# Request Form for Thermo-Pile software

In order to command Thermo-Pile copy and licences, you may follow the procedure hereafter:
- Fill the Request Form, sign and send it to the Supplier (see information below)
- The Supplier will establish a quotation and send an offer to the contact mentioned in the Requester details
- Check the offer, sign it and send it back to the Supplier if you agree with it. **Once agreed, signed and returned to the Supplier by the Requester, the offer will have a value of order and will engage you contractually.**
- Once the order received by Supplier is validated, the Supplier will send to the Requester a copy of the software and the corresponding invoice payable in due time.

## SUPPLIER

<table>
<thead>
<tr>
<th>Laboratory of Soil Mechanics</th>
<th>Name of the Organism/company</th>
</tr>
</thead>
<tbody>
<tr>
<td>EPFL-ENAC-LMS</td>
<td>Address of the Organism/company</td>
</tr>
<tr>
<td>Station 18</td>
<td>Address of the Organism/company</td>
</tr>
<tr>
<td>CH-1015 Lausanne</td>
<td>Address of the Organism/company</td>
</tr>
<tr>
<td>Phone: +41 21 693 23 15/25</td>
<td>Phone of the Organism/company</td>
</tr>
<tr>
<td>Fax: +41 21 693 41 53</td>
<td>Fax of the Organism/company</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:lms@epfl.ch">lms@epfl.ch</a></td>
<td>Name of the contact in the Organism/company</td>
</tr>
<tr>
<td></td>
<td>Phone of the contact in the Organism/company</td>
</tr>
<tr>
<td></td>
<td>E-mail of the contact in the Organism/company</td>
</tr>
</tbody>
</table>

## REQUESTER

<table>
<thead>
<tr>
<th>Edition type</th>
<th>Number of licences</th>
<th>Price per licence in CHF (not contractual)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic</td>
<td>1 to 5</td>
<td>1000.-</td>
</tr>
<tr>
<td></td>
<td>&gt;5</td>
<td>700.-</td>
</tr>
<tr>
<td></td>
<td>&gt;10</td>
<td>500.-</td>
</tr>
<tr>
<td>Enterprise</td>
<td>1 to 5</td>
<td>2000.-</td>
</tr>
<tr>
<td></td>
<td>&gt;5</td>
<td>1400.-</td>
</tr>
<tr>
<td></td>
<td>&gt;10</td>
<td>1000.-</td>
</tr>
</tbody>
</table>

This form is **NOT** an agreement between you and the EPFL Laboratory of Soil Mechanics. This form is a way to easily formulate your needs and wishes. The EPFL Laboratory of Soil Mechanics will establish a quotation from this Request Form and make an offer to the person of contact mentioned in the REQUESTER details.

An indicative table with prices can be found hereafter but the list of prices is not contractual. The final price is evaluated according to the order content.

You can find the General Conditions of Sale and the End User Licence Agreement (EULA) of Thermo-Pile in appendix.

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1 The edition types and the corresponding rights are listed in the EULA in appendix 2, paragraph 1.

2 One licence corresponds to one user since Thermo-Pile is licenced only with personal licences.
Appendix 1: Terms and Conditions

Article 1. Definitions

“Purchaser”: The organism, company or individual on the first page of this document specified as the “Requester” or “the Purchaser” and acquiring a licence on the Software under the terms and conditions hereinafter set forth.

“Software”: software Thermo-Pile, with key functions as defined in Appendix 1 to this document, and any upgrade version delivered by EPFL at its own discretion to the Purchaser.

“EPFL”: the Ecole Polytechnique Fédérale de Lausanne and the Laboratory of Soil Mechanics.

“Party” and “Parties”: EPFL and the Purchaser are collectively referred to as “Parties” or individually as “Party”.

“Offer”: the offer from EPFL to the Purchaser, as described on page 1

“Licence Agreement”: the present agreement, comprising Terms and Conditions, Appendix 1, Appendix 2 and Offer.

Article 2. Grant and Scope

EPFL grants the Purchaser non-exclusive licences (hereinafter referred as Licence) authorizing the Purchaser to use the Software. EPFL shall transfer to the Purchaser a copy of the Software with the corresponding invoice after EPFL received the Offer duly dated and signed by the Purchaser. As soon as the Purchaser proves that he made the payment of the invoice, EPFL will provide him with the required activation codes of the Software.

Each Licence extends only to the Software executable program and the related manuals. Each Licence has a limited duration in time, as set forth in Art. 6. Each licence is granted for a single user (e.g. only personal Licence available). Each Licence is non-assignable even if the Purchaser has to cease all activities. The Software use shall not infringe the End-User Licence Agreement defined in Appendix 2.

Article 3. Licence Fee

In consideration of the Licence, the Purchaser shall pay to EPFL the fee detailed in the future invoice based on the Offer, if agreed, within the thirty (30) days following the goods reception by the Purchaser. The total cost is estimated in the present quote as the Total Price VAT included, and if agreed, will be the indicated price on the invoice. If the payment is not made in due time, EPFL may terminate the Licence Agreement with no notice. In such a case, the Purchaser must destruct his copy of the Software.
Article 4. Limited liability

EPFL shall not be held liable for any damages resulting from the use and/or exploitation of the Software by the Purchaser. The Purchaser shall indemnify, defend and hold EPFL harmless against all claims by third parties arising out of any damage caused by such use. Each Licence extends to the Software "as is" and as transferred by EPFL no later than on the date of signature of the Licence Agreement and without warranties as to the proper functioning of the Software or its functions, its fitness for a particular purpose or its merchantability. EPFL makes no warranty that the practice of each Licence does not infringe any trademark, patent, copyright, or similar rights of any third party.

Article 5. Claims by third parties – Infringements

EPFL shall not be obligated to take measures to defend the Software against any claims made by third parties nor in case of infringements of the Software by third parties. Should claims by third parties result in the prohibition to use the Software, then EPFL shall be entitled to terminate the Licence Agreement without indemnification.

Article 6. Licence duration and termination

The Licence Agreement is concluded for duration of two (2) years. Upon breach or default of the Licence Agreement by the Purchaser, a two months’ notice will be given by the EPFL to cure such breach or default. If at the end of such period the breach or default has not been cured, EPFL will be entitled to terminate this Agreement by giving a one-month notice. At the end of the Licence Agreement, the Purchaser shall cease all use of the Software.

Article 7. Nature of the Licence Agreement

Nothing herein shall be deemed to constitute either Party as the agent or representative of the other Party, or both Parties as joint venturers or partners for any purposes. Neither Party shall be responsible for the acts or omissions of the other Party, and neither Party will have authority to speak for, represent or obligate the other Party in any way without prior written authority from the other Party.

Article 8. Use of Name

Any use of the name or logo of EPFL or of LMS by Purchaser shall be prohibited without the prior written approval of EPFL.

Article 9. Applicable law

Any claims or disputes arising in connection with the Licence Agreement, whether before or after it has expired, and related to its existence, validity, interpretation, execution and non-execution shall be brought before the courts of Lausanne, Switzerland. The Licence Agreement is governed by Swiss law.
Appendix 2: EULA for Thermo-Pile software

END-USER LICENCE AGREEMENT FOR THERMO-PILE SOFTWARE

IMPORTANT – READ CAREFULLY: The End-User Licence Agreement (EULA) is a legal agreement between you (either an individual or a single entity) and the Swiss Federal Institute of Technology Lausanne (EPFL), also representing the Laboratory of Soil Mechanics (LMS), for Thermo-Pile (“the Software”) that accompanies this EULA. The EPFL and the LMS will be regrouped under the generic name “the EPFL” in this EULA, and any affirmation applied to the EPFL is also applied to the LMS. YOU AGREE TO BE BOUND BY INSTALLING OR USING THIS SOFTWARE. IF YOU DO NOT AGREE, DO NOT INSTALL OR USE THE SOFTWARE; YOU MAY RETURN IT TO THE EPFL FOR A FULL REFUND, IF APPLICABLE.

Thermo-Pile SOFTWARE PRODUCT LICENCE

1. LICENCE and EDITION TYPES. Only personal licences are sold, which means that one licence represents one user. Two different types of edition of the Software are available, which gives access to different rights listed hereafter:
   - Enterprise Edition (“EE”): this edition allows the use of the Software as expertise or design tool. Enterprise Edition gives right to the commercial use of the Software for private or public institutions.
   - Academic Edition (“AE”): this edition is destined to non-commercial use only. When used in published papers and reports, the reference to “Thermo-Pile, software developed by LMS-EPFL” should be cited to acknowledge the producer of the corresponding results.

2. GRANT OF LICENCE. The EPFL grants you the following rights provided that you comply with all terms and conditions of this EULA:
   a. Install and use. You may:
      (a) Install and use a copy of the Software on one personal computer or other device.
   b. Licence Grant for Media Elements. The Software may include certain clip art and logos. You may not copy and use them without express written permission from the EPFL.
   c. Licence Grant for Documentation. The documentation that accompanies the Software is licenced for internal, non-commercial reference purpose only and protected by a copyright. This documentation may include schemes and logos that are protected by copyright; you may not use them without express written permission from the EPFL.

3. ACTIVATION. THERE ARE TECHNOLOGICAL MEASURES IN THIS SOFTWARE THAT ARE DESIGNED TO PREVENT UNLICENCED USE OF THE SOFTWARE. You may not be able to use your rights to the Software unless your licence is valid. A certain number of licences is sold for a given period of time and may expire. All licences sold within the same agreement may expire at the same date even if they have not been used.

4. RESERVATION OF RIGHTS AND OWNERSHIP. The EPFL reserves all rights not expressly granted to you in this EULA. The Software and its documentation are protected by copyright. The EPFL owns the copyright. The Software is licenced, not sold. This EULA does not grant any rights to trademarks or services marks of the EPFL.
5. LIMITATION ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY. You may not try to access the source code by any means like reverse engineering, decompiling, or disassembling the Software.

6. SOFTWARE COPY. You can duplicate and transfer your copy of the Software within the utilizing organism only.

7. NO RENTAL/COMMERCIAL HOSTING. You may not rent, lease, lend or provide commercial hosting services with the Software.

8. ADDITIONAL SOFTWARE/SERVICES. This EULA applies to trial versions, updates, supplements, add-on components, or Internet-based services components, of the Software.

9. NOT FOR RESALE SOFTWARE. Software identified as “Not For Resale” or “NFR”, may not be sold or otherwise transferred for value, or used for any purpose other than demonstration, test, or evaluation. Any trial version of the Software is identified as NFR.

10. EXPORT RESTRICTION. You acknowledge that the Software is subject to Swiss export jurisdiction. You agree to comply with all applicable international and national laws that apply to the Software, including the Swiss Export Administration Regulation, as well as end-user, end-use, and destination restrictions issued by Switzerland and other governments.

11. SEPARATION OF COMPONENTS. The Software is licenced as a single product. Its components may not be separated.

12. SOFTWARE TRANSFERT. Internal. You may transfer the Software to a different device. You may install Thermo-Pile on any device owned by the licences Purchaser but not use more versions than the number of purchased licences defined in the Software Licence Agreement established and signed for the purchase, owned by both the supplier and the Purchaser. Before the transfer, if all purchased licences are already used, you must deactivate the Software from the former device. Transfer to third party. No transfer to third party is allowed. Only the EPFL can licence and distribute the Software.

13. TERMINATION. Without prejudice to any other rights, the EPFL may terminate this EULA if you fail to comply with the terms and conditions of this EULA. In such event, you must destroy all copies of the Software and all of its components parts.

14. LIMITED MAINTENANCE. The EPFL does not warrant any maintenance of the Software if any trouble which is not listed in the documentation occurs. The documentation lists several known issues that the EPFL cannot be blamed for. To ask for maintenance, you may provide a proof of purchase.

15. NO LIABILITY FOR CONSEQUENTIAL DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE EPFL BE LIABLE FOR ANY SPECIAL INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF
OR INABILITY TO USE THE SOFTWARE PRODUCT, EVEN IF THE EPFL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16. **LIMITATION OF LIABILITY AND REMEDIES.** The EPFL cannot be blamed or taken to court for any results provided by the Software. By purchasing, installing or using the Software, you agree that you are responsible for the results, their analysis and critics.

17. **REFUND CONDITIONS.** If you do not agree with this EULA, you may not install the Software and return it, with all its attributes undamaged and with a proof of purchase, to the seller. If you have bought a package with a given number of licences, agreeing at least one licence of the package accounts for the agreement of all the package licences. Consequently, no refund will be possible for any licence not used of the package.

18. **APPLICABLE LAW.** Any claims or disputes arising in connection with this Agreement, whether before or after it has expired, and related to its existence, validity, interpretation, execution and non-execution shall be brought before the courts of Lausanne, Switzerland. This agreement is governed by the laws of Switzerland.

Should you have any question concerning this EULA or if you desire to contact the EPFL for any reason, please use this email address: lms@epfl.ch or visit the EPFL website http://lms.epfl.ch.

02/08/2011