

TKS easyConnect Entertainment General Terms and Conditions

1. Contract Partner

Contract partners are TKS Telepost Kabel-Service Kaiserslautern GmbH & Co. KG (called TKS in the following), Altes Forsthaus 2, 67661 Kaiserslautern (Amtsgericht Kaiserslautern HRB 2682) and the customer.

2. Subject Matter of the Contract

The subject matter of the contract is specified in these General Terms and Conditions as well as in the regulations set out in the specifications and price lists, which regulate the provision of easyConnect Entertainment in connection with an Internet access on the basis of a basic cable connection from TKS.

The easyConnect Entertainment contents are intended for private use only and must not be used for any commercial purpose or rebroadcast to the public. (Exception: TKS has concluded a contract with the respective operator and explicitly approves such usage). The TKS easyConnect Entertainment is only provided in selected areas.

3. Conclusion of the Contract

The contract request is made by the customer by filling out the applicable order form or ordering the service via telephone. The contract is accomplished after TKS has accepted or confirmed the order, or at the latest after the service has been provided.

4. Specification of performance

TKS provides the following services for the product TKS easyConnect Entertainment

4.1 Internet access

TKS provides access to the internet via customer's basic cable connection according to the customer's request in combination with, specifications, price list, and the general terms and conditions.

There is a Homespot modem pre-installed in all on-base locations therefore a MTA is not required. The Homespot Modem is property of TKS.

4.2 TKS special offers

TKS reserves the right to offer special reductions or free monthly service for their products and services.

The products and services will be charged at standard price after the expiration of the special offer duration. In both of these cases it is the customer's responsibility to cancel 6 working days prior to the end of the special offer duration. If the customer neglects to do so, the service will be continued and the standard price will be charged.

4.3 Availability

The average annual availability of the services provided by TKS is at least 97%. 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.

4.4 TKS provides a monthly invoice that is itemized. For the flat rate specifications there is no itemized information provided. Principally the invoice is delivered via e-mail. On customer request an invoice in paper form is possible for an additional surcharge.

5. Customer's obligations and responsibilities

Customer has the following responsibilities:

5.1 The agreed prices according to the price list are due immediately after the invoice was generated and have to be paid promptly. Costs for returned direct-debit orders, or returned credit card 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.

According to the price list TKS will charge a late fee for payments received lately.

5.2 The customer has to provide TKS service personally or the contractor that are delegated from TKS the access to their premises and buildings to the extent that this is necessary for the implementation of tests, respectively installation and maintenance works at their own cost.

5.3 TKS or the contractors that are delegated from TKS have the exclusive right to perform maintenance and modification works at customer's access.

5.4 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.

5.5 TKS must be notified immediately in writing of any change of personal contract data (e.g. names, address, bank connection, e-mail address).

5.6 Customer agrees to protect Internet access as well as other services provided via basic cable connection from unauthorized third party access, e.g. by using a computer password.

5.7 Personal access data (e.g. password) must not be passed on to third parties and have to be kept at a safe place, where they are inaccessible to third parties. For safety reasons they should be changed, when they are first used as well as in regular time intervals thereafter. If customer has reason to believe, that unauthorized persons have obtained knowledge of the access data, they shall modify them immediately. Access data may only be stored on electronic storage media (e.g. PC, USB-Stick and CD-ROM) in encrypted form.

5.8 To take all reasonable safety measures, to exclude an unauthorized third party usage of the terminal equipment (For example, third-party usage of wireless routers).

5.9 Internet usage must not be utilized in an excessive way which may result in an overload of the access. The Flat rate offer is addressed to customers with private usage profile. Furthermore customer agrees not to use the Internet access to operate a server.

5.10 Customer also agrees not to interfere with, modify or damage the TKS network or other networks.

5.11 Customer agrees to deny young people under 18 accesses to offers which are liable to have an undesirable influence on young people's moral development.

5.12 Customer agrees not to abuse TKS services and, as far as utilization of TKS services is concerned, to comply with general laws, especially penal laws and notably trade

practice rules etc. and to comply with third party rights, notably copyright laws, licence rights, utilization rights etc.; also customers must make sure that contents posted via customer's Internet access or otherwise made available do not infringe upon third party rights and are not punishable by law, morally offensive or in any way illegal; the customer is responsible for any and all contents transmits via internet access or otherwise transmitted contents (e.g. e-mail, newsgroups, chat services etc.)

5.13 To ensure by the installation of appropriate software on their device that there is always a updated protection against viruses, worms, Trojan horses as well as to prevent access by third parties via the Internet on data stored in the terminals by using a firewall or similar.

5.14 The customer agrees not to utilize the services agreed upon with TKS for business purposes or to make these services available to third parties in customer's own name and at customer's expense.

5.15 The customer commits themselves to take over all charges which have accrued by authorized or unauthorized utilization of the service by third parties, unless the utilization is verifiable that it was beyond customer's responsibility.

The customer commits themselves to refrain from the following:

5.15.1 Dispatch of unwanted advertising e-mails, junk emails, other unwanted messages, so-called mail bombs etc. to individual persons, distribution lists or several news groups (Spamming),

5.15.2 Faking of sender information or other header information.

5.15.3 Collecting information on persons and their e-mail addresses without owners' consent.

5.15.4 Access to a resp. sampling of an operating system and/or network (Scanning) and unauthorized monitoring of data traffic flows without owner's consent.

5.15.5 Utilization of external mail servers (relay) for the dispatch of messages without owner's consent.

5.15.6 Distribution of viruses, worms, Trojan horses etc.

5.15.7 Making equipment provided by TKS available to unauthorized third parties outside customer's own premises or other contractually agreed premises.

5.15.8 To make possible juvenile access to youth-endangering offers.

6. Liability of TKS

6.1 For damage resulting from the provision of telecommunication services to the public, TKS liable under the provisions of the Telecommunications regulation.

6.2 In addition is TKS absolute liable for all damages caused by intent, gross negligence or lack of guaranteed properties.

6.3 In cases of slight negligence, TKS liable in case of injury to life, body or health. If TKS is due to slight negligence in default with their performance, or when the provisioning of service has become impossible, or if TKS has breached an essential obligation is the liability of thereby caused property- or financial damages limited to the contractual typical foreseeable damages. A significant obligation is an obligation in which such fulfillment makes the due performance of the contract possible in the first place, which jeopardizes the achievement of the purpose of the agreement and on observance the customer may duly relay.

6.4 For the loss of data is TKS only liable in case of slight negligence under the conditions and within the scope of clause 6.3 if the customer has backed up its data at

appropriate intervals, in an appropriate form so that they can be recovered with reasonable effort.

6.5 The liability for all other damages is excluded, in particular for data loss or hardware failures caused by incompatibility of existing components on the customer's PC system with the new or modified hard- or software and responsible for arising system disorders caused by existing misconfigurations or old, disruptive, or not completely removed drivers. The liability under the provisions of the Product Liability Act shall remain unaffected.

7. Disturbance clearance

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

7.2 If maintenance work is necessary which can cause interference or interruptions, they will be performed in off peak times where there is little traffic.

7.3 In the event that customer is responsible for the reported problem, e.g. if equipment has been operated incorrectly or installed incorrectly, TKS is entitled to charge the customer extra for the expenses incurred to TKS in a separate invoice.

8. Payment conditions

8.1 The monthly charges start with the operational access and are pro rated based on the remaining monthly time frame. 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.

8.2 Upon conclusion of contract TKS may ask for a security payment. This security payment will be reckoned against the customer's final bill after termination of the contract.

8.3 Principally the invoice is delivered via email to the customers specified email address. The customer is obligated to retrieve regularly the invoice data. Only when explicitly requested can the customer receive for a small additional surcharge a paper invoice delivered. The additional surcharge for the paper invoice can be found on the price list for TKS easyConnect Entertainment.

8.4 Payment of charges can be made via direct debit, bank transfer, credit card direct debiting, or online payment. If the customer has chosen as payment for TKS invoice an automatic bank withdrawal the payable invoice amount will be deducted from the provided account. The automatic withdrawal takes place earliest 10 days after the issued invoice. If the customer has an online payment account, the invoice shall be considered received when it is in the customer's account is available. Costs for returned direct-debit orders or credit card debiting have to be paid by the customer to the extent that customer can be made responsible for the event that caused the costs.

9. Objections

Objections regarding the amounts of fees charged by TKS are to be submitted to TKS immediately after the bill has been received. Complaints must have been received by TKS within six weeks after receipt of bill. If no objections are made in time, this is regarded as acceptance; on its bills TKS will point out the consequences if customer fails to raise objections in time. Customer's other legal claims for complaints after the deadline shall remain unaffected.

10. Amendments of the General Terms and Conditions, Specifications and Prices

10.1 The General Terms and Conditions may be amended, provided that this does not affect essential provisions and regulations of the contractual relationship and that

amendments are necessary to be able to adapt to developments which could not be foreseen at the time when the contract was concluded and which would lead to a noticeable imbalance of the contractual relationship. Essential provisions are, in particular, those that deal with the type and scope of the contractually agreed services and the contract term including the termination provisions. Furthermore adjustments or amendments to the General Terms and Conditions may be made to the extent that they are necessary for the elimination of problems in performing the agreement due to gaps in the provisions that have arisen after the conclusion of the contract. In particular this may be the case if legal provisions are changed and one or several clauses of these General Terms and Conditions are affected hereby.

10.2 Specifications may be amended for valid reasons as long as customer is not subjected to any considerable disadvantage compared to the situation as it was when the contract was concluded (e.g. maintenance or improvements of functionalities) and if amended specifications do not deviate significantly from the original specifications. Valid reasons exist e.g. if technical improvements to the services owed under the agreement are available on the market or if third parties contracted by TKS for advance services necessary for the provision of its services change their service offer.

10.3 The agreed prices may be raised to compensate for cost increases. This is e.g. the case if third parties contracted by TKS for advance services necessary for the provision of its services owed under the agreement increase their prices or if such price increases are required by the Federal Network Agency due to regulatory measures.

10.4 If TKS intends to change the General Terms and Conditions or the Specifications or to raise the prices according to paragraphs 10.1 to 10.3, customer must be informed about these changes in writing at least six weeks before they are to go into effect. At the effective date of the changes customer shall have the exceptional right to terminate the contract. If customer does not terminate the contract in writing within six weeks after having been informed about the intended changes, the changes shall become part of the contract at the same time when they go into effect. The customer shall be explicitly informed of this consequence in the change notification.

11. Default

11.1 If customer is in arrears with at least one monthly payment, TKS has the right to block the TKS easyConnect Entertainment service at customer's expense. In this case customer remains obliged to pay the monthly fee.

11.2 If customer is in arrears with the payment of fees or a considerable part thereof for two consecutive months or over a period of more than two months, customer is in arrears with the payment of monthly fees to the amount corresponding to the monthly basic price for two months, TKS is entitled to terminate the contractual relationship without notice.

11.3 TKS reserves the right to assert any other claims arising from a default in payment.

12. Termination

12.1 The products TKS easyConnect Entertainment are terminable daily. The termination must be made in writing.

12.2 In the event that customer terminates the contractual relationship before the operational access or before the access of additional services has taken place or agreed modification works have been performed, the customer must reimburse TKS for the work performed up to that point of

time as well as for the deinstallation of already installed telecommunications equipment which has become necessary due to the cancellation, however the amount can not be higher than the price which was agreed upon before activation or modification.

12.3 By terminating the contract on standard services, the contract for additional services will also be terminated.

12.4 In case TKS terminates the contractual relationship because of outstanding payments the access may be reactivated within a dedicated time frame which depends on the used customer care and billing system. Prerequisite for the reconnection of the access is the complete payment of all owned amounts inclusive any additional fees TKS may charge in these cases for a reconnection. TKS is entitled to collect a security deposit in cases of reactivation. The security deposit amount is determined by the default amount that resulted in termination. After the case has been transferred to a collection agency is a reactivation no longer possible.

12.5 TKS reserves the right to charge customers a processing fee at contract termination.

12.6 Regardless if the termination of contract is requested or executed from the customer or TKS, TKS is allowed to deduct from the available credit card or bank information all outstanding invoice amounts and processing fees via credit card or bank debiting.

13. Final invoice

Detailed final invoice

The customer will receive with the next billing cycle a detailed final itemized invoice. A request for a detailed final invoice is only possible when the customer leaves TKS a forwarding address for the invoice as well as a request for automatic withdrawal from their bank account or credit card for the invoice amount.

14. Move

The customer is obligated to inform TKS when possible two weeks in advance about any upcoming moves and to relay the new address. If the customer requests at the new location again TKS easyConnect Entertainment, TKS strives punctually to provide service at the new location presuming that all the technical requirements are given.

Is no service requested from the customer on the new location, is the new address only used for the delivery of the final invoice.

15. Privacy Information

Help us to protect your personal data. Use your data protection rights. You do not want us to use your data for promotional purposes? Then we will change this in accordance with your wishes. You want to know which data we hold on file about you. Or your contact details need amending? Simply get in touch with us. Learn more about privacy at TKS on www.tkscable.com/privacy.

16. Other conditions

16.1 Customer shall have the right to transfer the rights and obligations arising from this contract to a third party, only with the prior written consent of TKS.

16.2 The provisions of the Product Liability Law remain unaffected.

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

16.4 TKS is entitled to make changes in the Price, Specification, or the General Terms and Conditions. Changes are published under www.tkscable.com/agb.

Upcoming changes will be indicated in a timely manner on the monthly invoice.

16.5 The customer explicitly renounces the special delivery of changes as a written statement.

The changes are considered approved, if the customer does not contradict in written or e-mail form. The contradiction must be received within a four weeks period after the notification date. Exercises the customer their right of objection, both parties have the right the contract to cancel in written form within the respectively existing deadlines.

16.6 Place of performance for the service is Kaiserslautern.

16.7 Place of jurisdiction and governing law: If the customer is a merchant, legal entity of public law or special fund under public law, or is without general national place for this contract the place of jurisdiction is Kaiserslautern.

16.8 If any provision of these General Terms and Conditions are or become completely or partially invalid, the validity of the remaining provision will remain unaffected. In such a case, the contract participants are obliged to participate in the conclusion of provisions in which the solution shall be achieved to be a legally valid result that comes as close as possible to the commercial intent of the invalid provision.