

## TKS easyConnect Entertainment General Terms and Conditions

TKS Telepost Kabel-Service GmbH, Altes Forsthaus 2, 67661 Kaiserslautern, Germany (hereinafter referred to as "TKS") provides the customer ("customer") with Internet access on the basis of a basic cable connection from TKS. This product is further referred to as "TKS easyConnect Entertainment".

These General Terms and Conditions also apply if TKS provides its services on behalf of the Army & Air Force Exchange Service ("The Exchange"), Dallas, Texas 75201, United States, phone +1-214-312-3300, [www.shopmyexchange.com/](http://www.shopmyexchange.com/). In this case, the customer of The Exchange confirms his/her knowledge of The Exchange's Terms and Conditions for this contract, available at:

[www.shopmyexchange.com/customer-service/terms-and-conditions](http://www.shopmyexchange.com/customer-service/terms-and-conditions), that will be part of the customer's contract with The Exchange. In addition to this complete version of the TKS easyConnect Entertainment General Terms & Conditions, the customer of the Exchange hereby accepts the TKS service specifications, and the applicable TKS price list that can be found at: [www.tkscable.com](http://www.tkscable.com). In case of any conflict between The Exchange's Terms and Conditions and the TKS General Terms and Conditions, the TKS service specifications or the TKS price list, the TKS General Terms and Conditions, the TKS service specifications and the TKS price list shall prevail. For the avoidance of doubt, the term "TKS" in these General Terms and Conditions means for these costumers "TKS on behalf of the Exchange."

These General Terms and Conditions, the TKS price lists, the TKS service specification, general terms and conditions of Deutsche Telekom AG form integral parts of the contract. Telecommunications law (in particular the German Telecommunications Act TKG) always applies, even if the General Terms and Conditions do not explicitly referred to it, and even if it is not mentioned explicitly.

### Data Privacy Notice (GDPR)

TKS protects your personal data according to the EU's General Data Protection Directive ("GDPR") and its German implementation laws and regulations. The GDPR provides you, the data subject, with certain data protection rights, such data access, a right to have data be rectified, a right to processing restrictions, data erasure, data portability, etc. In particular, TKS will only process your personal data for promotional purposes for related products and services of TKS with the possibility for you to opt-out at any time. The TKS Privacy Policy and the TKS Privacy Statement are both available at [www.tkscable.com/privacy](http://www.tkscable.com/privacy). Please do not hesitate to contact us if you have privacy-related questions.

### 1. Prerequisites for utilizing the services

- 1.1. TKS accepts only natural adult persons as customers.
- 1.2. TKS services can only be deployed or used if customer's premises have a telephone outlet such as a multimedia outlet or a comparable access to TKS- cable network, and TKS finds after a technical examination a basic cable connection with a sufficient bandwidth can be installed.

### 2. Entering into a contract

The customer makes the contract request by signing the applicable order form or ordering the service via telephone. The contract is only concluded once TKS accepts or confirms the order, or at the latest after the service is actually provided.

### 3. VAT exemption

TKS will automatically provide VAT relief on behalf of The Exchange to the extent that the customer is a US Department of Defense ID cardholder who qualifies for a foreign tax exemption under NATO Status of Forces Agreement (SOFA). Customers with this status are only US military, US civilian employees, and dependents living in Germany on orders. If the customer does not have SOFA status, the services will be charged with the applicable German value-added tax (VAT-Umsatzsteuer). Third party services are not VAT-exempt. Their VAT charges will be fully passed on to the customer. If you have any VAT-related questions, please visit your local TKS shop, contact the TKS hotline (in Germany 0631-3522-499) or visit the TKS website at [www.tkscable.com/service/vat-relief/](http://www.tkscable.com/service/vat-relief/).

### 4. Service specifications on the performance by TKS

TKS provides the following services for the product TKS easyConnect Entertainment:

#### 4.1. Internet access

TKS provides access to the internet via the customer's basic cable connection according to the customer's request in connection therewith, its service specifications, price list, and the general terms and conditions. TKS determines the connection type based on the technical capability at the requested location and the requested contract. There is a Homespot modem pre-installed in all on-base locations and thus a MTA is not required. The Homespot Modem is and remains the property of TKS and the customer is held liable for removal of it or any damage inflicted on it.

#### 4.2. Terminal equipment

4.2.1. If the customer purchases terminal equipment via TKS, this terminal equipment will remain TKS's property until it is completely paid. In the event of product deficiencies TKS has the right to cure the deficiency by a supplementary performance (depending on the remedy chosen by the customer), unless this type of supplementary performance can only be provided at excessively high costs and if the supplementary performance does not result in major disadvantages for customer. In the event of a product deficiency, TKS has the right to provide the customer with a replacement product serviced by manufacturer that can be classified as good as new. The decisive factor for this determination is that the equipment is fully operational.

4.2.2. If TKS offers equipment for leasing during the usage of TKS easyConnect Entertainment service, this equipment remains the property of TKS. Customer is obliged to treat such equipment, packaging, all provided accessories with reasonable care. After the termination of the contract, the customer will be obliged to return the equipment, the original packaging and all accessories that were supplied with the equipment to TKS at customer's own costs and risk, promptly and in a state and condition that enables TKS to rent out the equipment again with its original packaging and with all accessories. All not returned and / or damaged items will be charged according to the current price list. TKS will only be liable for defects of the reception equipment that may occur during the leasing period that are not a result of improper treatment. Any replacement of damaged or destroyed equipment during the use of TKS easyConnect Entertainment service may take place at the customer's request and – provided that TKS is not responsible for the damage or destruction at the customer's expense.

4.2.2.1. Rental equipment may vary in price according to model and technical availability.

4.2.2.2. In cases where the rented equipment is stolen or lost, the customer will be held fully liable for any missing equipment. In these cases, TKS is entitled to charge the actual manufacturer suggested retail price (MSRP) for stolen or lost equipment.

4.2.2.3. Changes made to the existing connection (e.g. move, reconnection, etc.) may require the use of a different leasing model which may trigger a higher leasing price.

4.2.3. Whenever the customer makes technical changes to the terminal equipment or modifies it, or installs software that TKS has not (pre-)approved, the customer (and not TKS) will be fully liable, to the full extent provided by applicable law, for the consequences of his / her action.

#### 4.3. TKS special offers

TKS reserves the right to offer special reductions, or higher connection speeds, 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 the service within 6 (six) working days prior to the end of the term of the special offer. If the customer fails to do so, the service will automatically continue and the standard price will be charged.

Any change to a lower bandwidth is not possible in the form of a downgrade. Change to a lower bandwidth can only be processed by cancelling the present service (normal cancellation process applies) and reapplying for the new service (activation fee and interruption in service applies). If TKS offers services or bundles free of an activation fee, each service must be kept for 3 months. If any of these services are terminated before the 3-month period, the customer must reimburse TKS the full amount of the activation fees.

### 5. Availability

5.1. 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 safety,
- legal obligations or requirements,
- for reasons of network security operation,
- for ensuring network integrity,
- for reasons of data security, or
- for the implementation of works and maintenance necessary for operational or technical reasons.

Furthermore, TKS reminds the customer that the provision of services may depend on the utilization of third party transmission paths and technical equipment. TKS does not assume any warranty, neither directly or indirectly, for service impairments, damages or network downtime, speed or bandwidth degradation caused by third party transmission paths and equipment.

5.2. TKS provides a monthly invoice that is itemized. For the flat rate specifications, no itemized billing information or breakdown will be provided. Unless otherwise agreed by TKS, the invoice is delivered via email. Upon a customer's specific request, an invoice in paper form may be provided for a surcharge.

Online billing is also possible. When online billing is selected, the customer is required to monitor his/her account at least once a month. When TKS generates an invoice at the online portal, the bill is considered delivered. Upon a customer's

specific request, an invoice in paper form may be provided for a surcharge.

### 6. Customer's obligations and responsibilities

The customer has the following responsibilities:

6.1. The agreed prices according to the price list are due and payable immediately after the invoice is generated and must be paid promptly. Any costs for bounced checks, returned direct-debit orders, or returned credit card direct debit orders are borne by the customer to the extent that customer is responsible for the event that caused the costs.

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

6.2. The customer must grant the TKS service member in person or the contractor authorized by TKS unfettered, timely and full access to the customer's premises and buildings to the extent that this is necessary for the implementation of tests, respectively any installation and maintenance works, at their own cost.

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

6.4. The provided access must not be abused e.g. by making threatening or nuisance 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 (but is not limited to) the following information:

- all information with the purpose of incitement to violence against people,
- instructions how to commit criminal acts,
- information that glorifies or minimizes violence
- information that is sexually offensive in the sense of Sections 130, 130a and 131 StGB (German Criminal Code),
- pornographic content in the sense of Section 184 StGB,
- any content that may be morally harmful or damaging to children and teenagers, or
- any content that might harm the reputation of TKS or of the Exchange.

6.5. TKS or the contractors that are authorized by TKS have the exclusive right to perform maintenance and modification works at customer's access.

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

6.7. The 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.

6.8. The customer agrees to keep his/her password(s) secret and to change them immediately if customer suspects that unauthorized third parties have gained knowledge of such password(s).

6.9. The customer must take all reasonable safety measures, to exclude an unauthorized third-party usage of the terminal equipment (for example, third-party usage of wireless routers).

6.10. The customers must ensure via the installation of appropriate software on their device that there is always an updated protection against viruses, worms, or Trojan horses. They must also prevent access by third parties via the Internet on data stored in the terminals by using a firewall or similar measures.

6.11. Furthermore, the customer agrees not to use the Internet access to operate a server.

6.12. The customer also agrees not to interfere with, modify or damage the TKS network or other networks.

6.13. The customer agrees not to abuse TKS services and, as far as utilization of TKS services is concerned, will always comply with general laws, especially criminal laws and trade practice rules. The customer also explicitly agrees to comply with any third party rights, notably copyright laws, license rights, rights of use etc. All customers must always ensure that contents posted via customer's Internet access or otherwise made available does not infringe upon third party rights and is not subject to penalties or sanctions by law, is not morally offensive or in any other way illegal. The customer is and/or can be held responsible for any and all contents he/she transmits via the Internet access or otherwise transmitted contents (e.g. email, newsgroups, chat services etc.).

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

6.15. The customer commits himself/herself to pay for all charges that have accrued by authorized or unauthorized utilization of the service by third parties, unless the utilization is verifiably outside of the customer's responsibility.

6.16. The customer agrees to deny persons under 18 years access to offers that are liable to have an undesirable influence on young people's moral development.

6.17. The customer also commits himself/herself to refrain from the following:

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

6.17.2. Distribution of viruses, worms, Trojan horses etc.

6.17.3. Faking of sender information or other header information.

6.17.4. Collecting information on persons and their email addresses without owners' consent.

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

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

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

6.17.8. Customer is not permitted to make the leased telecommunications terminal equipment available to, or sublease it to, third parties for their exclusive use without the prior consent of TKS.

6.17.9. To enable juvenile access to youth-endangering offers.

## 7. Liability of TKS

7.1. The liability of TKS as a provider of telecommunications services for the public for financial losses to an end user that are not caused intentionally is limited to a maximum of € 12,500 per end user and damage event. If a damage-causing event afflicts damage to several end users and this event does not occur due to intent, the liability for damages shall be limited to a maximum of € 10 million, notwithstanding the limitation in sentence 1. If the

compensation that is paid to several injured parties for the same event exceeds the maximum limit, the compensation shall be reduced in the proportion in which the sum of all compensation claims exceeds the maximum limit. The limitation of liability in accordance with the sentences 1 to 3 of this clause shall not apply to claims for a compensation for damage caused by a default in payment of damages.

7.2. TKS shall be subject to unlimited liability for damages based on fault that have caused injury to life, body or health. For property damage and for financial loss outside the scope of application of Section 7.1 above, TKS shall be liable without limitation in the event of intent and gross negligence. Otherwise, TKS shall only be liable in the event of culpable breach of essential contractual obligations, whereby the liability shall be limited to the compensation of the foreseeable damage that is typical for the contract. An "essential obligation" is one whose fulfilment renders the proper execution of the contract possible, whose breach endangers the achievement of the purpose of the contract, and on which the customer may regularly rely that it will be observed.

7.3. TKS shall be liable for the loss of data in the event of simple negligence under the conditions and to the extent set forth in Section 7.2, only to the extent that the customer has backed-up his/her data with regard to the application in question at appropriate intervals and in an appropriate manner, so that the data can be recovered with reasonable efforts.

7.4. Any liability under the Product Liability Act remains unaffected as well as any liability for fraudulently concealed defects or liability within the scope of an assumed warranty.

## 8. Assistance in Case of Disturbances

8.1. A TKS hotline (in Germany 0631-3522-499) is available for customers every day to report disturbances.

8.2. If maintenance work is necessary which can cause interference or interruptions, such work will be performed - if possible - during off peak times where there is little traffic.

8.3. In the event that the 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 an extra fee for the expenses incurred to TKS in a separate invoice.

## 9. Payment conditions by TKS

9.1. The monthly charges start with the operational access and are prorated based on the remaining monthly time frame. Thereafter, monthly charges must 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.

9.2. Other charges, especially connection charges, must be paid after supply of service.

9.3. 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 customer and TKS. Detailed information on the TKS easyConnect Entertainment service is specified in the service specification description.

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

9.5. Unless otherwise agreed by TKS, 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 a paper invoice delivered for a small additional surcharge. The applicable additional surcharge for the paper invoice can be found on the price list for TKS easyConnect Entertainment.

9.6. Payment to TKS can be made via direct debit, bank transfer, credit card direct debiting, online payment or in all TKS shops via cash or credit card. 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 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.

## 10. Complaints

Complaints regarding the amount of connection charges or other utilization prices have to be made in writing immediately after receipt of bill. Complaints to TKS must be received by TKS within six weeks after invoice date. If complaints are not made in time, the bill is deemed accepted by the customer. The customer's legal claims over complaints remain unaffected after the deadline.

## 11. Changes of the general terms and conditions, service specification and price list

11.1. The general terms and conditions can be changed, as long as the substantial stipulations are not affected, the adjustment is necessary for the development for the contractual relationship, was not predictable when the contract had been agreed, and without the change the balance of the contractual relationship will be significantly changed. Substantial stipulations are in particular not affected by any change of underlying wholesale products that have no effect on the performance of the services or prices of TKS, or any changes that simplify complexity of the contractual agreement, including but not limited to the termination rules. Furthermore, TKS can make adjustments or additions to these General Terms and Conditions at any time if TKS deems these changes necessary to fill regulatory gaps that have developed or occurred after the contractual agreement was concluded. TKS can also use its judgement and make any modifications in view of any new binding court ruling having an impact on one or more clauses of these General Terms and Conditions that TKS deems necessary for compliance purposes.

11.2. The service specification can be changed if necessary for a valid reason and the customer thereby does not have an objective disadvantage, compared to the contractual agreement. This includes any service specification (e.g. retention or improvement of functionalities) that does not clearly differ. A valid reason for a modification exists when technical innovations for the owed specifications become available for TKS on the market or when a third party, from whom the TKS obtains necessary intermediate input to render their service, changes their range of service.

11.3. The agreed upon prices can be increased to reflect TKS's increased costs. This may be e.g. in case when a third party that TKS elects as a contractor for owed and necessary services under this contract, raises the price or fees. Furthermore, TKS is entitled to price increases to the extent caused by an increase of the value added tax or by mandatory fees and taxes imposed by the German Federal

Network Agency or otherwise due to a modification or revision of applicable regulations.

11.4. In the case of paragraph 11.1 to 11.3 above, TKS will communicate the intended changes of the general terms and conditions and/or the service specifications as well as price increases caused by an increase of the value added tax to the customer fully in advance and in written form before they are going into effect. Once that such communication will be received, each affected customer has the extraordinary right of termination. If the customer does not terminate the contract in writing within six weeks after such receipt, the modification will automatically go into effect and become part of the existing contract. The customer will be made aware in the notification of change of the consequences of such extraordinary termination.

## 12. Late payment

12.1. If the customer falls into default with his/her payments, TKS may block customer's access according to Section 45k German Telecommunications Act (TKG) at customer's expense. In this case, the customer's obligation to pay monthly charges remains unaffected.

12.2. If customer is in default

- a) With the payments or a substantial part of the payments for two consecutive months or
- b) When the failure of payment or default of a customer reaches an amount of a monthly payment of two months during a time period of more than two months, TKS has the right to terminate the contract immediately.

12.3. In any event, TKS' right to make further claims due to default of payment remains unaffected.

12.4. If TKS is in default with the services it owes to the customer, any potential liability is exclusively governed by the provisions of the Telecommunications Customer Protection Regulation under the TKG. The customer has the right to terminate the contract only if TKS does not comply with a minimum grace period of two weeks triggered by the customer's written notice to TKS.

## 13. Termination

13.1. The customer may submit a written cancellation request at any time with the termination becoming effective at the end of the month. Any cancellation of a request for TKS easyConnect Entertainment service can be submitted to TKS free of charge after the signing of the agreement for the service, but must be received by TKS no later than three working days before the announced activation date. If a customer cancels the order later than three working days before the announced activation date, TKS will charge the customer a 50.00 € termination fee.

13.2. With terminating the contract on standard services, the contract for additional services will also be terminated automatically.

13.3. In case that TKS terminates the contractual relationship due to outstanding payments, the access may be reactivated within a dedicated timeframe that depends on the used customer care and billing system. Prerequisite for the reconnection of the access is the complete payment of all owed amounts that must include any additional fees that TKS may charge in these cases for a reconnection. TKS is entitled to collect a security deposit in cases of such reactivation. The security deposit amount is determined by the default amount that resulted in termination. After the debt collection is transferred to a collection agency, a reactivation will no longer be accepted.

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

Irrespective whether the termination of contract being requested or executed by the customer or by TKS, TKS is always entitled to deduct from the available credit card or bank information all outstanding invoice amounts, processing fees, fee for all non-returned leased hardware, non-returned hardware packaging, and non-returned hardware accessories via credit card or bank debiting.

#### **14. Final invoice**

##### **14.1. Payment Upon Cancellation (PUC)**

If a customer terminates on the same day or to a date that can be up to five days in advance, an immediate PUC will be provided. The amount of this invoice is based on the average amounts of the invoices during the contract term. Providing an itemized invoice is not possible with this type of invoice (PUC). If the customer accepts and pays the PUC as the final invoice then principally all demands from the TKS are fulfilled, unless afterwards it turns out that the actual invoice amount is considerably higher as the calculated average amount (PUC) of the past time frame. In these cases, TKS and the Exchange reserve the right to hold the customer liable to pay the difference between the PUC and the actual invoice.

##### **14.2. Detailed final invoice**

If the customer does not accept and pay the PUC, he / she will receive a detailed itemized final invoice with the next billing cycle. Depending on the date of the termination request and the date when the last phone calls have been made, TKS may need up to two additional billing cycles to show all outstanding charges. TKS can only process a request for a detailed final invoice when the customer provides TKS with 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.

#### **15. Move/Relocation**

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 the reinstallation of TKS easyConnect Entertainment, TKS endeavors to punctually provide service at the new location, provided that all the technical requirements are given.

If no service is requested from the customer on the new location, the new address will only be used by TKS for the delivery of the final invoice.

#### **16. Other conditions**

16.1. The customer may only assign rights and obligations of this contract to a third party after written approval by TKS.

16.2. The provisions of the Product Liability Law if applicable remain unaffected.

16.3. The contracting parties' contractual relations are exclusively governed by German law without reference to its conflicts-of law provisions.

16.4. As set forth in Clause 11 above, TKS is entitled to make changes in the price, service specification, or to the General Terms and Conditions. All changes are published under [www.tkscale.com/terms](http://www.tkscale.com/terms). Upcoming changes will be notified and announced in a timely manner on the monthly invoice to the customer.

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

The changes are deemed approved if the customer does not object in writing or via email to TKS. The objection must be received by TKS within four weeks following the notification date. If a customer exercises his or her right of objection, both parties have the right terminate the contract in writing within the applicable deadlines.

16.6. Place of performance for the service under this Agreement is Kaiserslautern/Germany.

16.7. Place of jurisdiction: If the customer is a merchant or business entity, legal entity of public law or special fund under public law, or has no legal address in Germany, the exclusive venue for any disputes is Kaiserslautern.

16.8. Dispute resolution: The customer may submit a request to the Federal Network Agency to initiate out-of-court dispute resolution proceedings in the cases specified in Sec. 47a TKG. TKS does not participate in any voluntary dispute settlement proceedings before a general consumer arbitration body.

16.9. If a provision or part-provision is illegal, invalid or unenforceable, that provision or part-provision shall be treated as having been modified to the minimum extent necessary to make it valid, legal or enforceable and to ensure it achieves the intended commercial result of the original provision. If modification is not possible, the relevant provision or part-provision shall be deleted. Any modification to or deletion shall not affect the validity of the rest of this Agreement.

16.10. This Agreement, together with the applicable TKS price list, TKS service specifications and the Terms and Conditions of The Exchange (if and to the extent applicable) represents the entire agreement between the Parties relating to the subject matter and supersedes any previous agreement related to the subject matter. The Parties have not relied on any statement, representation, warranty or understanding, other than expressly set out in this Agreement.