

## I. IMPORTANT NOTICE TO THE LICENSEE

This End User License Agreement („EULA“) is a legal agreement between YOU (the “LICENSEE“) and **Grabner Instruments Messtechnik GmbH**, with its registered office at Austria, 1220 Vienna, Dr.Otto-Neurath-Gasse 1 (the “LICENSOR“) for the **Minivap VP Vision** software accompanying this EULA, which includes computer software and may include media, printed materials, and “on-line“ or electronic documentation (collectively the “SOFTWARE“).

By using, or otherwise interacting (use, access, display, run, etc.) with the SOFTWARE, YOU agree to be bound by the terms of EULA. If YOU do not agree to the terms of this EULA, do not use in any manner, or replicate in any manner, any part, file or portion of the SOFTWARE.

The EULA applies to updates, upgrade, releases, supplements, and add-on components of the SOFTWARE that LICENSOR may provide or make available to YOU unless LICENSOR provides other terms with the update, supplement, or add-on component. Subsequently LICENSOR may supersede this EULA with a subsequent EULA pursuant to providing you with any future update, upgrade, releases, supplements, and add-on components or other modifications to the SOFTWARE. Similarly, to the extent that the terms of this EULA conflict with any prior EULA or other agreement between YOU and the LICENSOR, the terms of this EULA shall prevail.

You may print a copy of this EULA at the time of acceptance. Alternatively, you may go to our website at <http://www.grabner-instruments.com/aboutus/legalinformation> to download and print a copy of this EULA for your records.

## II. The SOFTWARE

The SOFTWARE includes the operating system, firmware, and interface stored and operated locally on the MINIVAP VP VISION (“DEVICE“), an instrument for the automatic determination of vapor pressures of low-viscous liquids including hydrocarbons like gasoline and gasoline blends, crude oil, solvents and other chemical compounds.

The SOFTWARE enables LICENSEE to operate the DEVICE on which it is installed solely in the manner set forth in any accompanying documentation or, in the absence of such, in the manner contemplated by the nature of the SOFTWARE.

### III. GRANT OF LICENSE

The SOFTWARE is licensed, not sold. Subject to this EULA, LICENSOR grants and LICENSEE accepts, a non-exclusive, unlimited (perpetual), revocable, non-transferable license to use the SOFTWARE (except as provided below).

### IV. LIMITATIONS OF THE USE OF LICENSE

This EULA does not grant any rights in connection with any trademarks or service marks of the LICENSOR or its suppliers.

The SOFTWARE is subject to the use of the DEVICE only. LICENSEE shall not be entitled to use the SOFTWARE in connection with other devices / products / instruments etc.

LICENSEE may make a backup-copy of the SOFTWARE solely for archival purposes. Except as expressly provided in this EULA, LICENSEE may not otherwise make copies of the SOFTWARE. The backup-copy must contain the same copyright, patent and other intellectual property markings that appear on or in the SOFTWARE.

LICENSEE may not reverse engineer, decompile, or disassemble the SOFTWARE, or otherwise attempt to discover the source code of the SOFTWARE. Any attempt to do so shall immediately terminate this license – except and only to the extent that such activity may be expressly permitted by applicable law notwithstanding this limitation.

LICENSEE may not make any changes or modifications to any portion of the SOFTWARE, or create any derivative works, without the prior written consent of LICENSOR.

LICENSEE may not remove any proprietary notices, copyright, patent or other intellectual property markings or labels from the SOFTWARE.

LICENSEE may not distribute, redistribute, sub-license, rent, sell, or otherwise transfer the SOFTWARE to any third party. Any distribution, redistribution, sub-license, rent, sell or transfer of the SOFTWARE in violation of this EULA, in whole or in part, will be void ab initio.

Notwithstanding the foregoing, LICENSEE may transfer the license on the SOFTWARE to a third party provided that:

- i. LICENSEE transfers the DEVICE to the third party;
- ii. The third party agrees to be bound by the terms of this EULA;
- iii. the transfer includes all of the SOFTWARE;

- iv. LICENSEE does not retain any copies of the SOFTWARE;
- v. LICENSEE provides notice to LICENSOR at least 14 days prior to such transfer.

LICENSEE may not encumber or suffer to exist any lien or security interest on the SOFTWARE.

## V. ACTIVATION OF THE LICENSE

The SOFTWARE is installed to the DEVICE thus made available to the LICENSEE by purchasing and operating the DEVICE.

The SOFTWARE may use LICENSEE's internal network and internet connection for the purpose of transmitting license-related data at the time of installation, registration, use, or update to a license server operated by the LICENSOR and validating the authenticity of the license-related data. Activation is based on the exchange of license-related data between LICENSEE's computer and LICENSOR's license server. LICENSEE agrees that LICENSOR may use these measures in order to protect LICENSOR against unlicensed or illegal use of the SOFTWARE and to improve customer service.

## VI. USER REGISTRATION

Any individuals that use the SOFTWARE must each register as USER. Only registered USER are entitled to use the SOFTWARE. LICENSEE is obliged to take all measures necessary to avoid the use of the SOFTWARE by unregistered / unauthorized individuals.

LICENSEE is entitled to register an unlimited number of USER. Each USER has to create a personal user account / user profile.

To become registered USER, any individual has to fill in the data required according to the "create user"-table incorporated into the SOFTWARE.

LICENSOR collects data related to the use of the SOFTWARE by means of the Device Improvement Program (DIP) to support any required analysis in case of service/maintenance support/product development, and for developing statistical data regarding its user base.

Collected data may be used by LICENSOR to send news about products of the LICENSOR ("marketing purposes").

The acceptance of this data collection via DIP and the use for the purposes as stipulated below is an explicit precondition to finalize the USER registration. Any USER not accepting this data collection via DIP will not be registered as USER thus not be entitled to use the SOFTWARE.

LICENSEE accepts that only individuals who accepts the data collection via DIP will be accepted as registered USER.

## VII. DATA COLLECTION VIA DIP / PRIVACY POLICY

### a) What kind of data does DIP collect?

DIP collects personal information such as USER name, e-mail address, phone number, company, job title and role (all of it to be filled in at the time of user registration).

Furthermore, DIP collects operational information such as measurement data, performance data, calibration data, etc. (all of it in connection to the use of the SOFTWARE by the USER).

Operational information and part of the personal information and data is collected by DIP for service/maintenance/product development purposes only.

Part of the personal information will be used by the LICENSOR to send news about products of the LICENSOR ("marketing purposes").

#### DIP does not:

- collect any personal information beyond the USER registration data;
- collect any data regarding the use of the computer the SOFTWARE is activated and used beyond the use of the SOFTWARE;
- collect any data from the computer the SOFTWARE is activated or the LICENSEE's internal network beyond the use of the SOFTWARE.

### b) How does DIP collect the data?

Operational and personal information/data is collected by the SOFTWARE and stored for case of need, which will be a service/maintenance/product development case and marketing purpose only.

To transfer the personal information/data to the LICENSOR's server, USER has to activate the relevant function in the SOFTWARE. By activating this function, USER allows LICENSOR access to and transfer of the stored personal information/data.

There will be no automatically generated data transfer. All data transfer requires the activation of the USER.

Notwithstanding the foregoing LICENSEE shall be obliged to activate the transfer of personal information/data at least once per year.

c) Why does LICENSOR collect the data via DIP?

LICENSOR collects operational data and part of the personal data to better serve its customers. Data is collected and stored by the SOFTWARE to be available in case of service, maintenance and product development support only. The data may be used to analyze the service/maintenance/product development case only.

Personal data which will be used for marketing purposes as described above will be collected in a marketing database and used to inform the USER about products and services of the LICENSOR.

In accordance with the provisions of the Austrian Telecommunications Act (TKG), §107, USER will be enabled to deregister from the marketing database by activating the relevant link implemented into the e-mail-message. If the USER deregisters his personal information will be deleted from the marketing database.

d) How does LICENSOR protect personal information/data?

LICENSOR has security measures in place to protect the loss, misuse and alteration of personal information / data under its control. These include a firewall to prevent unauthorized access to LICENSOR's systems. Inside LICENSOR's organization, personal information and data is stored in password-controlled servers with limited and controlled access on a need-to-know basis.

While LICENSOR cannot guarantee that loss, misuse or alteration to personal information or data will not occur, LICENSOR takes many precautions to prevent such unfortunate occurrences. However, LICENSOR accepts no liability for any unintentional disclosure.

Except where enforced by law, LICENSOR will not share personal information / data outside of LICENSOR's organization.

e) Important Notice

Please note that the personal information / data may be transferred outside of the European Economic Area, for purposes of processing, analysis, and review, by AMETEK Inc., a company located at 1100 Cassatt Road, Berwyn, PA 19312, U.S.A.,

which is the holding company of the LICENSOR. LICENSEE and USER are advised that the United States uses a sectoral model of privacy protection that relies on a mix of legislation, governmental regulation, and self-regulation. LICENSEE and USER are further advised that the Council of the European Union has found that this model does not provide "adequate" privacy protections as contemplated by Article 25 of the European Union's Data Directive. (Directive 95/46/EC, 1995 O.J. (L 281) 31). Article 26 of the European Union's Data Directive allows for transfer of personal data from the European Union to a third country if the individual has unambiguously given his consent to the transfer of personal information, regardless of the third country's level of protection. By agreeing to this EULA, the privacy policy incorporated therein, and by giving its consent to the USER registration, LICENSEE and the USER consent to the transfer of all such information to the United States and the processing of that information as described in this EULA.

## VIII. INTELLECTUAL PROPERTY

LICENSEE acknowledges that the SOFTWARE and any copies that LICENSEE is authorized to make are the intellectual property of and are owned by LICENSOR and its suppliers.

The structure, organization and code of the SOFTWARE are the valuable trade secrets and confidential information of the LICENSOR and its suppliers. The SOFTWARE is protected by copyright, including without limitation by United States Copyright Law, international treaty provisions and applicable laws by the country in which it is being used.

LICENSEE acknowledges that LICENSOR retains the ownership of all patents, copyrights, trade secrets, trademarks and other intellectual property rights pertaining to the SOFTWARE, and that LICENSOR's ownership rights extend to any images, photographs, animations, videos, audio, music, text and "applets" incorporated into the SOFTWARE and all accompanying printed material.

LICENSEE shall take no actions which adversely affect LICENSOR's intellectual property right in the SOFTWARE.

No title on the SOFTWARE is transferred to the LICENSEE by means of this EULA. All rights not expressly granted under this EULA are reserved by LICENSOR and its suppliers.

## IX. LIMITED WARRANTY

LICENSOR provides the SOFTWARE “as is” without warranty of any kind, express, implied or statutory, including but not limited to any implied warranties or conditions of merchantability, fitness for a particular purpose, quality, performance, noninfringement, lack of viruses, and lack of negligence or lack of workmanlike effort. If applicable law requires a warranty, the required warranty is limited to two (2) years from installation of the SOFTWARE.

Computer programs are inherently complex, and the SOFTWARE may not be free of errors. The SOFTWARE is provided with all faults and the entire risk as to satisfactory quality, performance, accuracy and effort is with the LICENSEE.

LICENSOR does not make any express or implied warranty or representation to LICENSEE or any third party whatsoever with regard to any data captured, transferred, accessed or shared using the SOFTWARE and shall not be liable to LICENSEE or any third party for any cost or damage arising, either directly or indirectly, from any loss of data.

## X. LIMITED LIABILITY

To the maximum extent permitted by applicable law even if a remedy fails its essential purpose, in no event shall LICENSOR or its suppliers be liable for any special, incidental, direct, indirect or consequential damages whatsoever, including without limitation, damages for loss of business profits, business interruption, loss of business information, computer failure or malfunction, or any other pecuniary loss, arising out of the use of or inability to use the SOFTWARE or the provision of or failure to provide support services, even if LICENSOR has been advised of the possibility of such damages. Unless applicable law provides otherwise, LICENSOR's entire liability under any provision of this EULA shall in any case be limited to the amount actually paid by LICENSEE for the SOFTWARE.

## XI. LICENSEE'S REMEDIES

LICENSEE's sole and exclusive remedies for any damages or loss in any way connected with the SOFTWARE shall be, at LICENSOR's option, either to bring the performance of the SOFTWARE into substantial compliance with the functional specifications, or to return an appropriate portion of any payment made by LICENSEE to LICENSOR with respect to the applicable portion of the SOFTWARE based on a 5-year-amortization of the SOFTWARE.

## XII. INDEMNIFICATION

LICENSOR shall indemnify LICENSEE against all claims, liabilities, and costs, including reasonable attorneys' fees, reasonably incurred in the defense of any claim brought against LICENSEE by third party alleging that LICENSEE's use of the SOFTWARE infringes or misappropriates any patent, a copyright, or trade secret rights, provided that the alleged infringement results from licensed use of the SOFTWARE and LICENSEE promptly notifies LICENSOR in writing of any such claim and LICENSOR is permitted to fully control the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on LICENSEE.

LICENSEE shall fully cooperate in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable by LICENSOR. LICENSOR may settle any claim on a basis requiring LICENSOR to substitute for the SOFTWARE alternative substantially equivalent non-infringing programs.

The foregoing constitutes LICENSOR's sole and exclusive liability for intellectual property infringement. This Indemnity does not apply to infringements that would not be such.

LICENSEE shall not take any action in response to any infringement or alleged infringement by third parties of the SOFTWARE.

## XIII. THIRD PARTY ROYALTY TITLES

In some cases, third parties may require a separate license agreement for the right to use some specific intellectual property (software, etc.), which means that the license acquired by LICENSOR grants the right to transfer the intellectual product, but subject to the acquisition of a separate license agreement between the third party and LICENSEE.

In that case, LICENSOR shall not be held responsible for any costs (royalty fees) accrued to LICENSEE. Thus, this specific case of Third Party Royalty Titles shall not be subject to the indemnification obligation of LICENSOR.

## XIV. EXPORT RESTRICTIONS

The SOFTWARE contains encryption technology that is controlled for export by the U.S. Government. LICENSEE agrees to fully comply with all relevant export laws and regulations of the United States to assure that the SOFTWARE is not exported, directly or indirectly (including as a result of providing access to the SOFTWARE to a

national or resident of an embargoed or restricted country), in violation of such export laws, or the applicable laws of any other jurisdiction or provided to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders or Entity List.

Among others, the Export Laws provide that the SOFTWARE may not be exported or re-exported to certain countries that are embargoed or restricted, or to certain restricted persons. In addition to other restrictions described in this section, you may not use the SOFTWARE, or export the SOFTWARE to any destination where you know or have reason to know that the SOFTWARE may be used, in connection with the proliferation of nuclear, chemical or biological weapons or missiles.

LICENSEE shall hold LICENSOR harmless in connection with any breach of this Section.

#### XV. MAINTENANCE OF THE SOFTWARE

Only LICENSOR and third parties, named and certified by LICENSOR, shall be entitled to deliver maintenance services for the SOFTWARE which may be based on a maintenance agreement.

#### XVI. TERMINATION

Without prejudice to other rights, LICENSOR may terminate this EULA if LICENSEE fails to comply with the terms and conditions of this EULA. In such event, LICENSEE must immediately destroy all copies of the SOFTWARE and all of its component parts.

Furthermore, LICENSOR shall be entitled to terminate this EULA if LICENSEE fails to accept transfer of personal information/data at least once per year.

Termination of the EULA shall not release the LICENSEE from any liability which, at the time of termination, has already accrued or which thereafter may accrue with respect to any act or omission before termination.

The provisions in Section (X) - Limited Liability, (XII) – Indemnification, and (XIII) - Export Restrictions shall survive the termination of this EULA.

## XVII. APPLICABLE LAW AND JURISDICTION

This EULA is governed by and construed in accordance with the laws of the Republic of AUSTRIA (excluding its conflict of laws principles and the U.N. Convention on Contracts for the International Sale of Goods) and the parties expressly and irrevocably agree to submit themselves to exclusive jurisdiction of the commercial court (Handelsgericht) in VIENNA, AUSTRIA, in connection to all disputes or claims arising out of this EULA.

## XVIII. GENERAL PROVISIONS

This EULA contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior written and oral understandings of the parties with respect to the subject matter hereof.

Any notice or other communication given under this EULA shall be in writing and shall have been properly given by either party if sent by certified or registered mail, or by overnight courier to the others party registered office.

It is the intent of the parties that in case any or more of the provisions contained in this EULA shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this EULA, and this EULA shall be construed as if such invalid or unenforceable provision had never been contained herein.

If either party should waive any breach of any provision of this EULA, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

Should YOU have any questions concerning this EULA, or if YOU desire to contract LICENSOR for any reason, please contact Grabner Instruments Messtechnik GmbH by mail at: Dr. Otto-Neurath-Gasse 1, 1220 Vienna, Austria; by telephone at: +43-1-282 16 27; or by e-mail to [grabner.office@ametec.com](mailto:grabner.office@ametec.com)

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