

## WLAN Hotspots

### Stadtwerke Weilheim i. OB Energie GmbH – SWE

#### Terms of use

##### **A. Description of the Service**

1. The Stadtwerke Weilheim i.OB Energie GmbH, Stadtwerkestraße 1, 82362 Weilheim i.OB (hereinafter called the “SWE“) makes available to you as a user the following Service: by using wireless technology (WLAN) at certain locations in the Weilheim city zone where access points for the Service are installed (hotspots), you can get access to the internet and send and receive data via the internet.
2. Availability of the Service depends on the respective technical and operational capabilities. It is not promised to make such Service available at any time and always trouble-free. The Service can be affected by geographical, atmospheric or other conditions or circumstances beyond our control. The transmission speed during use depends among others on the provider`s network load, the technical capabilities of the end item, the transmission speed of the selected servers of the respective content provider and on the number of users at the respective hotspot.
3. Provided the use of the Service is made available at no costs, the SWE reserves the right to stop, restrict or modify the Service at any time without prior notice. No justification is required therefor. In case of suspected disproportionate uploads and downloads and/or illegal use the SWE is entitled to block or restrict the access at any time without prior notice. There is no obligation to grant access at the respective location or to make the Service available at certain locations in the Weilheim city zone or at other hotspots in the area of the community.
4. The wireless connection is effected without security encryption. Therefore, on the part of the SWE, it cannot be excluded that third persons get access to transmitted data exchanged between the user and the hotspot.

##### **B. Terms of use**

###### **I. Use**

The Service is available for the users at those hotspots that provide a respective offer, in accordance with the terms of use described herein as soon as the users call up the Service on our login page. The terms of use are deemed accepted when exiting the landing page [www.oberland-hotspot.de](http://www.oberland-hotspot.de) and using the hotspot. The use is limited to 120 minutes, thereafter connection is cut off. Re-dialing is possible. The SWE reserves the right to limit the number of users using the hotspot at the same time.

## **II. Requirements for use**

Use of hotspots requires an operational end item (e. g. notebook, tablet or smart phone) with WLAN-capable interface. In addition, an appropriate operating system, web browser, current driver software of the WLAN hardware and an applicable IP network protocol must be installed. The system must be configured as a DHCP client. Only the user is responsible for creating and obtaining the requirements for use. It is recommended that current virus software is installed during duration of use.

## **III. Duties and obligations of the user**

1. The user is obliged
  - a. not to use the available Service for operating a server and/or for permanent networking or making connections among locations and/or telecommunications systems;
  - b. to protect access to the Service against any unauthorized access by third persons and, as appropriate, to protect the login data or the registered equipment against any access by unauthorized third persons;
  - c. not to make available or pass on the Service to third persons against payment or other benefits; it is also not allowed to make connections for third persons (especially against consideration);
  - d. to observe during the use the applicable laws, in particular criminal laws, provisions of competition etc. and to protect the rights of third persons, in particular copyrights, license rights, rights of use etc.; in particular the user engages
  - e. not to offer, without being authorized, works protected by copyright in bartering centers, or to make use of such works in any other way;
  - f. to ensure that the content set, called up or otherwise made available or used by the user or through user's access to the Service does not violate the rights of third persons and is not punishable, immoral or unlawful in any other way; this includes above all information intended for incitement of the people as defined by Articles 130, 130a und 131 of the German Criminal Code, that lead to criminal acts or glorify and/or play down violence, that are sexually offensive, pornographic as defined by Article 184 of the German Criminal Code or that are suitable to seriously endanger morally children or young persons;
  - g. to observe the provisions of the State Treaty for the Protection of Minors in the Media and of the Youth Protection Law;
  - h. to fulfill the conditions while accessing to content or software owned by third persons and/or let by third persons under license and requiring to meet certain terms of use.

2. The user is especially obliged to refrain from the following:
  - a. Unsolicited and/or concealed shipment of information, programs and other content e. g. mass type e-mails or SMS with unrequested and unordered advertising (so-called spamming) or e-mails with attached data files such as dialing programs;
  - b. Illegal contact through telecommunications equipment (so-called stalking; Art. 238 German Criminal Code);
  - c. Unauthorized call-up of information or data and unauthorized penetration into electronic data processing systems or networks.
  
3. The user is solely responsible
  - a. To ensure that all items of equipment of the user used by the user to get access to the Service are suitable for the Service and are sufficiently protected by virus scanners, firewall, etc. against threats and data access by third persons, such as virus, worms and Trojan horses;
  - b. To attend to an encrypted transmission of data transferred by or to the user while using the Service, e. g. by use of SSL encryption (e. g. https, VPN);
  - c. To use all equipment of the user in accordance with the operating instruction of the respective manufacturer.
  
4. If the user violates the duties and obligations set forth in this section, the SWE is entitled to cut off at any time the access to the cost-free Service.

#### **IV. Data security and data protection**

1. The user accepts that due to the technical type of the Service the SWE cannot guarantee that the Service is protected against illegal access or use.
  
2. The SWE assumes no liability for that information and data transmitted by the user through the Service and/or the internet is inspected, intercepted or modified by third persons during transmission, originate from the alleged sender or go to the selected receiver.
  
3. In case of inactivity the access to the internet is cut off after 10 minutes for reasons of security. Inactivity means that there is no communication between end item and hotspot.
  
4. Refer to the SWE website under [www.stawm.de](http://www.stawm.de) for general notes on data protection.

## **V. Content responsibility and liability of the user**

1. The user is solely responsible against the SWE and third persons for any content transmitted by the user through access to the internet or the Service or distributed by the user in any other way (e. g. via e-mail, newsgroup, chat services). This also applies to any content transmitted or distributed by third persons accordingly where the user is responsible for the access to the Service (in particular via user accounts according to Para. A 3). The content is not subjected to any verification by the SWE.
2. The user releases the SWE from all claims asserted by third persons, that are based on any violation of user`s obligations set forth in section "Duties and obligations of the user", on any illegal use of the Service and the performance connected therewith, or on corresponding acts by third persons where the user is responsible for the access to the Service (in particular via user accounts according to Para. A 3). This applies specifically to claims resulting from disputes arising from data protection rights, copyrights or other legal matters, that are connected with the use of the Service. If the user recognizes or must recognize that such violation is imminent, the user is obliged to notify the SWE immediately.

## **VI. Liability of the SWE**

1. When providing telecommunications services, the SWE is liable for not intentionally caused economic loss only up to 12,500 € for each end user. In case liability for damages incurs by a uniform action or by a uniform damage-causing event against several end users and if this is not done intentionally, liability for damages is limited to a maximum amount of 10 million Euros, notwithstanding the limitation set forth in sentence 1. If the compensations to be provided to several damaged persons due to the same event exceed the maximum amount, then payment of compensation is reduced in that proportion in which the total amount of all damage claims stands by the maximum amount. Limitation of liability according to the sentences 1 to 3 does not apply to claims for reparation of the damage incurring by delay in payment of damages.
2. For any culpably caused damage arising from injury of life, limb or health the SWE is liable without limitation. For material damage and economic loss beyond the scope of application under Para. 1 the SWE is liable without limitation in case of intent and gross negligence. In other respects the SWE is only liable in case of culpable violation of essential obligations under the contract whereby liability is limited to reparation of the contract-typical, foreseeable damage. An essential obligation means an obligation whose fulfillment makes the proper implementation of the contract really possible, whose violation endangers the attainment of the purpose of the contract and on whose adherence the user may normally rely.

3. Liability in accordance with the Product Liability Act remains as unaffected as liability for fraudulently concealed defects or liability within the scope of an assumed guarantee.
4. For any loss of data the SWE is only liable in case of slight negligence under the prerequisites and to the extent of Para. 2 if the user has properly secured his data in reasonable intervals with regard to the respective application so that such data can be restored under reasonable efforts.
5. Liability of the SWE for all other damage is excluded.

*As of: September 2016*