

AGIS Topo Subscription- Terms and Conditions

This document consists of four pages. The subscription agreement is not valid without completion of the Subscriber's signature page (provided on page 4).

I. Background

1. AGIS Topo is a computer software product of Delta Data Systems (DDS). All rights are reserved.
2. AGIS Topo is intended for use by individuals or enterprises concerned with the design of land leveling or other topographic adjustment schemes relating to the layout and implementation of surface drainage systems.
3. This is a software subscription agreement. No license is being conveyed. AGIS Topo and underlying IP remain the exclusive property of DDS.

II. Warranties and Disclaimers

1. AGIS Topo is computer software with a specific set of functions and capabilities that may assist in the design of surface drainage systems. AGIS Topo is made available for use "as-is".
2. DDS warrants that it has made every reasonable effort to assure AGIS Topo's operational reliability prior to its release.
3. User/Subscribers of AGIS Topo software warrant and confirm that they (User/Subscribers) have performed all due-diligence in determining the utility and/or suitability of the program in, to or for the User/Subscriber's business activities.
4. Delta Data Systems, Inc. makes no claims and offers no warranties, implicitly or explicitly, as to the utility or suitability of AGIS Topo software in, to or for the User/Subscriber's business activity.
5. DDS bears no responsibility for the function or performance of actual drainage systems that are created from or based on AGIS Topo designs. Further, DDS bears no responsibility for the compliance of a drainage system built from or based on a AGIS Topo design with any local, state or federal regulations or codes.

III. Subscription

1. AGIS Topo software is made available to User/Subscribers on a subscription basis. AGIS Topo remains the sole property of Delta Data Systems, Inc.
2. Maintenance of the subscription is at the sole discretion of the Subscriber except in cases of non-payment by the Subscriber for continuing subscription fees.
3. Subscription payments are based on the "service acres" contained in one or more projects that a User/Subscriber develops in, with or through AGIS Topo. The total of 'surface acres' is simply the sum of the areas of all components of a drainage plan (whole field or field sections).
4. Subscription cost is incurred when drainage system designs are executed in "non-test" mode". A "test" vs "non-test" decision is made at the sole discretion of the Subscriber.

5. Enterprise Plan

Subscription Authorization- A one-time, non-refundable payment of US\$4,000.00 is due on program activation. Additional authorization codes for AGIS Topo software will be provided free of charge for additional Subscriber machines under the stipulation that the additional machines are owned by the Subscriber and are only operated by Subscriber's employees. Each machine under the Enterprise Plan must have Internet connection.

Service Acre Fees- A subscription use fee of US\$0.35 per design surface acre ("service acre") is charged for all finalized (non-test) designs. At 14 day intervals, the application will automatically establish an internet connection with the AGIS Topo server and will transact subscription re-authorization. If accounts are current, re-authorization will be automatic.

IV. Billing

1. Initial payment for the subscription plan is due upon program authorization.
2. Thereafter, user/Subscriber activity totals are transmitted automatically via Internet to the AGIS Topo server. User/Subscriber has access to activity totals at all times through a free utility titled "TPFT Report" that is part of the AGIS Topo installation.
3. User/Subscriber must have a suitable Internet connection for each machine on which AGIS Topo has been installed. Delta Data Systems, Inc. is not responsible for setting up or trouble shooting User/Subscriber's Internet resources nor will it assume any responsibility for damages of any kind arising from Internet service interruptions.
4. User/Subscriber activity will be totaled on the 15th of each month and an invoice will be issued for the number of service acres that the User/Subscriber has generated. User/Subscriber has 15 days to pay the invoice. If the invoice is not paid, AGIS Topo will cease to function on all systems under User/Subscriber control.
5. Activity will be restored on satisfactory settlement of account.
6. Delta Data Systems, Inc. will bear no responsibility for any alleged damages to User/Subscriber's business that may result from an interruption of AGIS Topo function due to User/Subscriber's failure to maintain subscription payment.

V. Responsibilities of Delta Data Systems, Inc.

1. DDS will maintain AGIS Topo software. Maintenance specifically means the correction of any logic errors ("bugs") that may be encountered and reported in writing, through fax or email by User/Subscribers.
2. DDS may, from time to time and at its sole discretion, undertake upgrading of AGIS Topo functions. As and if upgrades are created, they will be made available to AGIS Topo Subscribers free of charge.
3. DDS will commit to getting User/Subscribers running within 24 hours of a notification that a User/Subscriber has had an interruption of AGIS Topo operation due to a problem on the DDS AGIS Topo server. This may involve the installation of an 'interim patch' to AGIS Topo that obviates a need for server connection.

VI. Responsibilities of the User/Subscriber

1. User/Subscriber is responsible for independently developing operational knowledge of AGIS Topo. Training in AGIS Topo operation is offered from several sources. DDS will, at its sole discretion, redirect all questions by User/Subscribers relating to AGIS Topo operation, to a local dealer or to a certified training center.
2. User/Subscriber is responsible for timely payment of subscription charges.
3. User/Subscriber is responsible for the setup and function of his/her/their desktop computers, third party software, Internet resources, and all peripheral devices and systems (including but not limited to printers, CD writers, field computers, laser systems or other survey equipment).
4. User/Subscriber will not engage in reverse engineering or disclosure of operating concepts, formats, etc. to any third party.

VII. Termination by Subscriber

1. Subscriber may terminate his/her/their subscription at any time.
2. On termination, no refund of the original authorization payment will be due or made.
3. All service acre fees incurred by the Subscriber that are unpaid prior to termination are due to DDS on termination.

VIII. Termination by DDS

1. DDS can terminate the subscription for non-payment of service acre fees or annual subscription renewal fees by Subscriber.
2. On termination, DDS may, at its sole discretion, seek recovery of any unpaid service acre fees due under the subscription agreement.

IX. In the event of cessation of business activity by DDS

1. If DDS, its inheritors or assigns, exit the business activity supporting AGIS Topo, DDS will deliver a "software patch" to the Subscriber that removes the Internet Reporting/Re-Authorization requirement from AGIS Topo operation. The Subscriber will be free, at Subscriber's sole discretion, to continue use of AGIS Topo with no further financial obligation to DDS, its inheritors or assigns. Subscriber recognizes that AGIS Topo will be unsupported at that point and DDS, its inheritors or assigns, will have no obligation to Subscriber relating to updates, maintenance or other forms of technical support.

Signature below confirms User/Subscriber understanding and acceptance of the terms, conditions, disclaimers and warranties set forth above:

Subscriber signature: _____

Date: _____

Subscription Plan Selection: _____ Enterprise _____ Single Copy

Company Name: _____

Billing Address: _____

City: _____ State: _____ Zip: _____

Contact Tel#: _____

Contact Email: _____

By Delta Data Systems, Inc. _____

Dated: _____