

Welch Allyn Connex® Vitals Management (VM) Software License

This license is between Welch Allyn, Inc. (Welch Allyn) and the Customer identified in the purchase order for the Connex VM Software and it governs the software program and interfaces identified in the purchase order.

1. License of Connex Software

1.1. Welch Allyn grants and Customer accepts a non-exclusive license to use the Connex VM Software at Customer's facilities, subject to the terms of this license, for up to the maximum number of device input connections that are identified in the purchase order. Device input connections are licensed individually, and additional Device input connections subsequently can be licensed by payment of an additional license fee. The Connex VM Software is comprised of object-code software that runs on servers (Server Software) and object-code software that runs on personal computers (PC Software). The Server Software will be installed by Welch Allyn and must be run only on the server on which it is installed. If it is necessary to transfer the Server Software to additional servers after the initial installation, a service charge will apply. Welch Allyn will install the PC Software on designated PCs as part of the initial installation of the Connex VM System, and the PC Software also will be furnished on media. Customer can install the PC software on additional PCs after the initial installation of the Connex VM System. The Connex VM Software can be used by Customer's affiliates so long as the foregoing conditions are satisfied. Affiliates are legal entities that are controlled by or under common control with the Customer.

1.2. Customer shall not: a) copy the Connex VM Software, b) decompile or reverse engineer the Connex VM Software, c) sublicense or transfer to any third party any part of the Connex VM Software, or d) transfer the Connex VM Software to additional servers without Welch Allyn's consent.

1.3. Ownership of and title in and to the Connex VM Software and the documentation accompanying the Connex VM Software (and all intellectual property rights embodied in the Connex VM Software and documentation) is retained by Welch Allyn, and Customer acquires only the right to use the Connex VM Software and documentation subject to the restrictions set forth in this license.

1.4. Unless otherwise provided in the purchase order, the term of the license to use the Connex VM Software is perpetual, subject to termination for the reasons set out in section 1.5. Welch Allyn will provide ongoing maintenance and support services for the Connex VM Software only if a maintenance contract has been obtained, and Welch Allyn may discontinue maintenance and support services for obsolete versions of the Connex VM Software. The maintenance program includes periodic software updates that include error corrections and minor enhancements. All such updates are subject to the terms of this license. If Welch Allyn subsequently offers a new release of the Connex VM Software that contains new functionality or other major enhancements, a new license will be required to obtain the new release.

1.5. Welch Allyn shall have the right to terminate the license of the Connex VM Software if Customer materially breaches the license and fails to cure the breach within 30 days after Welch Allyn sends Customer notice of the breach. Material breach of this license includes: 1) use of the Connex VM Software outside of the

scope of the license, including use for more device input connections than are covered by the License, or 2) failure to pay a license fee. Upon termination of this license, Customer shall cease using the Connex VM Software, permit Welch Allyn to remove the Connex VM Software from the servers on which it was installed, return to Welch Allyn or destroy the Connex VM Software and documentation, and certify to Welch Allyn that such actions have been taken within 30 days after termination.

2. Installation

2.1. Welch Allyn will use commercially reasonable efforts to deliver and install the Connex VM Software in accordance with the implementation schedule included in the purchase order. Welch Allyn will provide Customer with the technical specifications for hardware required to run the Connex VM Software, and Customer will be solely responsible for obtaining all servers, personal computers, and any related network hardware that is compatible with the technical specifications in a timely manner that conforms to the implementation schedule. Installation of the Connex VM Software will be complete when the program (including its interface) is executable on Customer's hardware and testing demonstrates that it performs in accordance with its specifications.

3. License and Installation Fees

3.1. Customer shall pay the license, installation, and training fees identified in the purchase order for the Connex VM System. The license and installation fees are based on the number of device input connections covered by the purchase order, and additional fees are payable if the maximum number of device input connections is increased. Additional license fees also are payable if Customer licenses additional interfaces for the Connex VM Software not included in the original license. Welch Allyn will invoice Customer for the license, installation, and training fees upon completion of installation. All invoices are payable within 30 days after Customer's receipt.

4. Warranty

4.1. Welch Allyn warrants that the Connex VM Software will perform substantially in accordance with the technical specifications published for the Connex VM Software when operated in the configuration and operating environment in which it was installed for ninety (90) days after installation is completed. Welch Allyn does not warrant that the Connex VM Software will operate error free in all circumstances nor that the applications contained in the Connex VM Software will meet Customer's particular purposes.

4.2. If a malfunction covered by this warranty occurs, Customer must enable Welch Allyn to reproduce the error on Customer's Connex VM Software via VPN access or by providing sufficient detail to enable Welch Allyn to reproduce the error in another instance of the Connex VM Software. Welch Allyn's warranty obligations will be to correct a reproducible error such that the Connex VM Software meets its technical specifications, or to refund the purchase price if the reproducible error cannot be corrected.

4.3. This warranty shall not apply: 1) if the Software is not used in accordance with the documentation; 2) if the defect is caused by Customer or a malfunction of

third-party software or 3) if the malfunction is reported after expiration of the warranty period.

4.4 Welch Allyn DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. Limitation of Liability

5.1. Customer's sole and exclusive remedies for any damages or loss in any way connected with the Connex VM Software or services furnished by Welch Allyn shall be, at Welch Allyn's option: 1) to bring the performance of the Connex VM Software into substantial compliance with the functional specifications; 2) re-performance of services; or 3) return of an appropriate portion of any payment made by Customer with respect to the Connex VM Software or associated services. Welch Allyn will not be responsible for the correction of any defects resulting as a result of misuse of the Connex VM Software by Customer or ensuring the security of Customer's networked installation of the Connex VM Software.

5.2. Neither Welch Allyn nor Customer will be liable to each other or any other person or entity for an amount of damages in excess of the license, installation, and training fees for Connex VM Software paid by Customer. Neither Welch Allyn nor Customer shall be liable in any amount for special, incidental, consequential, or indirect damages, loss of good will or business profits, or loss of data. The license fees reflect this allocation of risk and these limitations of liability.

6. Assignment

6.1. Customer may not, without Welch Allyn's prior written consent (which shall not be withheld unreasonably), assign or otherwise transfer this license, or any of its rights or obligations under this license. Welch Allyn may assign this license to an affiliate that controls, is controlled by, or under common control with Welch Allyn. This license shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.