

## **TKS Cable Phone**

### **General Terms and Conditions**

On the basis of a cable connection TKS Telepost Kabelservice GmbH & Co. KG, Altes Forsthaus 2, 67661 Kaiserslautern (called TKS in the following) provides customer access to a telephone service with the product name TKS Cable Phone.

The following General Terms and Conditions, the price list as well as the applicable service specifications, which become part of the contract, apply.

#### **1. Prerequisites for Utilizing the Services**

1.1 TKS accepts only natural adult persons as customers.

1.2 TKS services can only be utilized if customer's premises have access to the TKS multimedia cable network.

#### **2. Conclusion of Contract**

The contract is concluded if customer fills out the applicable order form or orders the service via telephone. Contract is deemed concluded after TKS has accepted or confirmed the order, at the latest after the service has been provided.

#### **3. Scope of Service**

TKS provides the following services:

3.1 Access to the TKS Telephone Service.

The scope of the contractual services ensues from the Service Specifications and the contractual partners' stipulations concerning these Specifications.

3.2 For the connection of the telephone terminal equipment to the cable connection, an MTA (Multimedia Terminal Adapter) is required. Only equipment approved by TKS may be used. TKS offers MTA equipment for sale in its TKS Shops.

3.3. Availability

The average annual availability of the services provided by TKS is at least 97.5 %. TKS is not obliged to provide any availability beyond this figure. TKS is entitled to interrupt the service temporarily, limit its duration or discontinue service partially or on the whole, if this is necessary for reasons of public security, legal provisions, for reasons of network security operation, for keeping up network integrity, for reasons of data security or the implementation of works which are necessary for operational or technical reasons. Furthermore TKS would like to call attention to the fact that the provision of services may depend on the utilization of third party transmission paths and technical equipment. TKS does not assume any warranty for service impairments caused by third party transmission paths and equipment.

3.4 TKS provides a monthly bill. Upon customer's request an itemized bill may be provided.

#### **4. Customer's Obligations and Responsibilities**

Customer has the following responsibilities:

4.1 The agreed prices according to the price list are to be paid within the agreed payment period. Costs for bounced checks or returned direct-debit orders have to be paid by the customer to the extent that customer can be made responsible for the event that caused the costs.

4.2 At customer's own costs customer has to provide TKS service personnel access to customer's premises and buildings to the extent that this is necessary for the implementation of tests, respectively installation and maintenance works.

4.3 Electric energy for installation, operation and maintenance and, if necessary, the required potential equalization and connected grounding are provided by the customer at customer's expense.

4.4 The provided access must not be abused e.g. by making threatening or molesting calls. Furthermore it is not allowed to communicate information with illegal or morally offending contents to other callers or to inform others about such contents.

This includes all information with the purpose of incitement to demagoguery, instructions how to commit criminal acts or information which glorifies or minimizes violence or is sexually offensive in the sense of §§ 130, 130a and 131 StGB, contents which are pornographic in the sense of § 184 StGB or may be morally harmful or damaging to children and teenagers or might harm the reputation of TKS.

4.5 TKS has the exclusive right to perform maintenance and modification works at customer's access.

4.6 Telephone network components must not be utilized in an excessive way which may result in an overload of the access. This applies especially to free calls within the TKS network – permanent connections are not allowed and may be cut off by TKS, if necessary.

4.7 Call numbers with geographic reference may only be used at the location where they were assigned. TKS must be notified immediately of any move involving a change of MTA location. In case of non-compliance TKS has the right to cancel the access immediately. In this case TKS also rules out any and all liability regarding misdirected emergency calls.

4.8 Before the utilization of call forwarding it must be ensured that the owner of the access to which calls are to be forwarded to agrees.

4.9 Customer agrees to keep Personal Identification Numbers (PINs) secret and to change them resp. have them changed by TKS immediately after customer suspects that unauthorized third parties have gained knowledge of PINs.

4.10 Customer undertakes to pay all charges which have accrued by authorized or unauthorized utilization of the service by third parties, unless utilization was beyond customer's responsibility.

## **5. Fault-clearing**

5.1. A TKS hotline to report problems is available to customers every day.

5.2. If maintenance works with ensuing system impairments or interruptions are necessary, those will be performed in times with little traffic, as a rule during 9.00 and 11.00 am.

5.3. In the event that customer is responsible for the reported problem, e.g. if equipment has been operated incorrectly, TKS is entitled to charge extra for the costs arising to TKS.

## **6. Payment Conditions**

6.1. Starting with the day of operational provision, monthly charges are to be paid on a pro rata basis for the remaining month. Thereafter monthly charges are to be paid one month ahead of time.

If the price is to be calculated for parts of a calendar month, the exact number of days for which the service is used will be calculated.

6.2 Other charges, especially connection charges, are to be paid after provision of the service.

6.3 TKS is entitled to monitor the accruing connection charges on a permanent basis. If a certain threshold value has been reached, customer may either be notified or access may be disconnected. This is a protective measure for both TKS and the customer.

## **7. Exclusion of Complaints**

Complaints regarding the amount of utilization charges or other utilization-dependent TKS prices have to be made in writing immediately after receipt of bill. Complaints to TKS must be received by TKS within eight weeks after invoice date. If complaints are not made in time, the bill is deemed accepted by customer. The customer's legal claims in connection with complaints remain unaffected and can still be made after expiration of the time limit.

## **8. Late Payment**

8.1 If customer is at least 10 Euro in arrears with payments and no security deposit has been made, TKS may block customer's access according to § 45k TKG at customer's expense. In this case customer's obligation to pay monthly charges remains unaffected.

8.2 If customer is in arrears

a) with the payments or a substantial part of the payments for two consecutive months or  
b) is in arrears with payments for more than two months, but the amount due corresponds to the monthly rates for two months, TKS has the right to terminate the contract without notice.

8.3 TKS' right to make further claims due to default of payment remains unaffected.

8.4 If TKS is in arrears with the services to be provided, liability is governed by the provisions of the Telecommunications Customer Protection Regulation (TKG). Customer only has the right to cancel the contract if TKS does not comply with the minimum grace period of two weeks set by the customer.

## **9. Cancellation**

9.1 The contractual relationship concerning the standard services as well as the contractual relationships for Additional Services may be terminated by both contract parties at the end of each working day. The termination must be made in writing and TKS or customer must receive termination at least six working days before it is to go into effect. Saturday is not considered a working day.

9.2 In special cases it is possible for customer to terminate the contract immediately without notice. In this case TKS is entitled to invoice an additional charge.

9.3 In case customer terminates the contractual relationship earlier than one month after operational provision, customer has to pay the full monthly rate.

9.4 In the event that customer terminates the contractual relationship before the operational provision of the access or before provision of additional services has taken place or agreed modification works have been performed, customer has to reimburse TKS for works performed up to that point of time as well as for the deinstallation of already installed telecommunications equipment.

9.5 By terminating the contract on standard services, the contract regulating additional services will also be terminated.

## **10. Other Provisions**

10.1 If customer uses the contractually agreed services as provider of telecommunications services for the public, the „Additional Conditions for Providers of Telecommunications Services for the Public“ will apply.

10.2 Customer may only assign rights and obligations of this contract to a third party after prior written approval by TKS.

10.3 The provisions of the Product Liability Law remain unaffected.

10.4 The contract parties' contractual relations are governed by German law.