per each CDN Individual Named User License purchased or NTE twenty-five (25) Clients on a Designated Server per each CDN Workgroup Named User License purchased.

2.2 You shall not:

- a) Use the CDN or AGI Software Products for any purpose other than as provided above;
- b) Distribute any of the data generated by the use of Cesium Pro and/or the STK Terrain Processing Server to any third party and/or to Software Application end user(s). Deployment licenses of the appropriate AGI Software Products shall be purchased before any such distribution shall occur.
- c) Distribute a Software Application that incorporates AGI Software Products to any third party and/or to Software Application end user(s). Deployment licenses of the appropriate AGI Software Products shall be purchased before any such distribution shall occur.
- d) Sell, distribute, transfer, lease, sublicense, or rent the AGI Software Products to any third party;
- e) Sell, distribute, transfer, lease, sublicense, or rent the Software Applications that use AGI Software Products to a third party;
- f) Sell, distribute, transfer, lease, sublicense, or, rent the Cesium Pro source code, to any third party;
- g) Reverse engineer, disassemble, decompile, extract, or otherwise attempt to reconstruct or discover all or any part of the CDN, AGI Software Products, AGI Software Products' source code, libraries, data, digital certificates, passwords, underlying ideas, algorithms, file formats or programming interfaces of the CDN;
- h) Access all or any part of the CDN in order to build a product or service which competes with the CDN or AGI Software Products; or
- i) Build an external interface for the purpose of serving the functionality or output of the Cesium 3D Model Converter to third parties;
- j) Use the Cesium 3D Model Converter 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 3d Model Converter to a third party for any purpose;
- k) Create a Software Application with the Cesium 3D Model Converter for the sole purpose of converting 3D Models; or
- l) Access, store, distribute or transmit any viruses or any material during the course of your use of the CDN that is: unlawful; harmful; threatening; defamatory; obscene; infringing; harassing; racially or ethnically offensive; facilitates illegal activity; promotes unlawful violence; or causes damage or injury to any person or property. AGI reserves the right, without liability to You, to disable and terminate your access to any material that breaches the provisions of this clause.

2.4 The CDN may be used only by a human being using a conventional web browser to manually enter queries one at a time. Since the CDN includes computation, not just lookup, each query may require significant CPU time on multiple parallel servers. Any attempt to use a robot, script, or organized group of humans to repeatedly access the CDN could place an unacceptable load on the system; such use is strictly prohibited.

2.5 Install or distribute Software Applications developed within the CDN in violation of the Client restrictions set forth in Section 2.1 and Section 2.2.

2.6 AGI reserves the right to monitor Your usage of the CDN. If AGI's monitoring system detects an attempt to access the CDN in a prohibited way or Your use of the CDN jeopardizes the integrity of AGI's system or access to it by other users, AGI may terminate Your CDN license or suspend access to the CDN for specific users or IP ranges.

2.7 You shall undertake all reasonable efforts to prevent any unauthorised access to, or use of the CDN and, in the event of any such unauthorized access or use, promptly notify AGI.

3 PROPRIETARY RIGHTS

You acknowledge and agree that AGI and/or its licensors own all intellectual property rights in the CDN and AGI Software Products provided therein. Except as expressly stated herein, this Agreement does not grant You any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks, or any other rights or licenses in respect of the CDN. You shall not remove any copyright notice of AGI or its third party contributors, disclaimers, or other forms of attribution contained in the AGI Software Products.

Nothing contained in this Agreement shall be construed to limit AGI's right to modify its CDN, or to develop other services which are similar to or offer the same or similar functionality and/or improvements as any Software Application developed by You.

4. THIRD PARTY CONTENT

The AGI Software Products utilize 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 <https://cdn.agi.com/>.

Cesium Pro contains open source software contributions under the Apache 2.0 License ("License"); you may not use these files except in compliance with the License. You may obtain a copy of the License at <http://www.apache.org/licenses/LICENSE-2.0>. The open source software contributions are distributed on an "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, either express or implied.

Cesium Pro Third Party terms, conditions and copyright attributions may be viewed at <https://github.com/AnalyticalGraphicsInc/cesium/blob/master/CONTRIBUTORS.md>; You agree to abide by the terms of any such content.

5. EXPORT CONTROL REGULATIONS

YOU HEREBY ACKNOWLEDGE AND AGREE THAT THE CDN AND AGI SOFTWARE PRODUCTS 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. 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 AND THE OFFICE OF FOREIGN ASSET CONTROL (OFAC). THIS EXPORT CONTROL PROVISION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

6. INDEMNIFICATION

6.1 AGI shall defend, indemnify, and hold You harmless from and 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 AGI Software Products 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.

6.2 If the AGI Software Products, 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 AGI Software Products or part thereof, or (ii) modify the allegedly infringing elements of such AGI Software Products 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 Section 6.1 and refund to You the amounts actually paid by You to AGI for the affected AGI Software Products less depreciation for beneficial use determined on a straight-line basis over a five year useful life.

6.3 AGI will have no obligation to defend You or to pay any resultant costs, damages, or attorneys' fees for any claims or demands alleging direct or contributory infringement to the extent arising out of (i) the operation, combination or integration of the AGI Software Products with other software, a product, hardware, system or process not supplied by AGI or specified by AGI in its documentation; (ii) alteration of the AGI Software Products by someone other than AGI; or (iii) use of the AGI Software Products after modifications have been provided by AGI for avoiding infringement; or use after a return is ordered by AGI under Section 6.2.

6.4 AGI'S OBLIGATIONS UNDER THIS SECTION 6 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 APPLICABLE LICENSE FEE RECEIVED BY AGI FOR THE ALLEGEDLY INFRINGING AGI SOFTWARE PRODUCTS, 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.

6.5 Notwithstanding the above, You agree to indemnify, defend and hold harmless, AGI, its third party contributors, officers, directors, employees, consultants and agents from any and all claims, liability, damage and/or costs (including, but not limited to reasonable attorney's fees) arising out of the operation of the Software Application with other software and/or technology

developed or selected by You, the copying, licensing and distribution of a Software Application, the use of a Software Application by any person, and the infringement of any intellectual property or other right of any entity or person by a Software Application. This obligation shall survive the termination of this Agreement.

7. DISCLAIMER OF WARRANTY

THE CDN AND AGI SOFTWARE PRODUCTS ARE 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 CDN AND AGI SOFTWARE PRODUCTS. AGI DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE CDN AND AGI SOFTWARE PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL AGI OR ITS THIRD PARTY CONTRIBUTORS, PARTNERS, DISTRIBUTORS OR ANY OF THEIR EMPLOYEES BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, OR OTHER DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT OR THE USE OR INABILITY TO USE THE CDN OR AGI SOFTWARE PRODUCTS, OR A LOSS OF DATA OR PROFIT, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, EVEN IF AGI OR ANY AUTHORIZED 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. EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN THIS AGREEMENT, YOU ASSUME SOLE RESPONSIBILITY FOR RESULTS OBTAINED FROM USE OF THE CDN AND AGI SOFTWARE PRODUCTS AND FOR CONCLUSIONS DRAWN FROM SUCH USE. AGI SHALL HAVE NO LIABILITY FOR ANY DAMAGE CAUSED BY ERRORS OR OMISSIONS IN ANY INFORMATION, INSTRUCTIONS OR SCRIPTS PROVIDED TO AGI BY YOU IN CONNECTION WITH THE CDN OR AGI SOFTWARE PRODUCTS, OR ANY ACTIONS TAKEN BY AGI AT YOUR DIRECTION. IN ADDITION, THE MAXIMUM AGGREGATE LIABILITY OF AGI FOR ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF THE APPLICABLE CDN LICENSE (SUBSCRIPTION) FEE PAID BY YOU.

9. TERM OF AGREEMENT

This Agreement shall commence on the date stated on the Ordering Document and continue for a period of one (1) year. This Agreement shall remain in effect as long as you have paid the applicable license fee and continue to use the CDN in accordance with the terms of this Agreement. This Agreement will terminate if you violate any of the terms and conditions of this Agreement, including without limitation, to pay the applicable license fee due to AGI pursuant to this Agreement. You acknowledge and agree that should this Agreement be terminated, you will not use AGI's Software Products or enable access to or use the CDN.

The Subscription Term may be renewed in one (1) year increments, upon the mutual agreement of the parties.

10. FORCE MAJEURE

AGI shall have no liability to You under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including,

without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce AGI or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of third party contributors, provided that You are notified of such an event and its expected duration.

11. WAIVER

A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

12. SEVERABILITY

If any provision of this Agreement is found by any court of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

13. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

14. 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 sell, sublicense, assign, rent, license, loaned or transfer without AGI's prior written consent is void.

15. NOTICES

Any notices regarding this Agreement shall be sent to:

Analytical Graphics, Inc.
Attn: Contracts Department
220 Valley Creek Blvd.
Exton, PA 19341

Or emailed to: Contracts@agi.com

16. GOVERNING LAW

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

All Other Customers: Any dispute arising out of or relating to this Agreement or the breach thereof that cannot be settled through negotiation shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one (1) arbitrator appointed in accordance with said rules. The language of arbitration will be English. The place of the arbitration shall be at an agreed upon location. This Agreement shall not be governed by the United Nations Convention of Contracts for the International Sale of Goods, the application of which is expressly excluded. Either party shall, at the request of the other, make available documents or witnesses relevant to the major aspects of the dispute.

17. RELATIONSHIP OF THE PARTIES

This Agreement does not create a partnership, joint venture or any relationship between AGI and You. You do not have any right, power or authority to act as a legal representative of AGI.