

# SEW-EURODRIVE Ges.m.b.H. General Terms of Contract For the Digital Service “DriveRadar® IoT App”

## 1. General Provisions

1.1. Under the “DriveRadar®” brand, SEW-EURODRIVE Ges.m.b.H. („SEW“) offers a scalable system for condition monitoring of drive systems in industry. DriveRadar® consists of hardware components and associated digital services (the digital services hereinafter referred to as „DriveRadar® IoT Suite“).

1.2. These General Terms and Conditions of Contract (“GTC”) shall apply in the version valid at the time of contract conclusion for all services provided within the scope of the DriveRadar® IoT Suite to the customer as contracting party („Customer“) “Contract” shall mean these GTC and all agreements made between the Customer and SEW in relation to the DriveRadar® IoT Suite.

1.3. These GTC shall only apply to entrepreneurs in the exercise of their commercial or independent professional activity, to legal entities under public law and to special funds under public law.

1.4. DriveRadar® IoT Suite services will be provided exclusively on the basis of the respective order confirmation, any special agreements in text form and in addition to the following terms and conditions. These GTC shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer, especially terms and conditions of purchase, shall not apply unless SEW has expressly agreed to their applicability in writing. This consent requirement shall apply in any case, for example even if SEW will perform the service without reservation, in knowledge of the Customer's deviating, conflicting or supplementary general terms and conditions.

1.5. Insofar as a text form is required in these GTC, scanned documents and e-mails shall suffice for compliance with the text form requirement in addition to letters and faxes.

1.6. The hardware components can be purchased before, at the same time as or after the purchase of the DriveRadar® IoT Suite. If the DriveRadar® IoT Suite services will be provided together with hardware components supplied by SEW, the sale and delivery of the hardware components shall be made exclusively on the basis of the respective order confirmation and SEW's General Conditions of Sale and Delivery, available at:

[general terms of delivery nov 2021.pdf](#)

The provisions of these GTC relating to the use and deployment of the hardware components shall apply at all times and irrespective of the hardware components' acquisition date.

## 2. General Description of the Services DriveRadar® and DriveRadar® IoT Suite

The general service description of DriveRadar® and DriveRadar® IoT Suite can be found in **Annex 1** to these GTC. A more detailed service description may be provided in the respective order confirmation.

## 3. Conclusion of Contract, Prices, Terms of Payment, Separate Contract, Right of Retention, Set-Off

3.1. Conclusion of Contract: Offers from SEW are non-binding unless SEW states otherwise. The order placed by the Customer shall be deemed to be a binding contractual offer. An agreement on the use of the DriveRadar® IoT Suite will be concluded with the written order confirmation from SEW in text form or when SEW carries out the order, in particular SEW complies with the order by activating the Customer access.

3.2. Prices and Terms of Payment: Prices and terms of payment result from SEW's order confirmation. The consideration shall be net prices plus the applicable value added tax.

3.3. Separate Contract: Each implementation of DriveRadar® or the DriveRadar® IoT Suite shall be based on its own separate contract – this shall apply even if several implementations have already been made at one location (e.g. at a Customer's plant) (including situations in which there is only one client, one data interface or one invoicing or delivery address for several locations). An implementation is characterized in particular by:

- The delimitation of the planned users
- The delimitation of the customer-side contact persons and administrators
- The timing and scope of the implementation of the solution

3.4. Right of Retention, Set-Off: The Customer may only assert a right of retention if such right will be based on the same contractual relationship. The Customer may only offset SEW's claims against undisputed claims or claims established by a final judgement.

#### 4. Access Requirements and Deployment of the DriveRadar® IoT Suite

4.1. The DriveRadar® IoT Suite will only be available to the Customer via the SEW customer portal "Online Support" ("Online Support"). Registration in the Online Support shall be mandatory in order to use the services. With the registration, the Customer will receive a company account by which the Customer will be allowed to use the agreed service in accordance with the Contract.

4.2. Unless otherwise agreed between the Parties, the deployment shall take place from the time specified in the order confirmation and in accordance with these GTC. By deployment, the Customer will be activated for the application in the browser or via the DriveRadar® IoT App. The DriveRadar® IoT Suite can be accessed via [www.driv radar.io](http://www.driv radar.io). An online help is integrated in the DriveRadar® IoT Suite.

4.3. The transfer point for the DriveRadar® IoT Suite including its content and functionalities will be the router output of the SEW EURODRIVE data center or the data center of the commissioned cloud provider. SEW shall not be responsible for the quality of the hardware and software required for using the DriveRadar® IoT Suite on the part of the Customer or for the Customer's Internet connection up to the transfer point.

4.4. Data transfer to SEW systems shall also be a prerequisite.

#### 5. Changes to the DriveRadar® IoT Suite or to the Technical System

SEW may update and further develop the DriveRadar® IoT Suite at any time and, in particular, modify it due to changes in the legal situation, technical developments or to improve IT security. SEW will give due consideration to the Customer's legitimate interests and timely inform the Customer of any necessary updates. In the event of an essential impairment of the Customer's legitimate interests caused by any restriction of functionalities relevant to the Customer at the time of the contract conclusion, the Customer shall have a special right of termination.

#### 6. Availability

6.1. SEW is entitled to maintain, service, perform data backups or other work on the DriveRadar® IoT Suite at certain times. Planned unavailabilities are possible during the entire term of the Contract. Planned unavailabilities are the following: The maintenance window is scheduled for every Thursday at 10 am (CET or CEST) for one hour.

During the planned unavailability of the DriveRadar® IoT Suite, the Customer shall have no legal claim to use the DriveRadar® IoT Suite. This shall also apply if and to the extent that the Customer can nevertheless use the DriveRadar® IoT Suite during periods of planned unavailability. If the use of the DriveRadar® IoT Suite will lead to a reduction or adjustment of performance during periods of planned unavailability, the Customer shall accordingly have no claims for defects, in particular no claim for damages.

6.2. SEW will inform the Customer (authorized users) in advance of any further planned unavailability "window for important updates".

6.3. Data backups will be carried out at regular intervals. Restores from backups can only be carried out to a limited extent. Corrections in data processing (scaling, formatting, analysis, etc.) shall always take effect from the time of implementation.

#### 7. Rights of Use, Return of Data

7.1. The Customer may only use the DriveRadar® IoT Suite within the scope of the contractual agreements.

7.2. The Customer will be granted a simple right to use the DriveRadar® IoT Suite, which can only be sub-licensed to the extent specified in the Contract and is non-transferable and limited to the term of this contract, by means of access via a browser in accordance with the following provisions. The DriveRadar® IoT Suite will not be made physically available, in particular software or source code will not be handed over. The Customer may only use the DriveRadar® IoT Suite for the Customer's own business activities through own personnel or partner companies.

7.3. The Customer shall not be entitled to exceed the number of licenses that it has purchased or to grant sub-licenses that go beyond the contractual agreements. The Customer shall not be entitled to any right which is not expressly granted to the Customer as specified above. In particular, the Customer shall not be entitled to use the DriveRadar® IoT Suite beyond the agreed use and/or to have it used by third parties or to otherwise make the DriveRadar® IoT Suite accessible to third parties. In particular, the Customer shall not be permitted to reproduce the DriveRadar® IoT Suite, to sell it or provide the DriveRadar® IoT Suite or access to it for a limited period of time, especially not to lease or lend it.

7.4. SEW shall be exclusively entitled to all rights to the results of the DriveRadar® IoT Suite services provided by SEW (especially to the results of the condition monitoring, measurement and analysis services). The Customer will be granted a simple, non-exclusive, non-transferable and non-sublicensable right to use the results for its own business purposes.

7.5. Against this background, the Customer shall also not be entitled to assign rights and duties arising from this Contract to third parties.

7.6. The use of data by SEW will be required for the provision of DriveRadar®, IoT Suite services.

7.7. In the event of termination of the Contract, SEW shall be entitled to retain the data stored at SEW (also in cloud storage used by SEW). SEW and/or the other companies of the SEW Group and/or subcontractors shall be fully entitled to reuse the data for maintenance, improvement, further development and/or evaluation. The Customer shall not be entitled to request an extract or an overview of the data stored and shall have no right to erase or return after termination of the Contract, unless such data is personal data.

## 8. Customer's Duties and Obligations

8.1. The Customer shall be obliged to cooperate in the provision of the DriveRadar® IoT Suite services to the extent required, in particular to provide SEW with technical support where necessary.

8.2. The Customer undertakes to always provide SEW with complete, current and accurate information. Such provision of data shall, more specifically, include all data required for the provision and use of the DriveRadar® IoT Suite services. This shall apply in particular for the end-use of the industrial gear unit.

8.3. When using the DriveRadar® IoT Suite, the Customer shall comply with the restrictions and obligations pursuant to Clause 7. The customer bears responsibility for preventing the use of the DriveRadar® IoT Suite outside the users group specified in Clause 7.

8.4. When using DriveRadar® IoT Suite, the Customer or user is prohibited from using technical aids or methods that impair or may impair the functionality of the application (e.g. scripts, bots or other software, etc.).

8.5. The Customer shall be obliged to notify SEW of any defects in contractual services in text form without undue delay. If the Customer fails to give timely notice, this shall constitute contributory causation or contributory negligence, unless the Customer is not liable for having caused the failure to give proper notice. Insofar as SEW was unable to remedy the defects as a result of the omission or delay in notification, the Customer shall not be entitled to reduce the agreed consideration in whole or in part, to demand compensation for the damage caused by the defect or to terminate the Contract extraordinarily due to the defect without observing a notice period.

## 9. Term, Termination

9.1. The term of the Contract is specified SEW's order confirmation. Throughout the term of the Contract, ordinary termination is excluded.

9.2. The right to early termination for good cause is expressly reserved for both Parties.

## 10. Force Majeure

10.1. Neither Party shall be obliged to perform its contractual obligations in the event of and for the duration of force majeure. The downtimes due to force majeure shall not be taken into account in the calculation of availability pursuant to Clause 6.1.

10.2. Force majeure shall mean an no-operational event caused externally by elementary forces of nature or by the actions of third parties, which is unforeseeable according to human insight and experience, that cannot be prevented or rendered harmless by economically acceptable means even by the utmost care to be reasonably expected in the circumstances, and is also not to be accepted because of its frequency. In particular, the following circumstances shall be considered as force majeure in this meaning:

- Fire/explosion/flood for which the Contracting Party is not responsible,
- War, mutiny, blockade, embargo,
- Industrial dispute lasting more than 6 weeks and not culpably brought about by the Contracting Party,
- Technical issues of the Internet that cannot be influenced by the Contracting Party; this shall not apply if and to the extent that SEW also offers the telecommunications service.

10.3. Each Party shall notify the other Party without undue delay in text form of the occurrence and discontinuance of force majeure circumstances.

10.4. The Parties may terminate this Contract with two weeks' notice if a force majeure event lasts longer than two months and an amicable adjustment of the Contract cannot be reached. At the request of one Party, the other party shall declare after the expiration of such period whether it will exercise its right of withdrawal.

## 11. Liability

11.1. SEW shall incur unlimited liability for losses due to intentional or grossly negligent breaches of obligations, for losses due to a breach of a guarantee and for losses due to injury to life, body or health. The same shall apply if SEW has assumed a procurement risk. In the event of simple negligence, SEW shall only incur liability if essential obligations are breached which arise from the nature of the Contract and which are essential for the attainment of the contractual purpose. In case of a breach of such obligations, delay and impossibility, the liability of SEW shall be limited to losses which can be typically expected to occur within the framework of this Contract. SEW assumes that losses that can be typically expected to occur will not exceed the price of the agreed DriveRadar® IoT Suite services. In any case, the Customer shall expressly notify SEW if this assumption is not correct. Any mandatory statutory liability for product defects shall remain unaffected.

11.2. Insofar as liability on the part of SEW is excluded or limited, this shall also apply to the personal liability of the employees, workers, colleagues, representatives and vicarious agents of SEW.

11.3. DriveRadar® IoT Suite services are provided based on third party networks, services and/or components. SEW shall make all reasonable efforts to maintain the availability and/or connectivity required for service provision. SEW shall not be held liable for any failures or disruptions in the provision of services due to failures or other disruptions in the public telecommunications or transmission networks.

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## 12. Export Control

12.1. The Customer and SEW agree that the delivery and/or service or parts thereof, in particular the export and transit of goods, the transfer of technology, trade and brokerage transactions, technical support or the provision of economic resources, may be subject to German, European, US re-export law or other national applicable export control regulations (e.g. export control provisions relating to goods, persons, countries or uses) and financial sanctions (hereinafter referred to as "Export Restrictions").

12.2. The Customer and SEW undertake to comply with all applicable Export Restrictions. In particular, these include any regulations of the destination country. The Customer and SEW agree that deliveries and/or services that are subject to applicable Export Restrictions may be prohibited or subject to a permit. Should an applicable Export Restriction permanently prevent SEW or the Customer from fulfilling the Contract, both Parties shall have the right to cancel the delivery and/or service concerned or to terminate the Contract in full or in part.

12.3. Delays due to approval procedures on the part of competent export control authorities will extend the contractual fulfillment times accordingly; this shall apply to the delivery deadlines in particular.

12.4. Claims for losses due to authorities rejecting an application relating to Export Restrictions or due to a permit being issued late are excluded, unless this relates to losses due to injury to life, body or health or losses caused intentionally or gross negligently by one of the Parties.

12.5. The Contracting Parties undertake to co-operate in any permit proceedings. In particular, they shall provide the other party, upon request, without undue delay with relevant information/documents (e.g. end-use statements) required in the context of the application procedure.

## 13. Final Provisions

13.1. Unless otherwise agreed, the place of performance for all services of SEW and the Customer is the place of business of SEW in Bruchsal, Germany.

13.2. If the Customer is a merchant within the meaning of the German Commercial Code (*Handelsgesetzbuch*, HGB), a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Bruchsal, Germany. SEW shall also be entitled to bring a lawsuit at the place of business of the Customer, as well as at any other permissible place of jurisdiction.

13.3. German law shall apply exclusively to the exclusion of the United Nations Convention governing Contracts for the International Sale of Goods.

## Annex 1

### DriveRadar® IoT Suite Service Description

#### 1. DriveRadar® IoT Suite Service Description

The DriveRadar® IoT Suite is a system for condition monitoring of drive systems in industry. This Smart Service is available in two versions:

##### 1.1. DriveRadar® for Industrial Gear Units:

The DriveRadar® for industrial gear units consists of the following hardware and software modules:

- 1.1.1 Data source for collecting various machine data: Sensor technology
- 1.1.2. DriveRadar® EdgeProcessingUnit (EPU-IG) for forwarding the data collected by the sensors to the SEW Cloud,
- 1.1.3. Web-based DriveRadar® IoT Suite services, in particular algorithm-based analyses of the data transferred and provision of the results to the Customer via the DriveRadar® IoT App or a web application for desktop browsers.

##### 1.2. DriveRadar® IoT Suite for Applications:

The DriveRadar® IoT Suite for applications consists of the following software modules:

- 1.2.1 Data source for collecting various machine data: Frequency inverter from SEW or OPC UA Server
- 1.2.2. DriveRadar® SmartDataCollector software to collect and forward the data to the SEW Cloud
- 1.2.3 Web-based DriveRadar® IoT Suite services, in particular algorithm-based analysis of the data transferred and provision of the results to the Customer via a web application for desktop browsers.

The DriveRadar® IoT Suite does not replace any backup systems. The use of the DriveRadar® IoT Suite is only intended as a supplement to conventional backup systems and is not a redundancy for possible risk minimization.

The DriveRadar® IoT Suite is a cloud-based digital functionality available for use by registered users. The standard functions are: Collection, transfer, storage, processing and display of measurement data. The display can be made via a web browser or via the DriveRadar® IoT App. The DriveRadar® IoT Suite services include the following sub-services:

#### Visualization

Within the DriveRadar® IoT Suite, the Customer receives the following authorizations:

- Access to the DriveRadar® IoT Suite application via the browser or the DriveRadar® IoT App
- Visualization of the measured values and result values

#### Analysis

- Prior to the processing of data, standardization and conversion will take place so that the measured values from different sources and, if necessary, language regions can be used.
- SEW will perform an algorithm-based analysis of the raw machine data and
- Will make the results available to the Customer via the DriveRadar® IoT Suite.
- Based on the analysis, the Customer will receive a display of messages and possible causes of failure or anomalies of the registered hardware components (IG) or systems installed with the drive technology (for applications).

#### Storage

Various types of data are involved within the DriveRadar® IoT Suite. SEW shall provide the Customer with storage space for the data generated using the DriveRadar® IoT Suite and/or the data required to use the DriveRadar® IoT Suite. The DriveRadar® IoT Suite does not cover services in the area of:

- Advice on the integration of external systems
- Real-time evaluation
- Signals for an emergency system stop

The DriveRadar® IoT Suite services constitute services. In particular, they are not aimed at achieving specific results or a specific success in connection with the provision of services.

SEW shall be entitled to use subcontractors (e.g.: affiliated companies) to provide the service.



## 2. Data

The DriveRadar® IoT Suite services will be provided on the basis of the following data, data volume and storage modalities (data transfer to SEW systems is always a prerequisite):

### 2.1. Data volume in the DriveRadar® IoT Suite for Applications

The Customer will be given the possibility to adjust the transmission interval of the measurements (configuration). Depending on the configuration of the data recording a few KB to a few MB per day can occur per device/data source (e.g. inverter). The maximum permissible configuration of the data recording is defined in the order confirmation as the total for the plant.

SEW reserves the right to reject or to not process data exceeding this volume.

### 2.2. Storage period for the IoT Suite for industrial gear units

2.2.1. Basic Scope of Storage Period for Result Values: All result values can be accessed in the DriveRadar® IoT Suite for the entire term of the Contract. Result values means data resulting from the analyzed raw data.

These are, for example:

- Oil viscosity
- Trend values from the vibration raw data
- Forecast for remaining service life of components
- Forecast for oil durability and residual oil life
- Forecast for oil level

2.2.2 Contract Extension: If a follow-up contract will be concluded or an extension will be agreed during the term of the Contract, the storage period will be extended accordingly so that at least the result values of the last 5 years can be accessed.

### 2.3. Storage Period for the DriveRadar® IoT Suite for Applications

2.3.1 Storage Period and Availability for Analyzed measurement values. Analyzed measurement values means application data that have been converted, formatted and analyzed. These will be stored in SEW systems for at least 1 year from data entry. The measurement values of defined reference periods (usually the first 200 measurements) are excluded.

2.3.2 Storage Period for Result Values. Result values means data resulting from the analyzed measurement values. These are, for example:

- Statistical values of measurements (min, max, median, etc.)
- Custom KPI (key figures derived from measurements)
- Messages from the rule editor

These will be stored in SEW systems for at least 2 years from data entry. The measurement values of defined reference periods (usually the first 200 measurements) are excluded.

2.3.3 Reference Periods/Reference Devices: Analyzed measurement values and result values that lie in manually or automatically defined reference periods or come from reference devices will be available for the entire term of the Contract. This shall also apply if the Contract is extended during the term or replaced by a new contract.

2.3.4 Extended Storage Period: Longer storage periods may be agreed upon on the basis of a separate written agreement between the Customer and SEW.

2.3.5 Contract Extension: If a follow-up contract will be concluded or an extension will be agreed during the term of the Contract, the storage period will be extended accordingly so that at least the measurements of the last 12 months can be accessed.