

# Socratec Telematic GmbH – SocraMapCenter (SMC)

## Terms and Conditions

Edition: 09-2007

### 1. Preface

The following terms and conditions sets forth the principles that govern the use of services of SocraMapCenter – SMC named hereinafter – between the customer and Socratec Telematic GmbH, Jakobsweg 18, D-64625 Bensheim – SOCRATEC named hereinafter. The conclusion of the service contract is based upon the signatory of a SMC-contract form by the customer and acceptance by SOCRATEC, on the subject to grant access to the SMC website for the customer.

### 2. Service Description

SOCRATEC is the developer and operator of the SMC, and offers a customers specific 24 hours service by means of a fully automated electronic data processing (EDP) system based upon Server Technology. The SMC looks like an Internet site to the customers, displaying SMC information, on which the SMC system control takes place.

The SMC receives position data from GPS/GSM Telematic-devices via GPS satellite positioning, and displays the data in real, plain text and graphical represented on the SMC website. In addition, the SMC can send positions and communications by means of SMS text messages to a GSM mobile cell phone.

Reception of position data is as follows:

- automatic
- at freely configurable cycles and/or conditions
- manually via position request

Customers obtain access to the SMC by means of:

- a computer connected to the internet, using a suitable browser software to display the SMC website on the monitor.
- a GSM-mobile phone with Internet access, and the ability to send and receive automatic generated SMS text messages from the SMC.

SOCRATEC provides the following services within the agreed duration of contract:

- The SMC service is aimed at, to receive, automatic analyse, store, and process transmitted data from GPS/GSM Telematic-devices, in order to transmit the data to customers.
- Manual request of position data are started from the SMC website by the customer. The requested position is automatically processed and the calculated tracked position displayed on the SMC website.
- In certain occasions, automatic request of position data can be set according to customers specific settings. Configuration of automatic request of position data is carried out by the customer through transmission of configuration commands to GPS-GSM Telematic-devices.
- Incoming information to the MSC from a GPS-GSM Telematic-device containing data formats supported by the MSC, are automatically analysed and displayed as a real position on a digital roadmap for the customer on a password protected accessible website.

SOCRATEC reserves the right for purpose of system improvements or considering technical changes, to modify the system without prior notice.

### 3. Demarcation of the Contractual Item

The GPS-GSM Telematic-devices required for communication with the SMC, shall not be an integral part of the contract, neither are charges and costs of Internet access to the SMC used by the customer.

The costs of mobile communication on part of the GPS-GSM Telematic-device (basic charges, SMS fees etc.) are not an integral part of the SMC.

### 4. Customer Access

The following requirements and conditions must be fulfilled by the customer:

- The customer shall use an Internet access of minimum DSL 2000 and a suitable browser software (e.g. Mozilla Firefox ) to access the SMC. In case the Microsoft Internet Explorer is used, all functions and features can not be guaranteed.
- SOCRATEC shall transmit confidential SMC access data (Username, Password, and graduated access rights), after signing of the contract. The customer shall be entitled to use the SMC with his personal access data.
- Special care shall be exercised and the necessary precautions taken to ensure that access data are not revealed or made accessible to unauthorized third parties.
- If misuse of access to the SMC by others is discovered by the customer, using his personal access data, the customer shall immediately notify SOCRATEC in writing. In this case, SOCRATEC shall reallocate new access data to the customer, however, under deduction of a corresponding administrative fee.

### 5. Contract Period, Cancellation

The contractual relationship will be entered into a period of 24 months, and commences on the date as agreed by both parties. Activation delays caused by the customer (due to missing SIM cards, delay in financing or payment for devices, etc.), shall not however release the customer from payment liability for the SMC.

The contractual relationship shall be automatically renewed for 12 months, unless the contract has been terminated by giving not less than three months notice before the end of the current contract length by registered letter.

In case of fundamental, outstanding reasons (e.g. continuing delay in payment, insolvency), SOCRATEC shall be entitled to terminate the contractual relationship without a period of notice.

The customer shall be granted and reserves the right to terminate the contractual relationship without terms of notice, in case objective, outstanding reasons are foreseeable that shows that SOCRATEC is unable to provide the service and continue operation of the system. Temporary disruptions or system breakdowns shall not legitimate to terminate without notice.

If the SMC-usage tariffs are increased by more than 10% during the contract period (see § 7), the customer shall be legally entitled to an extraordinary notice of cancellation. Thereupon, the customer will be entitled to terminate the SMC service contract at month's end with 14 days notice, with effect to the preceding month when the increase becomes effective.

### 6. Billing

On conclusion of the contract, the SMC activation fee for the first month shall be due immediately. Invoicing of the monthly calculated fees is carried out in advance per invoice as follows; – twice per year for vehicle fleets up to 20 vehicles, calendar quarterly for vehicle fleets up to 50 vehicles, once a month for vehicle fleets of more than 50 vehicles, based on the valid usage tariffs for SMC services, and the accumulated quantity of send SMS messages and position requests, in the previous billing period. Any differences of the terms of payment must be agreed in writing.

Billing is made by SOCRATEC based on EPD (Electronic Data Processing) generated customer log protocols. Position requests or text messages are considered as commercial settled, once the SMC has successfully transmitted these items to the GSM-mobile network (log protocol).

Position responses or text messages are considered commercial settled, when the SMC receives messages from the GSM-mobile network of SMC supported data formats (log protocol).

In the event the SMC Internet access has been suspended. (see §7), the customer shall not in any way be released from payment liability of the charges incurred.

In the event of a temporary technical disruption of the system or system breakdown, the customer shall not in any way be released from payment liability of the charges incurred.

Objections against SOCRATEC imposed fees, can be submitted to SOCRATEC within two weeks in writing from the respective date of invoice.

## Socratec Telematic GmbH – SocraMapCenter (SMC)

### Terms and Conditions

Edition: 09-2007

#### 7. Change of Usage tariff

Usage tariffs are hereby expressly subject to changes. In the event usage tariff changes are expected, SOCRATEC shall inform the customer in writing with at least four weeks notice. The changes become effective on the first day of the next succeeding month. In this context, it is pointed out to the existing extraordinary termination rights, as outlined in § 5.

#### 8. Disclaimer

SOCRATEC shall not be liable in conjunction with the SMC service, in particular not:

- for reasons that SMS messages send via the mobile phone network, are delivered to the GPS-GSM Telematic-device within a certain period of time.
- for reasons that SMS messages released by position requests and send by the GPS-GSM Telematic-device, are delivered to the SMC within a certain period of time.
- for any mobile network communication fees incurred, as a result of configuration and operating errors, or faulty GPS-GSM Telematic-devices.
- for any failures or breakdowns of the GSM radio network and/or GPS satellite system, due to force majeure which is beyond the control of SOCRATEC. Under these circumstances SOCRATEC will be exempted from any corresponding liability.
- for any incorrect display of SMC data /information on the computer monitor of the user, due to hardware and software related configuration of the user computer, which are beyond SOCRATEC's control.
- for reasons that GPS satellite positioning and GSM localization result inaccurate determination of position, because position accuracy at the time of localization of the requested positioning data is primarily dependent on the utilized GPS system and the actual radio reception conditions, as well as the territorial GSM radio cell density.
- for any accruing communication fees to the Customer (SMS messages and data-call on the GSM network)
- for differing communication fees, e.g. changing the GSM provider, national or international roaming automatic released position requests.
- for any damages and/or losses to the customer, caused by SMC usage.
- for any indirect or consequential damages (e.g. any lost profits, lost savings)
- for any costs resulting from improper handling of the customer access data, which enable unauthorized users access to the SMC and misuse of position requests causing corresponding communication costs.
- in case of temporary technical disruptions of the system, irrespective of the reason.
- for any failures or breakdowns of the GSM radio network and/or GPS satellite system, due to force majeure beyond SOCRATEC's control. Under these circumstances SOCRATEC shall not be liable for such reasons.

#### 9. Temporary Suspension

SOCRATEC reserves the rights to suspend the Internet access of the customer to the SMC, in case:

- the customer delay in payment exceeds two monthly user fees.
- a direct debit of user fees is not dishonoured or re debit, for reasons to be stated by the customer.

The customer shall be charged for any expenses incurred, concerning suspension and re-activating of the SMC Internet access.

#### 10. Data Protection

SOCRATEC and the necessary cooperating companies for ensuring compliance, operate the SMC and service to the customer based on the respective applicable provisions concerning privacy policy.

The customer shall permit SOCRATEC and the necessary cooperating companies for ensuring compliance, to collect, process and use personal information (*account data, localization data, usage data*) as far as appropriate, to facilitate the use of the SMC service to the customer.

The customer shall declare to SOCRATEC that members of staff shall give the necessary consent to pass personal and location-based data for provision of SMC service, i.e. a corresponding operation agreement is made respectively, to facilitate localization of GPS-GSM Telematic-devices which are installed at those members of staff.

The customer shall be obligated to comply with legal requirements regarding the use of SMC localizing information, as well as to commit any members of staff correspondingly.

Distribution and/or sharing of SMC position information to any outside third parties is not allowed.

All data, received and/or send by the SMC to the customer, will be automatically deleted after 90 days by the electronic data processing (EDP) system of SOCRATEC and the corresponding cooperating companies.

#### 11. Verbal Agreements

Verbal agreements of this contract shall be in writing and signed by both parties (SOCRATEC and the customer, to guarantee the effectiveness of the contract.

#### 12. Severability Clause

Should any of the terms of the present contract become invalid, in whole or in part, both parties shall make the quickest possible effort to replace it by a similar valid term. The validity of the remaining agreement, however, shall remain valid and unaffected.

#### 13. Court of Jurisdiction

All legal relationships, between SOCRATEC and the customer shall be governed by German law. Place of jurisdiction is Bensheim.

Socratec Telematic GmbH  
Jakobsweg 18  
D-64625 Bensheim, Germany  
[www.socratec.de](http://www.socratec.de)

**NOTICE:** This English translation of the Terms and Conditions is provided solely for the convenience of customers. The translation is not binding on SOCRATEC. The original German version is the sole authoritative version and prevails in case of any conflict.