

COVIDIEN SOFTWARE LICENSE AGREEMENT

Customer hereby acknowledges that Covidien LP and/or its affiliates (collectively called “Covidien” herein) owns the entire right, title, and interest in and to the Software, as may be installed in the Products and/or Equipment addressed herein or provided separately (“Software”) (including all of the computer code, source and object, comprising the Software and all components and elements thereof), and all associated manuals, drawings, technical information and Documentation (collectively, the “Documentation”), including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property or proprietary rights (“Intellectual Property Rights”) in and to the Software and all components and elements thereof all of which shall remain the sole and exclusive property of Covidien. The amount paid by Customer for the Products and/or Equipment incorporating the Software includes as a portion of that amount, a license fee granting Customer only the rights set forth in this Software License. This Software License will be superseded by any express Software agreement between Covidien and Customer. The use of term “Product” herein includes Products and/or Equipment, as applicable.

- 1. Single User License Grant.** Covidien grants to Customer a limited, nonexclusive, non-sublicensable, nontransferable and revocable license to use the Software, exclusively at the location identified by Customer on the order form as the ship-to location of the Products, solely in machine-readable object code form, and only on a single central processing unit as embedded in the Products as provided by Covidien under this Agreement, and solely for Customer’s internal business purpose in the operation of the Products provided by Covidien under this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Software is licensed to be used on only one computing device or Product, and a valid license must be obtained under this Agreement for each computing device or Product with which the Software is used or in which the Software is embedded.
- 2. Restrictions on Use.** Except to the extent expressly authorized in these Software License Terms or by law, Customer shall not and shall not cause any third party to: (i) decompile, disassemble, or reverse engineer the Software; (ii) modify or create any derivative works (including, without limitation, translations, transformations, adaptations or other recast or altered versions) of or based on the Software, or alter the Software in any way; (iii) merge the Software with any other software or product not supplied by Covidien; (iv) use, copy, sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software except as expressly authorized by this Agreement; (v) distribute, disclose or allow use of the Software, in any format, through any timesharing service, service bureau, network or by any other means, to or by any third parties; (vi) remove or modify any copyright, confidential or proprietary markings, legends or restrictions that are in the Software originally supplied to Customer; or (vii) violate any obligations with regard to Covidien’s Confidential Information (as defined below). To the extent that Customer is expressly permitted by applicable mandatory law to undertake any of the activities listed in the preceding sentence, Customer

will not exercise those rights unless and until Customer has given Covidien not less than 30 days' prior written notice of Customer's intent to exercise any such rights unless an order of a government agency of competent jurisdiction will not so allow. This License will terminate immediately upon notice from Covidien if Customer fails to comply with any provision of this License or any agreement.

- 3. Reservation of Rights.** Notwithstanding anything to the contrary contained in this Agreement, or any order form, purchase order or agreement between the parties, all rights not expressly granted by Covidien to Customer are reserved to and retained by Covidien and Covidien expressly is not selling, assigning or otherwise transferring to Customer, and Customer is not purchasing or otherwise acquiring or obtaining, any of Covidien's Intellectual Property Rights or other rights in or to the Software or Documentation.
- 4. Confidentiality.** Customer agrees that the Software and the Documentation, and all components and elements of the Software and Documentation, including, without limitation, the specific design and structure of individual programs, constitutes confidential information and trade secrets of Covidien (the "Confidential Information"). Customer agrees not to disclose, provide, or otherwise make available such Confidential Information, including, without limitation, any trade secrets or copyrighted material, in any form to any third party. Customer agrees that it will make the Software available only to those employees, contractors, or consultants of Customer with a specific need to know, who are obligated to comply with the restrictions contained in these Software License Terms and to maintain the secrecy of the Software and all other Confidential Information and are properly trained in its use. Customer is responsible for the compliance of all users of the Software and Products with these obligations and shall cause all users of the Software and Products to comply with these obligations. Customer acknowledges that the Software embodies proprietary trade secrets of Covidien including, without limitation, technical and non-technical information regarding the Software and the development and manufacture of the same. Customer hereby agrees to maintain the confidentiality of such trade secrets using at least as great a degree of care as Customer uses to maintain the confidentiality of its own most confidential information. Customer shall communicate these obligations to those employees and agents of Customer who come into contact with the Software, and shall use its best efforts to ensure their compliance with all confidentiality obligations applicable to Customer.
- 5. Change Orders.** Covidien shall have the right, at any time during the Term, by written request to Customer (an "Update Notice"), to require that Customer return the Products and Software to Covidien for such periods of time as are required by Covidien ("Update Periods") or to allow Covidien to access the Software at the Customer's location for the purpose of enabling Covidien to incorporate Software revisions, updates or modifications from time to time. Upon receipt of an Update Notice, Customer shall return the requested Products and Software to Covidien at Covidien's cost and expense, or work with Covidien to find a suitable time for Covidien to access the Software at the Customer's location. Customer acknowledges and agrees that during Update Periods, if the Software must be returned to Covidien, the Products and Software will be unavailable to Customer and in Covidien's possession. Covidien will use reasonable commercial efforts to perform the revisions, updates or modifications and to return the revised, updated or modified Products and Software to Customer as soon as is reasonably practicable.

- 6. Software License Term.** The term of the Software license granted under this Software License shall be for the commercial life of the associated Product or Equipment.
- 7. Limited Warranty.** Covidien represents and warrants to Customer that the Software will perform substantially as described in Covidien's then current Documentation for such Software and the remaining warranty, or extended warranty, if any, applicable to the Product or Equipment with which such Software was delivered. If Customer notifies Covidien of defects during the applicable warranty period, and those defects are verified by Covidien, as Customer's sole and exclusive remedy, Covidien will replace the defective Software or, at its option, terminate this Software License and refund to Customer the amount paid by Customer to Covidien for the Software (if provided separately from a Product) or for the Product in which the defective Software is installed (if embedded within a Product). Customer's remedy for breach of this limited warranty shall be limited to the foregoing replacement or refund and shall not encompass any other damages. No dealer, distributor, agent or employee of Covidien is authorized to make any modification or addition to the warranty and remedies stated herein.

Notwithstanding these limited warranty provisions, all of Covidien's obligations with respect to such warranties shall be contingent on Customer's use of the Software in accordance with this Agreement and in accordance with Covidien's instructions as provided by Covidien in the Documentation provided by Covidien, as such instructions may be amended, supplemented, or modified by Covidien, in its sole discretion, from time to time. Covidien shall have no warranty obligations with respect to any failures of the Software that are the result of accident, abuse, misapplication, extreme power surge or extreme electromagnetic field, or any other cause outside of Covidien's control.

This limited warranty does not apply to any damages, malfunctions, or non-conformities caused to or by: (i) Customer's use of Software in violation of these Software License Terms or in a manner inconsistent with any Documentation or instructions provided by Covidien; (ii) use of non-Covidien furnished equipment, software, or facilities with its equipment or Products; (iii) Customer's failure to follow Covidien's installation, operation, repair or maintenance instructions; (iv) Customer's failure to permit Covidien timely access, remote or otherwise, to Products; (v) failure to implement all features, revisions, modifications, updates, patches, "bug fixes", or new versions of or to the Software provided by Covidien under this Agreement or otherwise; (vi) Products with their original manufacturer's serial numbers altered, defaced or deleted; (vii) Products that have been altered, serviced or modified by a party other than Covidien; or (viii) Software that has been subjected to abnormal physical or electrical stress, misuse, negligence or accident by Customer or a third party.

- 8. Export Laws.** THESE SOFTWARE TERMS ARE EXPRESSLY MADE SUBJECT TO ANY AND ALL LAWS, REGULATIONS, ORDERS, OR OTHER RESTRICTIONS WITH RESPECT TO THE EXPORT FROM THE UNITED STATES OF AMERICA OF THE SOFTWARE. BUYER SHALL NOT EXPORT OR RE-EXPORT THE SOFTWARE (I) WITHOUT FULL COMPLIANCE WITH SUCH LAWS, REGULATIONS, ORDERS AND OTHER RESTRICTIONS, INCLUDING, WITHOUT LIMITATION, OBTAINING ALL NECESSARY APPROVAL FROM ALL REQUIRED GOVERNMENTAL AGENCIES AND (II) WITHOUT THE PRIOR WRITTEN CONSENT OF COVIDIEN.
- 9. U.S. Government Rights.** The Software is a "commercial item" developed exclusively at private expense, consisting of "commercial computer software" and "commercial computer

software Documentation" as such terms are defined or used in the applicable U.S. acquisition regulations. The Software is licensed hereunder (i) only as a commercial item and (ii) with only those rights as are granted to all other customers pursuant to the terms and conditions of this License. Customer shall not use, duplicate, or disclose the Software in any way not specifically permitted by this License. Nothing in this License requires Covidien to produce or furnish technical data for or to Customer.

10. **Survival.** Sections 2, 3, 4, 8, 9 and this Section 10 shall survive the termination or expiration of these Software License Terms.
11. **Additional Terms.** Certain parts of the software might be subject to open source software license terms.

SSH.NET Library is Copyright (c) 2010, RENCI, All rights reserved. THIS SOFTWARE IS PROVIDED BY THE COPYRIGHT HOLDERS AND CONTRIBUTORS "AS IS" AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL THE COPYRIGHT OWNER OR CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

Licensed under the Apache™ License, Version 2.0 (the "License"); you may not use this file except in compliance with the License. You may obtain a copy of the License at <http://www.apache.org/licenses/LICENSE-2.0>

Unless required by applicable law or agreed to in writing, software distributed under the License is distributed on an "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, either express or implied. See the License for the specific language governing permissions and limitations under the License.

5920 Longbow Drive
Boulder, CO 80301
800.722.8772
medtronic.com/covidien