## SOIL EROSION CALCULATOR™ SOFTWARE LICENSE AGREEMENT

## PLEASE READ THIS SOFTWARE LICENSE AGREEMENT CAREFULLY BEFORE USING THE SOIL EROSION CALCULATOR<sup>™</sup>. IF YOU USE THE SOIL EROSION CALCULATOR<sup>™</sup>, YOU AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE.

## Summary of the most important parts of this license in plain English:

We provide you, the licensee, with permission to use the Soil Erosion Calculator<sup>™</sup> software, provided that you accept responsibility for using the software only for your own purposes, and you do not try to copy or reverse engineer the software for your own or other purposes. The software, and all trade secrets included within the software, and the documentation to use the software, belongs to Millennium EMS Solutions Ltd. If something goes wrong and it is our fault, the maximum amount we will pay you for damages is the amount paid for this license. If you use the software in a way that causes another party to claim damages from us, you will be responsible for such damages. The Use of the software is your choice, and the software may not work perfectly all the time.

**DEFINITIONS.** In this License, the following definitions apply:

**"Documentation"** means the printed and/or electronic user manual and other documentation provided by Millennium that instructs you on how to use the Software.

"Millennium" means Millennium EMS Solutions Ltd., an Alberta corporation.

"Internal Business Purposes" means use of the Licensed Materials solely for the benefit of you, the Licensee, and not for other parties.

"License" means the license granted herein for you to use the Licensed Materials.

"Licensee" means you, the user of the Licensed Materials.

"Licensed Materials" means the Software and Documentation.

**"Software"** means the Soil Erosion Calculator<sup>™</sup> software in executable format.

**GRANT OF LICENCE.** Subject to the terms set forth in this Software License Agreement, Millennium, as Software owner, hereby grants to you, the Licensee, a *non-exclusive, non-transferable License to use the Licensed Materials for Internal Business Purposes*. Any rights not expressly granted in this Software License Agreement shall be expressly reserved for Millennium.

**LICENSE FEES.** The original fees paid by you will constitute the entire fees required for you to use the Licensed Materials. There are no ongoing maintenance fees to use the Licensed Materials. Additional fees may be required in order to access new versions of the Software.

**RESTRICTIONS ON USE OF LICENSED MATERIALS:** You shall not: (a) copy the Licensed Materials, or any part thereof; (b) network the Software, or otherwise use the Licensed Materials for any purpose other than as expressly set out herein; (c) modify, reverse engineer, decompile, or disassemble the Software, or any component or module included with the Software; (d) use the Software, or any component or soil erosion and the Software, to develop your own algorithms or soil erosion

calculator(s); or (e) distribute, or allow or enable any other party or entity to use the Licensed Materials except as authorized herein. You shall take all reasonable precautions to prevent unauthorized third parties from using the Licensed Materials in any way that would constitute a breach of this License including, without limitation, such precautions as you would otherwise take to protect your own proprietary software.

LICENSED MATERIALS MERELY TOOLS. You acknowledge and agree that the Licensed Materials are intended to be only tools to assist you. The information provided by the Licensed Materials is based on certain assumptions that may not apply in your particular circumstances. You bear the sole responsibility and risk for determining that the Software (when used alone or with other software or data), the algorithms used in the Software, the results obtained from the Software, and the performance of the Software will achieve or meet your objectives, expectations or requirements, and you agree that Millennium shall not be liable for any claims, losses, demands and causes of action of any kind whatsoever arising from or attributable to or caused by the Software or use thereof.

**TRADE-MARKS AND PROPRIETARY NOTICES.** Title to and ownership of the Licensed Materials, including the look and feel of the Software, shall at all times remain with Millennium. Millennium expressly reserves all rights to its own trade-names, logos, trade-marks, other identifying symbols and all of its proprietary rights in its labelling of the Licensed Materials. You shall not acquire any right, title or interest in or to any such trade-names, logos, trade-marks, or other identifying symbols of Millennium. You shall ensure that all proprietary and copyright notices of Millennium on the Licensed Materials are in place and left intact at all times.

**TERMINATION.** Your rights under this License will terminate automatically or otherwise cease to be effective without notice from Millennium if you fail to comply with any term(s) of this License.

LIMITED WARRANTY. Millennium warrants that it has the right to grant the License, and that it has no knowledge that the Licensed Materials infringe on any intellectual property rights held by any other person or entity. EXCEPT AS EXPLICITLY SET FORTH IN THIS PARAGRAPH, THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES PERTAINING TO THE LICENSED MATERIALS. THE SOFTWARE IS PROVIDED AS-IS AND MILLENIUM DOES NOT WARRANT THAT USE OF SOFTWARE WILL BE UNINTERRUPTED, BUG-FREE OR ERROR-FREE. THERE ARE NO REPRESENTATIONS, CONDITIONS OR WARRANTIES, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE AT LAW, OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, AND IN PARTICULAR, WITHOUT LIMITATION, NO WARRANTY OF INTEROPERABILITY OR COMPATIBILITY WITH ANY PRODUCT OR SERVICE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS EXPRESSLY SET FORTH ABOVE, AND SUCH STATED WARRANTIES ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITY ON THE PART OF MILLENNIUM.

LIMITATION OF LIABILITY; INDEMNITY. MILLENNIUM'S ENTIRE CUMULATIVE LIABILITY UNDER THIS LICENSE FOR ANY CAUSE WHATSOEVER (INCLUDING WITHOUT LIMITATION NEGLIGENCE, BREACH OF CONTRACT OR FUNDAMENTAL BREACH) SHALL BE LIMITED TO THE ORIGINAL AMOUNT PAID FOR THIS LICENSE. NOTWITHSTANDING THE FOREGOING, MILLENNIUM SHALL NOT BE LIABLE FOR (I) ANY BUSINESS OR ECONOMIC LOSS, INCLUDING WITHOUT LIMITATION FAILURE TO REALIZE EXPECTED SAVINGS, (II) ANY LOSS OF USE OR LACK OF AVAILABILITY OF LICENSED MATERIALS, INCLUDING ANY STORED DATA, OR (III) ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS LICENSE OR THE PROVISION OR USE OF THE LICENSED MATERIALS, EVEN IF MILLENNIUM HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. YOU AGREE THAT IN NO EVENT SHALL MILLENNIUM BE LIABLE FOR ANY DAMAGES, DIRECT OR INDIRECT, IN CONNECTION WITH OR ARISING OUT OF YOUR NONCOMPLIANCE WITH MILLENNIUM'S DIRECTIVES REGARDING THE SOFTWARE. MILLENNIUM IS NOT RESPONSIBLE FOR THE RESULTS OF YOUR USE OF THE LICENSED MATERIALS OR FOR ANY ACTION TAKEN BY YOU, OR THIRD PARTIES ON THE BASIS OF THE USE OR INTERPRETATION OF THE RESULTS OF USE THEREOF. ALL REFERENCES IN THIS SECTION TO MILLENNIUM SHALL BE DEEMED TO INCLUDE MILLENNIUM AND ITS OFFICERS, DIRECTORS, EMPLOYEES, SUPPLIERS, SUBCONTRACTORS, AGENTS, SUBSIDIARIES AND AFFILIATES. YOU AGREE TO INDEMNIFY AND DEFEND US FROM AND AGAINST ANY AND ALL LOSSES, COSTS, EXPENSES, CLAIMS, OR DAMAGES ARISING OUT OF ANY CLAIM, SUIT, ACTION, OR JUDGEMENT BROUGHT AGAINST US BY A THIRD PARTY AS A RESULT OF YOUR USE OF THE LICENSED MATERIALS.

MISCELLANEOUS. This License shall enure to the benefit of each party's successors and permitted assigns. Millennium and Licensee are independent contractors. This License shall be governed by the laws of the Province of Alberta. You agree that in connection with any legal action or proceeding arising with respect to this License, you will bring such action or proceeding in the Courts of Alberta situated in Calgary, Alberta, and you agree to waive any claim that such court is an inconvenient forum. Each section or provision of this License is intended to be severable and if any section or provision is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever, such provision shall be severed from this License, to the maximum extent permitted by applicable law, and shall not affect the legality or validity or enforceability of the remainder of this License or any other provision hereof. This License may not be amended except by written instrument signed by Millennium. No waiver of any term, covenant or condition by either you or Millennium shall be deemed to be a waiver by such party of its rights to require full and timely compliance with the same term, covenant or condition thereafter, or with any other term, covenant or condition of this License at any time. The terms of this License that are stated to or which, by their nature, extend beyond the termination or expiry of this License shall survive any termination or expiration of this License and continue in full force and effect as provided for herein. This License contains the entire agreement between the parties relating to the License to use the Licensed Materials. This License supersedes all proposals, oral or written, all previous negotiations and all other communications between the parties with respect to the License to use the Licensed Materials. All notices to Millennium under this License are to be provided to: Millennium EMS Solutions Ltd., 6111 - 91 Street NW, Edmonton, Alberta, Canada, T6E 6V6, or legal@mems.ca.