

General Terms and Conditions

The present General Terms and Conditions are the contractual foundation of all legal transactions between skyDSL Europe B.V., Kaiserin-Augusta-Allee 14, 10553 Berlin and the Customer regarding the provision of skyDSL and satConnect services (together called "the services", individually called "the service") as well as related services and performances. Certain services and offers may be subject to special conditions complementing the present General Terms and Conditions. Such special conditions may be retrieved from the Internet on our individual specific website www.skydsl.eu or www.satconnect.com ("the service specific website") or are available in printed form. In the event of any conflict between the terms and conditions stipulated in the current performance specifications at the time of ordering and the General Terms and Conditions, these current terms and conditions shall prevail. The present General Terms and Conditions are valid for all contracts covering services of skyDSL Europe B.V. as of October 10th, 2008.

1. Closing and Scope of Services

1.1 How to order

The customer shall, on the basis of the conditions mentioned on the service specific website of skyDSL Europe B.V. or in printed form and at the prices and rates valid for the time being, select the desired scope of services and delivery. By placing the order, the customer shall at the same time recognise the present General Terms and Conditions in the order form which he may inspect at any time.

1.2 Acceptance

Orders are accepted by transmission of a pertinent statement via e-mail. The statement of acceptance is made on the condition precedent of payment of the given invoice. skyDSL Europe B.V. expressly reserves the right to refuse to accept an order.

1.3 Revocation Instructions with regard to Distance Selling Contracts

If you are a customer using the service neither for your own commercial nor for your free-lance purposes, you may revoke your order within two weeks without stating any reasons therefore. Any such revocation must be addressed in textual form (e.g. letter, fax) or by returning the goods. The revocation period commences no earlier than upon receipt of these instructions. The above deadline shall be deemed observed if the revocation or the goods are dispatched on time.

The revocation in textual form is to be directed to:

***skyDSL Europe B.V. - Kundendienst –
Kaiserin-Augusta-Allee 14
D-10553 Berlin
Fax: +49 30 59 00 65 401***

Goods return address:

***skyDSL Logistikzentrum
RPKL Berlin GmbH & Co. KG
Porschestra. 2-20
D-12107 Berlin***

In the event of a valid revocation, the goods and services mutually received shall be returned. If you fail to return the goods and services or any part thereof or returns them to skyDSL Europe B.V. only in an impaired condition, you shall be liable to pay compensation for any loss of value, except if such impairment is exclusively due to an examination of the goods as would have been possible for you e. g. at a retail shop. You can avoid a claim for lost value by refraining from using the goods like an owner and from doing anything that impairs the value of the goods. The goods shall be returned at our expense and risk. Obligations to refund any payments have to be fulfilled within 30 days. This period commences for you with dispatch of your revocation or goods, for us with receipt thereof. You will forfeit your right of revocation prematurely, if skyDSL Europe B.V.- with your explicit consent- has commenced to operate the service before the expiry of the revocation period or if you have caused the operation of the service yourself.

1.4 Alterations of Agreements

skyDSL Europe B.V. reserves the right to alter the substance of any agreement and/or these General Terms and Conditions, including prices and rates, at any time. It shall notify the customer thereof at least 30 days before the planned alteration takes effect. The customer shall be deemed to have agreed thereto unless he objects to the change in writing within 30 days of its announcement, indicating his customer number. Where a customer objects to an alteration, it shall not take effect vis-à-vis such customer, in which case skyDSL Europe B.V. may terminate the contractual relationship as of the end of its term. skyDSL Europe B.V. shall once again draw the customer's attention to the above provision when notifying him of an alteration.

2. Deliveries and Provision of Services

2.1 Deliveries, Licensing

2.1.1 skyDSL Europe B.V. shall deliver the software and manuals required for the proper functioning of the service and, where appropriate, any hardware ordered after making a statement of acceptance to the customer's delivery address as specified by him when placing the order.

2.1.2 Any material delivered upon customer request shall remain the property of skyDSL Europe B.V. until fully paid for by the customer.

2.1.3 By delivering the software, skyDSL Europe B.V. grants the customer a non-exclusive right, restricted to the period of use of the service, to use the software to the extent required for the use of the service. The customer is not entitled to reproduce the software or the manuals except for the right to produce a back-up copy. He is also prohibited from translating, varying, supplementing or disseminating the software and the manuals or from making them accessible to third parties. The customer is not allowed to use hardware or software for the service, which has been modified or which was not provided by skyDSL Europe B.V..

2.1.4 Installation of the software on its computer shall be the customer's own responsibility. Specific hard and software prerequisites, necessary to use the services offered, can be obtained at the service specific website.

2.2 Activation of the Service

Following confirmation of payment, by credit card, skyDSL Europe B.V. shall communicate to the customer the access data and the date when the service will be actually activated.

3. Fees and Terms of Payment

3.1 Modes and Terms of Payment

Monthly basic fees (flat fees) shall be payable in advance. Fees relating to the term of contract shall be payable at the end of term. Any other fees, notably access fees, shall be paid monthly after provision of the service unless agreed otherwise. Service fees shall be due and payable immediately upon invoicing and shall be collected. The customer shall receive an electronic invoice for each payment transaction. If the customer requests to be sent an invoice by post, skyDSL Europe B.V. may charge a fee of €3.50 per invoice. If the customer wishes to object to an invoice, he must do so in writing vis-à-vis the customer service within six weeks of receiving it. Failure to object on time shall be deemed as acceptance. Any statutory claims to which the customer may be entitled in the context of the lodging of justified objections after the pertinent deadline shall not be affected by the above.

3.2 Delay in Payment, Disconnection

3.2.1 In case of delay in payment, skyDSL Europe B.V. may charge the statutory default interest.

3.2.2 If the customer gets into arrears with the payments in a substantial amount for a period of two consecutive months or an amount equal to the sum of two monthly basic fees, skyDSL Europe B.V. shall be entitled to disconnect the service at the customer's expense. In this case the customer shall remain obligated to pay the usage-independent fees. Furthermore, skyDSL Europe B.V. is entitled to terminate the contractual relationship without notice pursuant to clause 6.2 below.

3.2.3 skyDSL Europe B.V. expressly reserves the right to assert more extensive rights. The customer may claim set-off against claims of skyDSL Europe B.V. only on the basis of counter claims non-appealably established or recognised by skyDSL Europe B.V.. The Contracting Parties' statutory rights of retention shall remain unaffected by the above.

4. Availability, Interference with Performance, Liability

4.1 Availability of the Services

4.1.1 The services of skyDSL Europe B.V. shall generally be available at any time (i.e. 97 % minimum availability per year), except for interruptions on account of force majeure, necessary maintenance works or measures to improve the Service.

4.1.2 In providing the services, skyDSL Europe B.V. shall act with ordinary care and pursuant to the state of technology. It shall promptly remedy any interference with the service if it is answerable therefore.

4.1.3 The performances of the service and the prices charged therefore are geared to the needs of private households not using the Service commercially. Therefore, and in order to enable all customers to access the Internet on an equal footing, skyDSL Europe B.V., in the interest of all customers, reserves the right to impose restrictions in terms of band width on users consistently loading down above-average amounts of data to the extent that such restrictions are required to ensure comparable access to the Internet for all customers.

4.2 Warranties (Rights in Case of Defects) for Software and Hardware

As for warranties for software and hardware defects, each of the customer's orders accepted by skyDSL Europe B.V. shall be dealt with separately. skyDSL Europe B.V. warrants that the software and hardware supplied by it is clear of defects when being delivered. skyDSL Europe B.V. does not assume any guarantees in the legal sense. Any defects encountered shall immediately be communicated by the customer. Any advice of a defect must be made in writing. The customer shall provide skyDSL Europe B.V. with all particulars reasonably required to identify the defect and its causes. skyDSL Europe B.V. shall remedy defects at its choice either by way of subsequent improvement or substitute delivery, including by download. In particular, software defects may be remedied by delivery of individual data files, clustered software updates or supply of an upgraded version unless this is contrary to the customer's interests. Where skyDSL Europe B.V. replaces defective goods supplied to the customer, the latter is obligated to promptly return the defective goods. The conditions that govern the return of hardware are available on the skyDSL Europe B.V. service specific website. skyDSL Europe B.V. will provide the customer with a RMA (Return Material Authorisation Number), which will be made available on the website's after-sales service section. The customer shall mark the hardware with that number, before he arranges a return shipment. If the given claim is not covered by a warranty, skyDSL Europe B.V. shall provide its services against payment, in particular reserving the right to charge the customer for any costs associated with the scrutiny of the returned goods. Excluded from any warranty are in particular such defects as are due to improper use, installation and/or commissioning by the customer or third parties. This shall also apply where a defect is due to the non-existence of the system-related prerequisites indicated on the service specific website or to an infringement by the customer of other obligations specified in these General Terms and Conditions. skyDSL Europe B.V. does not warrant that the software and hardware supplied by it is capable of inter-acting with extraneous software and hardware products not released by it.

4.3 Warranty Period

To the extent legally permissible, the warranty period for customers, i.e. not for users, within the meaning of § 13 BGB is 12 months, and otherwise 24 months, from date of receipt. Where the requirements of recourse on delivery pursuant to § 478 BGB are satisfied, the two-year period provided for by § 479 BGB shall apply. In case of fatal or bodily injury or impairment of health, or a deliberate or grossly negligent breach of an obligation by skyDSL Europe B.V. including by its representatives and vicarious agents, or of the fraudulent concealment of defects, the statutory periods shall apply.

4.4 Scope of Liability

4.4.1 skyDSL Europe B.V. is only liable for damage which it or its legal representatives or vicarious agents have deliberately or grossly negligently caused, unless the damage is due to fatal or bodily injury or impairments of health, a fundamental breach of contract (cardinal duty) or in those cases in which it has assumed a guarantee in the legal sense or has fraudulently concealed a defect. This liability exclusion encompasses both contractual liability and non-contractual liability. The provisions of the Product Liability Act which make liability mandatory remain unaffected.

4.4.2 Except in the case of deliberate acts, gross negligence, in those cases in which skyDSL Europe B.V. has assumed a guarantee in the legal sense or has fraudulently concealed a defect or the damage is due to fatal or bodily injury or impairments of health, skyDSL Europe B.V. is only liable for typical damage. This shall in particular apply to lost data,

other indirect or consequential damage and lost profit. Within the scope of application of the Ordinance for the Protection of Telecommunications Customers (TKV) the liability provisions of § 7 TKV remain unaffected.

4.4.3 skyDSL Europe B.V. does not assume any liability for weather-conditioned qualitative impairments of satellite-based services nor for the quality of data transmission, for access times, potential restrictions on access to terrestrial or satellite-operated networks and/or servers linked to the Internet. To the extent that skyDSL Europe B.V. enlists the services of third-parties (sub-contractors) for the provision of services, it shall not be liable for any impairment within their scope of activities except to the extent, that such sub-contractors would be liable by law.

4.4.4 skyDSL Europe B.V. is not liable for any restriction of use caused by the non-existence of the system-related prerequisites of the customer. skyDSL Europe B.V. is a pure service provider. Therefore, it is not liable for contents of third parties. Liability claims prescribe within the warranty periods as specified in clause 4.3., except claims regarding tortious liability, claims due to the Product Liability Act and the Ordinance for the Protection of Telecommunications Customers (TKV), which prescribe within the statutory period of limitation.

5. Duties of the Customer

5.1 Identification of the Customer

5.1.1 The customer undertakes to provide, when ordering the Service, complete and accurate particulars and to keep his registration data updated.

5.1.2 The customer undertakes to keep his access data strictly secret and not to pass them on in any form to third parties. Therefore, he shall also be liable to pay fees incurring due to unauthorised use of the connection by third parties if the customer is responsible for such use. The customer shall also be liable to pay any access fees incurring due to the fact that hardware or software originating from parties other than skyDSL Europe B.V. has been installed and connects to the internet by itself. Within his duty of care, the customer shall take precautions to ensure that no unwanted connections are established. The customer shall use the services as his own responsibility. In case of loss, theft or inadvertent disclosure of his access data, the customer shall promptly inform skyDSL Europe B.V..

5.1.3 The customer shall indemnify and hold skyDSL Europe B.V. harmless from and against any costs and claims by third parties resulting from a breach of said duties.

5.2 Risks of Internet Use

The customer's attention is expressly drawn to the fact that data transmitted via the Internet may be unprotected, which is why he should take all necessary precautions to make the transmission of his data as safe as possible and to protect his PC against potential attacks by third parties via the Internet. The customer shall be solely responsible for the consequences of any potential unlawful use of data he has transmitted via the Internet. skyDSL Europe B.V. is not liable for any damage to devices or data of the customer sustained in the context of his connection to the Internet.

5.3 Observance of Laws and Ordinances

The customer affirms that the content inserted and/or transmitted by him and his conduct in making use of the services do not run counter to applicable law or public policy. The customer is expressly forbidden to abuse the services of skyDSL Europe B.V., to permit such abuse by others or to use them for the perpetration of unlawful or criminal acts. The customer shall indemnify and hold skyDSL Europe B.V. harmless from and against any costs and claims by third parties resulting from unlawful or criminal acts whilst the use of the Service. Content inserted by customer, which offend against applicable law or public policy, will be immediately deleted by skyDSL Europe B.V..

5.4 Additional obligations

The customer commits to using the service exclusively for the purpose that has been contractually agreed upon. In particular the customer is prohibited from distributing viruses, illegitimate advertising mails (Spam), chain letters, or any other harassing messages. Non-compliance authorises skyDSL Europe B.V. to abort such activities. Upon severe disturbance or endangerment of its facilities or infrastructure caused by the customer, skyDSL Europe B.V. is authorised to implement immediate technical measures in order to guarantee undisturbed operation.

6. Term and Termination of an Agreement

6.1 Term

During the ordering process the customer chooses between a contract without a minimum term and a 12 or 24 months contract term. The term shall commence when the service is initially made available pursuant to paragraph 2.2. A contract with a minimum term will automatically renew for another 12 months, unless notice is given according to the following regulations.

6.2 Termination

6.2.1 The contract with no minimum term can be cancelled monthly with 4 weeks notice to the activation day according to 2.2. A contract with a minimum term can be terminated by the contractual parties with a 4 weeks notice to end of the contract term. The privilege of an extraordinary termination for good cause shall remain unaffected.

6.2.2 Good cause on the part of skyDSL Europe B.V. shall in particular be deemed to exist: if the customer materially infringes any contractual obligations incumbent upon him pursuant to these General Terms and Conditions and such infringement is continuing despite a warning having been issued, in the event of breach of statutory obligations by the customer, if customer is in delay with payments pursuant to clause 3.2. If skyDSL Europe B.V. terminates an agreement without notice for reasons that lie within the customer's responsibility, skyDSL Europe B.V. is entitled to claim indemnity for breach of contract including but not limited to damages suffered from non-compliance with the contractual term initially agreed upon.

6.2.3 In the event that services are terminated by those third parties (in particular network and satellite operators) on which skyDSL Europe B.V. relies for the fulfilment of its obligations vis-à-vis the customer for reasons that skyDSL Europe B.V. is not answerable for, skyDSL Europe B.V. may terminate the agreement without notice, if alternative options to provide these third-party services are impossible or if the provision of these services would be subject to disproportional expenditure. skyDSL Europe B.V. may terminate an agreement without notice, if fundamental alterations of engineering or legal standards render the provision of the agreed services economically unreasonable. skyDSL Europe B.V. shall promptly notify the customer of any of the above and shall, where appropriate, proportionately refund to him any as yet unused basic fee for the current month.

7. Data Protection

The customer's personal data collected by skyDSL Europe B.V. are mandatory data which are indispensable to the successful provision of the service. skyDSL Europe B.V. shall collect, process and use those data to the extent necessary for the performance of the given agreement. It will do so only within the scope of applicable data protection

provisions. Apart from the communication flows associated with the use of the service and other services offered by skyDSL Europe B.V., the latter shall not exploit the customer data stored by it for commercial purposes nor surrender them to third parties except with the customer's express consent. The above shall not apply where skyDSL Europe B.V. is under a legal obligation to surrender such data.

8. Final Provisions

8.1 Reversal of the Burden of Proof

The above provisions do not give rise to any change at the customer's expense of the statutory rules on the burden of proof.

8.2 Enlistment of Third-Party Services

skyDSL Europe B.V. may enlist the services of third parties for the fulfilment of its contractual obligations

8.3 Severability Clause

Should any provision of these General Terms and Conditions be, or become legally ineffective, the other provisions shall remain unaffected thereby. The Contracting Parties undertake to replace any such ineffective provision by such an effective arrangement as comes closest in economic terms to the objective pursued by the Parties.

8.4 Exclusivity

The present General Terms and Conditions are exclusive in nature. Any provisions running counter to or deviating from them are not recognised by skyDSL Europe B.V.. The present conditions shall also apply if skyDSL Europe B.V. accepts an order or provides a service in the awareness of opposing or deviating conditions of the customer.

8.5 Choice of Law and Jurisdiction

The business relations between the Contracting Parties shall exclusively be governed by the law of the Federal Republic of Germany. The provisions of the UN Sales Convention (CISG) shall not apply. If the customer is a businessman, venue shall be Berlin, Federal Republic of Germany. Irrespective of the above, skyDSL Europe B.V. may sue the customer also at the latter's general venue.

skyDSL Europe B.V.
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