

Marlin Keypad App End User License Agreement

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THIS END USER LICENSE AGREEMENT (this "EULA" or "Agreement") is a binding legal contract between YOU ("You", "Your" or "User") and Marlin Technologies ("Marlin Technologies") pertaining to Your access and use of the [App Name] (the "App"). BY DOWNLOADING AND/OR USING THE APP, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS EULA, UNDERSTANDS IT, AND AGREE TO BE BOUND BY IT. IF YOU DO NOT AGREE TO ANY OF THE TERMS BELOW NO LICENSE IS GRANTED, AND YOU MUST DISCONTINUE USE OF THE APP AND DELETE IT FROM YOUR MOBILE DEVICE.

Google Play Terms of Service

If you download the App from the Google Play store, you agree to be bound by the Google Play Terms of Service, as may be amended from time to time by Google. If, and only to the extent, any of the Google Play Terms of Service conflict with any of the terms and conditions of this EULA, you agree that this EULA shall govern except where the Google Play Terms of Service expressly state that they supersede and replace any third party licensor's terms and conditions or EULA. The Google Play Terms of Service may be obtained at: <https://play.google.com/about/play-terms/>

Apple App Store Terms of Service

If you download the App from the Apple App store, you agree to be bound by the Apple App Store Standard EULA, as may be amended from time to time by Apple. If and only to the extent any of the Apple App Store Standard EULA conflict with any of the terms and conditions of this EULA, you agree that this EULA shall govern except where the Apple App Store Standard EULA expressly state that they supersede and replace any third party licensor's terms and conditions or EULA. The App Store Terms of Service may be obtained at: <https://www.apple.com/legal/internet-services/itunes/dev/stdeula/>

- 1. The App.** The App consists of a downloadable mobile device software application that enables Bluetooth connectivity with, and remote control of, certain compatible keypads and controller devices sold by Marlin Technologies (herein "Devices").
- 2. Assumption of Liability and Use of App.** YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR THE OPERATION, USE, AND CONTROL OF ANY MACHINERY OPERATED OR CONTROLLED BY A DEVICE AND/OR THE APP. THE APP IS NOT INTENDED TO REPLACE PHYSICAL CONTROL OF A DEVICE OR MACHINERY. IF THE APP FAILS TO ACCESS OR CONTROL A DEVICE, YOUR SOLE REMEDY IS TO PHYSICALLY OPERATE THE DEVIE WITHOUT USE OF THE APP. You are responsible for using the latest mobile device operating system and maintaining Bluetooth connectivity between Your device and the App. Marlin Technologies makes no representations or warranty the App will be available all the time or that it will be error-free. You acknowledge and agree that the App (and its ability to access and control a Devices) may be unavailable due to Bluetooth connectivity interruptions, interference, bandwidth, signal strength, or other mechanical or electronic failures. Marlin Technologies shall not be responsible for any error, omission, interruption, delay in operation or transmission, communications failure, or unauthorized access to the App or any Device controlled through the App. Marlin Technologies is not responsible for any problems or technical malfunctions of any mobile device, computer equipment, antenna, receiver, transceiver, or software, on account of technical problems, or any combination thereof, including any injury or damage to machinery, personal property, bodily injury or death caused by any failure of the App.
- 3. Disclaimer of Warranties.** THE APP AND ITS FUNCTIONS AND FEATURES ARE MADE AVAILABLE

TO USERS AS SEEN AND AS IS WITHOUT ANY WARRANTY OF ANY KIND. MARLIN TECHNOLOGIES MAKES NO REPRESENTATIONS, GUARANTEES, OR WARRANTIES REGARDING THE ACCURACY, RELIABILITY, AVAILABILITY, OR COMPLETENESS OF THE CONTENT OF THE APP. MARLIN TECHNOLOGIES HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE APP INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

4. **Limitation of Liability; Liability Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MARLIN TECHNOLOGIES BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, INJURY TO PERSONAL PROPERTY OR PERSONAL INJURY, INCLUDING BODILY INJURY OR DEATH, ARISING OUT OF OR IN ANY WAY CONNECTED WITH YOUR USE OR THE PERFORMANCE OF THE APP, WITH THE DELAY OR INABILITY TO USE THE APP OR RELATED FUNCTIONS AND FEATURES, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, EVEN IF MARLIN TECHNOLOGIES OR ITS SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. CERTAIN STATES DO NOT PERMIT THESE TYPES OF LIMITATIONS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

5. **Sole Remedy.** If You are dissatisfied with any portion of the App, or with any of these terms and conditions of use, Your sole and exclusive remedy is to cease using the App.

6. **Changes to Agreement.** Marlin Technologies reserves the right to amend or modify the terms and conditions of this Agreement. Your continued use of the App after the posting of any amended terms and conditions shall constitute Your agreement to be bound by any such changes.

7. **Modifications to App.** Marlin Technologies reserves the right to modify the App, in whole or in part; or temporarily or permanently discontinue support of the App, and/or any of the services, features, functions, software or content made available through the App, for any reason and at any time without prior notice to You. Marlin Technologies reserves the right to delete, modify or supplement the functionality and features of the App at any time for any reason without prior notification to You. Marlin Technologies is not liable to You or any third party for any such modifications, suspension or discontinuance of any App and/or any of the features or functions made available with or through such App.

8. **Login Credentials.** Accessing and using the App requires the use of a username and password ("Login Credentials"), which are either issued by Marlin Technologies, Your App administrator, or self-administered. Each registered User is solely responsible for maintaining the confidentiality of its Login Credentials; and each registered User is responsible for any activities that occur using that registered User's Login Credentials. You must treat Your Login Credentials as confidential, and You must not disclose Login Credentials to any third party. Marlin Technologies is not liable for any harm related to the misuse or theft of Login Credentials, disclosure of Login Credentials, or Your authorization to allow another person or entity to access and use the App using Your Login Credentials. You shall immediately notify Marlin Technologies of any unauthorized use of Your username or password and any breach of confidentiality. Until Marlin Technologies receives this notification from You, You will be held liable for any harm ensuing from the use of Your Login Credentials. Marlin Technologies shall have the right to disable any login and/or password at any time, if in our opinion You have failed to comply with any of the provisions of this Agreement or if we believe that an unauthorized third party is attempting to access the App using Your Login Credentials. If You have been given access to any part of the App by mistake, if You know or suspect

that anyone other than You knows Your password, or if You become aware of a breach of confidentiality or any unauthorized use of the App, You must promptly notify us by email at [support@marlintechnologies.com]. Marlin Technologies' right to suspend or disable access to the App does not create an affirmative duty on the part of Marlin Technologies to monitor who is accessing or attempting to access the App and Marlin Technologies shall not be liable for any unauthorized access of the App using Your Login Credentials unless such authorized access is based solely on Marlin Technologies' own negligence or willful action.

9. **Security.** Marlin Technologies will use commercially reasonable efforts to make the App secure from unauthorized access. However, You recognize that no completely secure system for electronic data transfer has yet been devised. MARLIN TECHNOLOGIES PLANS MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE EFFICACY OF THE SECURITY OF THE APP OR BLUETOOTH COMMUNICATIONS AND SHALL NEVER BE LIABLE FOR ANY CLAIMED, ACTUAL, OR CONSEQUENTIAL DAMAGES ARISING FROM ANY BREACH OR ALLEGED BREACH OF SECURITY OF THE APP OR A DEVICE ACCESSABLE WITH THE APP.

10. **Termination of registered User Accounts.** You agree to notify Marlin Technologies immediately if a particular registered User's access to the App should be modified, suspended or terminated. Marlin Technologies will make every effort to terminate access immediately. However, You cannot be assured that access has been terminated until You receive confirmation of the termination from Marlin Technologies.

11. **Intellectual Property Rights.** As between us and You, Marlin Technologies is the owner or the licensee of all intellectual property rights in the App (including any software relating to the App.) Except as expressly permitted by applicable law, You may not copy, (except to the extent required in order to use the App in accordance with this Agreement), store in any medium (including in any other website), distribute, transmit, re-transmit, broadcast, modify, or show in public any part of the App or systematically extract code from the App or in any other way exploit commercially all or any part of the App or electronic communication without the prior written permission of Marlin Technologies.

12. **No Unlawful or Prohibited Use.** You agree to strictly comply with all applicable laws and regulations with respect to your access and use of the App, including any and all United States export laws, regulations and restrictions. You are prohibited from (a) using the App to damage, disable, or interfere with any Device or Marlin Technologies' servers or network; (b) impairing the App or interfering with any other party's use of the App.; or (c) hacking, password mining, or any other means to gain unauthorized access to the App, Marlin Technologies' or other user accounts, computers, or network. Marlin Technologies will fully cooperate with any law enforcement authorities or court order requesting or directing Marlin Technologies to disclose the identity of anyone posting any such information and materials. Marlin Technologies is an equal opportunity employer and values the diversity of its people.

13. **Governing Law and Jurisdiction.** This Agreement and Your use of the App shall be governed and interpreted in accordance with the laws of the United States and the state of Wisconsin. Any disputes arising out of this Agreement shall be adjudicated in a court of competent jurisdiction in the Eastern District of the state of Wisconsin.

14. **General.** If any portion of a provision of this Agreement is held to be unenforceable, that portion of the provision will be removed and the remaining terms will remain in full force. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to

require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.