

END USER LICENSE AGREEMENT

This Limited Use License Agreement (the "Agreement") is a legal agreement between you, the end-user, and Marlin Studios. By purchasing or receiving by any other means the DVD entitled **TreeFarm™ Deciduous Trees - Low Poly Photorealistic Models** (the "DVD"), you are agreeing to be bound by the terms of this Agreement.

1. **Grant of License.** Marlin Studios grants to you the non-exclusive limited right to use this DVD for the limited purpose of inclusion in graphic images. The term "DVD" includes all content of the DVD (the "Models). You are not receiving any ownership or proprietary right, title or interest in or to the DVD or the copyright, trademarks, or other rights related thereto. For purposes of this section, "use" means loading the DVD into RAM and/or onto computer hard drive, as well as installation of the DVD on a hard disk or other storage device. You agree that the DVD will not be shipped, transferred or exported into any country in violation of the U.S. Export Administration Act (or any other law governing such matters) by you or anyone at your direction and that you will not utilize and will not authorize anyone to utilize, in any other manner, the DVD in violation of any applicable law. The DVD may not be downloaded or otherwise exported or re-exported into (or to a national or resident of) any country to which the U.S. has embargoed goods or to anyone or into any country who/which are prohibited, by applicable law, from receiving such property. **SEPARATE LICENSING IS REQUIRED FOR REAL-TIME INTERACTIVE APPLICATIONS SUCH AS VIDEO GAMES AND OTHER COMMERCIALY DISTRIBUTED PRODUCTS. LICENSING WILL BE ON A PER TITLE, PER PRODUCT OR PER PROJECT BASIS. CONTACT MARLIN STUDIOS FOR FURTHER INFORMATION AND PRICING.**

2. **Prohibitions.** You, either directly or indirectly, shall **not** do any of the following acts:

a. rent the DVD; b. sell the DVD; c. lease or lend the DVD; d. offer the DVD on a "pay-per-play" basis; e. distribute the DVD by any means, including, but not limited to direct mail, retail, mail order or other means; f. in any other manner and through any medium whatsoever commercially exploit the DVD or use the DVD for any commercial purpose; g. reproduce or copy the DVD (except as permitted by section 3. hereinbelow); h. publicly display the DVD; or i. prepare or develop derivative works based upon the DVD.

3. **Permitted Copying and other Uses.** You may make **only** the following copies of the DVD: (i) you may copy the DVD from your computer hard drive into your computer RAM; and (ii) you may make one (1) "back up" or archival copy of the DVD on one (1) hard disk or other local storage device. You may not post the contents of the DVD on the Internet. Additionally, you may incorporate the Models, as defined above, into your own software developments ("Your Software Developments").

4. **Copyright.** The DVD and all copyrights, trademarks and all other conceivable intellectual property rights related to the DVD are owned by Marlin Studios and are protected by United States copyright laws, international treaty provisions and all applicable law, such as the Lanham Act. You must treat the DVD like any other copyrighted material, as required by 17 U.S.C., §101 *et seq.* and other applicable law. You agree to use your best efforts to see that any user of the DVD licensed hereunder complies with this Agreement. You agree that you are receiving a copy of the DVD by license only and not by sale and that the "first sale" doctrine of 17 U.S.C. §109 does not apply to your receipt or use of the DVD.

5. **NO WARRANTIES.** MARLIN STUDIOS DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE CD-ROM. MARLIN STUDIOS DOES NOT WARRANT THAT THE OPERATION OF THE CD-ROM WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE CD-ROM WILL MEET YOUR SPECIFIC REQUIREMENTS. ADDITIONAL STATEMENTS SUCH AS PRESENTATIONS, WHETHER ORAL OR WRITTEN, DO NOT CONSTITUTE WARRANTIES BY MARLIN STUDIOS AND SHOULD NOT BE RELIED UPON.

6. **Venue and Liability Limitation.** This Agreement shall be construed in accordance with and governed by the laws of the State of Texas and U.S. federal law. Copyright and other proprietary matters will be governed by United States laws and international treaties. Exclusive venue for all litigation regarding this Agreement shall be in Dallas County, Texas and you agree to submit to the jurisdiction of the courts in Dallas, Texas for any such litigation. **IN ANY CASE, MARLIN STUDIOS AND MARLIN STUDIOS' ASSIGNS SHALL NOT BE LIABLE FOR LOSS OF DATA, LOSS OF PROFITS, LOST SAVINGS, SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR OTHER SIMILAR DAMAGES ARISING FROM BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHER LEGAL THEORY EVEN IF MARLIN STUDIOS OR ITS AGENTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR EVEN IF SUCH DAMAGES ARE FORESEEABLE, OR LIABLE FOR ANY CLAIM BY ANY OTHER PARTY.** Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

7. **U.S. Government Restricted Rights.** To the extent applicable, the United States Government shall only have those rights to use the DVD as expressly stated and expressly limited and restricted in this Agreement, as provided in 48 C.F.R. §§ 227.7202-1 through 227.7204, inclusive.

8. **General Provisions.** Neither this Agreement nor any part or portion hereof shall be assigned or sublicensed by you. Marlin Studios may assign its rights under this Agreement in Marlin Studios' sole discretion. Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby. If any provision is determined to be unenforceable, you agree to a modification of such provision to provide for enforcement of the provision's intent, to the extent permitted by applicable law. Failure of Marlin Studios to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision. If you fail to comply with any term of this Agreement, **YOUR LICENSE IS AUTOMATICALLY TERMINATED, WITHOUT NOTICE.** In the event this Agreement is terminated, you shall have no right to use the DVD, in any manner and you shall immediately destroy all copies of the DVD in your possession, custody or control. You agree to defend, indemnify and hold Marlin Studios and Marlin Studios' agents harmless from and against all damages, losses, lawsuits, claims and causes of actions arising out of or relating to Your Software Developments, whether in whole or in part, and/or the reproductions, distribution or other use thereof, whether in whole or in part.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, YOU UNDERSTAND THIS AGREEMENT, AND UNDERSTAND THAT BY CONTINUING THE INSTALLATION OF THE CD-ROM, BY LOADING OR RUNNING THE DVD, OR BY PLACING OR COPYING THE CD-ROM ONTO YOUR COMPUTER HARD DRIVE OR RAM, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. YOU FURTHER AGREE THAT, EXCEPT FOR WRITTEN SEPARATE AGREEMENTS BETWEEN MARLIN STUDIOS AND YOU, THIS AGREEMENT IS A COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO. THIS AGREEMENT SUPERSEDES ALL PRIOR ORAL AGREEMENTS, PROPOSALS OR UNDERSTANDINGS, AND ANY OTHER COMMUNICATIONS BETWEEN MARLIN STUDIOS AND YOU RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.