

GTC for the Purchase of Battery Energy Storage Systems (BESS) from TESVOLT AG

As of 01/11/2024

TESVOLT AG develops, distributes and manufactures high-quality, compact energy storage solutions based on lithium-ion technology, among other things. These general terms and conditions apply to the purchase of battery energy storage systems (BESS) including those components described in the order confirmation, which are usually connected to the medium-voltage grid ("BESS"). The following general terms and conditions apply to the purchase and, if applicable, the delivery, installation and commissioning of the BESS.

Part I: General regulations

1. Scope of the general terms and conditions

1.1. These general terms and conditions apply to contracts between TESVOLT AG ("TESVOLT") and its customers for the purchase and, if applicable, delivery, installation and commissioning of the BESS. Offers from TESVOLT based on these terms and conditions are intended exclusively for business owners and commercial resellers, not for consumers.

1.2. The customer's contractual partner is:

TESVOLT AG
Am Heideberg 31
06886 Lutherstadt Wittenberg
Germany
Registered at the Stendal District Court
Commercial Register No.: HRB 31785
VAT ID no.: DE296431494

1.3. These general terms and conditions shall only be superseded by individual written agreements between the customer and TESVOLT. Any deviating general terms and conditions of the customer shall only apply if expressly confirmed in writing by TESVOLT.

2. Conclusion of the contract between the customer and TESVOLT

2.1. TESVOLT and the customer work together to define the customer's required TESVOLT BESS specifications based on the information the customer provides. TESVOLT then usually prepares an initial non-binding indicative offer for the customer. After the exact specification has been agreed between TESVOLT and the customer, TESVOLT provides a final non-binding offer. All offers from TESVOLT – whether in writing, by email, on the internet, in brochures, advertisements, other promotional material or in personal consultations – are for informational purposes only and do not constitute a legally binding offer by TESVOLT to conclude a contract.

2.2. By sending or submitting the order documents to TESVOLT, the customer makes a binding offer to conclude a contract for the delivery and, if applicable, installation and/or commissioning of the BESS.

2.3. TESVOLT provides the customer with an order confirmation within four weeks to confirm this offer. The contract is concluded when the customer receives the order confirmation. Acknowledgement that a binding offer has been received does not constitute acceptance. It only confirms that the order documents have been received.

2.4. Insofar as drawings, diagrams, technical calculations (e.g. for the design of the BESS), financial calculations and/or projections, yield calculations and/or calculations regarding the economic viability of the BESS are offered or created by TESVOLT or on TESVOLT websites, these are only examples and are not binding. Only the specifications that have been agreed to and offered are definitive. TESVOLT does not guarantee their accuracy, unless TESVOLT has designated them as binding on a case-by-case basis. Furthermore, they do not constitute the commercial basis for the conclusion of the contract.

3. Primary obligations of TESVOLT

3.1. TESVOLT undertakes to plan and design the BESS as specified in the order confirmation in accordance with Section 3.2 and to deliver it to the customer in accordance with Section 4. TESVOLT is not responsible for the installation or commissioning of the BESS, unless otherwise agreed in writing on a case-by-case basis.

3.2. TESVOLT plans the BESS in accordance with the generally recognised rules of technology and the standards and laws applicable at the time of the order. The design of the BESS, in particular its capacity and performance, is based on information provided by the customer. TESVOLT assumes that the information provided by the customer for designing the BESS is accurate. TESVOLT is not obligated to check the customer's information, except for plausibility. If the customer has provided incorrect information, a BESS characteristic based on this incorrect information does not constitute a defect.

3.3. TESVOLT is authorised to have the contractual services provided in whole or in part by third parties.

4. Delivery of the BESS

4.1. The delivery of the BESS requires timely and full compliance with the customer's obligation to cooperate in accordance with Section 5 as well as the clarification of all technical questions, which will be communicated to the customer in advance.

4.2. The place of fulfilment for all obligations arising from the contractual relationship is the place of delivery stated in the offer and the order confirmation. The BESS is normally delivered in partial shipments.

4.3. The expected delivery date of the BESS is stated in the order confirmation. TESVOLT will inform the customer well in advance of the delivery dates for the BESS components.

4.4. Unless otherwise specified in the order confirmation, delivery shall be DDP in accordance with the applicable INCOTERMS. Unless otherwise agreed, delivery is complete once TESVOLT has transported the goods to their destination, ready for unloading, on the incoming means of transport.

5. Customer's obligation to cooperate

5.1. The customer must comply with the handling and warehousing instructions in the documents "Handling and Warehousing" and "Installation Manual" to prevent damage to the BESS. The customer is obligated to carefully warehouse the BESS from the time of delivery and to protect it from any damage, such as deep discharge or freezing, as well as deterioration, loss or unauthorised access by third parties.

5.2. The customer is obligated to review and create the necessary conditions for proper unloading of the BESS at its own expense, if unloading is included in the TESVOLT scope of service. In particular, this includes providing level, unobstructed access routes that are suitable for heavy-duty transporters, providing unobstructed and level installation surfaces, and constructing a suitable foundation for the BESS.

5.3. The customer is obligated to grant TESVOLT or third parties contracted by TESVOLT safe, unrestricted access to the BESS and the premises where this is necessary for fulfilling the services owed according to the contract.

5.4. In the event that the customer's email addresses known to TESVOLT change or become invalid, the customer is obligated to notify TESVOLT of this and provide a new email address for communication with TESVOLT.

6. Default of acceptance by the customer

6.1. If the customer is in default of acceptance, cancels agreed appointments at short notice, provides false information during the ordering and coordination process, or culpably violates other obligations to cooperate, TESVOLT is entitled to suspend services owed until the default or violation has been remedied and to demand compensation for the resulting damages, including any additional expenses (in particular storage and transport costs). Further claims and rights are reserved.

6.2. If the customer is in default of acceptance, TESVOLT may withdraw from the purchase contract after a reasonable period for accepting the project-specific BESS has expired. In this case, TESVOLT may demand compensation from the customer in accordance with the statutory provisions.

6.3. A delay in acceptance may result in a deterioration of the BESS. This deterioration may include a reduced guarantee period during operation due to prolonged storage before commissioning of the BESS, as well as other degradation (see also Section 12.6). In the event of withdrawal, the customer shall be liable for any deterioration resulting from delays during the customer's default of acceptance.

7. Prices, billing and payment terms

7.1. The purchase price due is a flat rate. The value added tax applicable at the time of delivery shall be paid in addition to the purchase price, unless it must be paid by the customer due to special circumstances (e.g. a reverse charge procedure).

7.2. All invoiced amounts are due for payment without deduction no later than 10 calendar days after receipt of the invoice by the customer. A cash discount is not permitted unless this has been expressly agreed with the customer.

7.3. If the customer defaults on payment of an invoice amount, default interest must be paid at the statutory rate.

7.4. In the event of payment default, any costs incurred for additional invoices or collection of the amount by an agent shall be charged to the customer by TESVOLT. The calculation basis must be proven at the customer's request. In the case of a flat-rate calculation, this must be reasonable for the customer and may not exceed the damages that would normally be expected. The customer is also entitled to demonstrate that such costs have not been incurred or are significantly lower than the flat rate charged.

7.5. The customer receives a final invoice after delivery and, if applicable, installation and acceptance of the BESS.

7.6. The customer may only offset claims against TESVOLT with undisputed or legally established counter-claims. This does not apply to claims of the customer against TESVOLT due to complete or partial non-fulfilment or inadequate fulfilment of an obligation to deliver or install.

7.7. The customer is only entitled to assign or transfer claims arising from this contract with the prior written consent of TESVOLT.

7.8. If, in accordance with the contract, TESVOLT incurs export or import duties or comparable sovereign charges that arise in connection with the export or import of the BESS (hereinafter referred to as "**charges**"), TESVOLT is entitled, in the event of an increase in charges after conclusion of the contract and before export or import, to demand reimbursement from the customer of the difference between the charges calculated upon conclusion of the contract and the charges actually incurred. If the opposite is true, TESVOLT will reduce the flat rate by the amount of the difference between the duties calculated upon conclusion of the contract and those actually incurred.

8. Insurance

8.1. TESVOLT will maintain business liability insurance with a minimum coverage of EUR 5,000,000 per claim for personal injury and property damage and provide proof of this to the customer upon request.

8.2. TESVOLT will insure the BESS against fire, water, theft and transport damage until the transfer of risk in accordance with Section 9.

8.3. The customer is obligated to take out all-risks insurance for the replacement value of the BESS starting from the transfer of risk in accordance with Section 9 up to the transfer of ownership in accordance with Section 10 at its own expense. If it is objectively impossible or economically unreasonable for

the customer to take out all-risks insurance, the BESS must be insured at a minimum against damage from fire, water, theft and transport at replacement value. The customer hereby assigns to TESVOLT, and TESVOLT accepts the assignment of any claims it may have against its insurance company that relate to property owned or co-owned by TESVOLT.

9. Transfer of risk

The risk of accidental loss and accidental deterioration of the BESS is governed by the applicable INCOTERMS.

10. Retention of title and transfer of ownership

10.1. TESVOLT retains ownership of the BESS until all claims arising from the supply contract have been paid in full. This also applies to all future deliveries, even where TESVOLT makes no express reference thereto. The retention of title is thus intended to secure all current and future claims arising from the supply relationship between TESVOLT and the customer.

10.2. Until ownership is transferred, the customer must notify TESVOLT immediately in writing if the delivered BESS is pledged or subjected to other legal action by third parties. Furthermore, the customer must immediately indicate that the BESS is the property of TESVOLT. Moreover, the customer is obligated to provide TESVOLT with all information and documents required for a third-party counter-claim under Section 771 of the German Code of Civil Procedure (ZPO). If the third party is unable to reimburse TESVOLT for the judicial and extra-judicial costs of a lawsuit in accordance with Section 771 of the German Code of Civil Procedure (ZPO), the customer shall be liable for the resulting loss.

10.3. During the retention of title, the BESS may not be pledged or otherwise encumbered with third-party rights. However, the customer is authorised to use the BESS or to resell it to a third party ("end customer") during the normal course of business without disclosing the existing retention of title. The customer may, for its part, agree to a retention of title without the conditional ownership of TESVOLT being transferred to the end customer. The customer's claims arising from a resale are hereby assigned in full to TESVOLT. If the BESS is sold by the customer together with other goods that are not the property of TESVOLT, the claim is only assigned to TESVOLT in the amount of the purchase price agreed between the customer and TESVOLT.

10.4. To secure the claims against the customer, the customer also assigns to TESVOLT such claims to which the customer is entitled against a third party as a result of the connection of the BESS or components of BESS to a property. TESVOLT hereby accepts the assignment. The customer is entitled to collect the claims assigned to TESVOLT until revocation. TESVOLT's right to collect the claim itself remains unaffected. However, TESVOLT will not collect the claim itself as long as the customer is not in default of its payment obligations under the supply contract.

10.5. TESVOLT is obligated to release collateral to which TESVOLT is entitled at the customer's request if the value of the collateral exceeds the claims to be secured by more than 20 per cent.

11. Operating software, updates and copyright protection

11.1. Where TESVOLT deems it necessary or appropriate, TESVOLT may upgrade the BESS operating software and provide a corresponding update. The operating software will be made available if need be for a limited period for the duration of any guarantee period, but at least three years after the transfer of risk in accordance with Section 9.

11.2. This will be provided through download via the internet or in another suitable manner, at TESVOLT's discretion. TESVOLT may notify the customer of such an update by email to the email address provided by the customer or to another email address known to TESVOLT, or on a portal designated by TESVOLT.

11.3. In the event that the customer decides to use an automatic download and installation function for updates offered by TESVOLT, the customer shall ensure the operational capability of the internet connection to enable proper updating and commissioning of the updates.

11.4. It is the customer's responsibility to ensure that the update is installed on the BESS. If an update is not installed, the full functionality of the BESS cannot be guaranteed. The customer may not derive any rights from a malfunction of the BESS that is due to outdated operating software.

11.5. If the customer uses the BESS together with other components or systems, it is its responsibility to check the compatibility of BESS updates with such components or systems in advance.

11.6. The customer is granted a non-exclusive and non-transferable right to use the software included in the scope of delivery for operating and monitoring the BESS, including its documentation. Software is provided exclusively for use on the delivered item for which it is intended. The above also applies to other system operators after the BESS has been resold by the customer.

11.7. Any further use by the customer or third parties that goes beyond the scope of a backup copy made for their own purposes is not permitted. Prohibited uses include, in particular, any reproduction, modification or translation of the software, as well as any conversion of object code into source code.

11.8. TESVOLT reserves the right of ownership and copyright to illustrations, drawings and calculations. These documents and data may not be made accessible to third parties. This applies in particular to those documents and data that are designated as confidential. The customer requires the express written consent of TESVOLT before disclosing such information to third parties. TESVOLT's consent is deemed to be granted for transfer to system operators upon resale of the BESS by the customer.

12. Warranty right and defects

12.1. TESVOLT's warranty against BESS defects is governed by Sections 434 et seq. of the German Civil Code (BGB), unless otherwise agreed below.

12.2. The customer's rights with regard to defects require the customer to have properly fulfilled its obligations to inspect and give notice of defects in accordance with Section 377 of the German Commercial Code (HGB) and report any defects found in accordance with Sections 12.3 - 12.5 below.

12.3. The BESS or the parts thereof delivered must be visually inspected by the customer immediately upon receipt. Any visible damage to the packaging or discrepancies between the shipping documents and the parts delivered must be recorded upon acknowledgement of receipt of the BESS components.

12.4. TESVOLT must be notified in writing of any defects that are obvious or that become apparent during a proper inspection no later than seven calendar days after delivery of the BESS components to the customer.

12.5. Hidden defects must be reported to TESVOLT in writing within seven calendar days of their discovery.

12.6. The battery cells used in BESS are subject to a continuous reduction in performance (degradation) due to ageing of the materials and the age-related decline in the efficiency of battery cells. This degradation does not constitute a defect, but is considered an agreed characteristic of the BESS.

12.7. The limitation period for claims under the guarantee against defects is one year. This period begins upon delivery of the item to the customer. Section 445b German Civil Code (BGB) remains unaffected.

12.8. In the event of a guarantee claim, the customer is obligated to provide TESVOLT with all the information required to investigate the guarantee claim and if necessary to provide information for subsequent fulfilment and to cooperate with the investigation of the guarantee claim and, if necessary, the subsequent fulfilment.

12.9. Claims of the customer against TESVOLT based on a separate guarantee or a separate maintenance contract remain unaffected.

13. Liability

13.1. TESVOLT has unlimited liability in the following cases:

- a. In the event of intentional acts or gross negligence
- b. For culpable breaches of duty that result in loss of life, physical injury or illness
- c. For liabilities covered by the Product Liability Act
- d. For defects that have been fraudulently concealed

13.2. Subject to Section 13.1 TESVOLT's liability for breach of a duty, the fulfilment of which is essential to the proper performance of the contract and on the fulfilment of which the customer relies and may

rely (material contractual obligation), is limited to the amount of reasonably foreseeable damage typical for the contract.

13.3. Except in the cases mentioned in Section 13.1, TESVOLT shall not be liable for indirect damages, loss of profit, loss of earnings or other losses of a purely financial nature.

13.4. TESVOLT's liability for all claims arising from this contractual relationship, with the exception of the cases mentioned in Section 13.1, is limited to 100% of the purchase price.

13.5. The above exclusions and limitations of liability also apply to non-contractual liability.

13.6. Any further liability of TESVOLT beyond the provisions of Section 13 is excluded.

14. Right to withdrawal

14.1. In addition to the statutory rights of withdrawal, TESVOLT is entitled to withdraw from the contract if the customer fails to fulfil an obligation incumbent upon it, in particular the contractually agreed creation of the necessary conditions for delivery, and does not fulfil this obligation despite a reminder and the setting of a reasonable grace period, thereby rendering TESVOLT unable to provide the agreed services.

14.2. TESVOLT is entitled to withdraw from the contract if the delivery or installation of the BESS violates national or international export control regulations, in particular embargoes or other sanctions, as described in Section 16.

14.3. The other party must be informed of the withdrawal in writing as a minimum.

14.4. The assertion of further claims remains unaffected in the event of withdrawal.

15. Force majeure

15.1. Should the parties be prevented from fulfilling their contractual obligations in whole or in part due to force majeure, such as terrorism, war, labour disputes at their own plants, damage to equipment, orders from higher authorities or other circumstances that are beyond their control or the prevention of which cannot be achieved with reasonable technical or economically feasible effort, the parties shall be released from their contractual obligations to the extent and for the duration of such circumstances and their consequences and until they have been definitively eliminated. If one party is prevented from fulfilling its contractual obligations due to force majeure, the corresponding obligation of the other party to fulfil its part of the contract shall be waived to the same extent.

15.2. The parties are obligated to inform each other immediately about the existence of such circumstances and their expected duration. The same applies to the discontinuation of these circumstances.

15.3. The parties shall make every reasonable effort to remove the obstacle to performance as quickly as possible and to fulfil their obligations as soon as possible.

16. Sanctions

16.1. The fulfilment of the contract with the customer is subject to the provision that there are no obstacles to fulfilment due to national or international foreign trade regulations or any embargoes and/or other sanctions.

16.2. In the event of onward delivery or other transfer of BESS to third parties in Germany or abroad, the customer must comply with the sanction provisions applicable in the respective country, in particular the sanction provisions issued by the Council of the European Union. For example, the customer shall not sell, supply, transfer or export, directly or indirectly, any goods that fall within the scope of Article 12g of Regulation (EU) No 833/2014 to the Russian Federation. The customer will also ensure that the goods are not resold to third parties who have not undertaken to respect this prohibition in the commercial chain. The customer shall immediately inform TESVOLT of any violations of this prohibition that come to its attention, including any relevant activities of third parties that could thwart the purpose of this prohibition.

16.3. In the event of a breach of the above provision, TESVOLT is entitled to claim damages in addition to the right of termination in accordance with Section 14.2.

16.4. TESVOLT points out that BESS or its components may be “dual-use goods” that are used for both civil and military purposes and may therefore be subject to sanctions.

17. Confidentiality and secrecy

17.1. TESVOLT and the customer are obligated to treat the content of the contract and all information received in connection with the performance of this contract as strictly confidential and not to make it accessible to any third party unless this is necessary for proper performance, including the approval of this contract by the supervisory boards of the contracting parties. This applies in particular to documents, illustrations, drawings, calculations and other materials that TESVOLT makes available to the customer.

17.2. Each contracting party is entitled to disclose confidential information if and to the extent that it is required to do so by law or by an official/court order. In this case, the contractual partner must ensure that the information in question is marked as confidential. The other contracting party must be informed immediately about the disclosure obligation and the transfer of the confidential information.

17.3. Where information is transferred to third parties, this transfer shall be limited to the extent necessary to achieve the aforementioned exceptions and these same third parties shall be obligated to maintain the confidentiality of the information received.

17.4. The above provisions do not apply to the disclosure of information to affiliated companies within the meaning of Sections 15 et seq. of the German Stock Corporation Act (AktG), which for their part are obligated to maintain the confidentiality of the information received, and of information that is publicly known at the time of the conclusion of the contract or is subsequently made publicly known, provided that this is not based on a breach of confidentiality obligations. This obligation to maintain confidentiality shall also apply after the termination of the contract.

18. Data protection

18.1. The data protection provisions are available on the TESVOLT website at <https://www.tesvolt.com/en/privacy.html>.

18.2. If TESVOLT becomes aware of personal data of the customer's employees in its performance of the contract, TESVOLT undertakes to maintain data secrecy in accordance with the statutory provisions. TESVOLT ensures that only employees who have signed a written confidentiality agreement and who are familiar with the data protection provisions that apply to them are assigned to carry out work.

19. Credit check

19.1. The customer agrees that TESVOLT will check its creditworthiness (ability to pay or risk of default). For this purpose, TESVOLT may obtain information on creditworthiness from the following credit agencies before the contract is concluded:

- a. SCHUFA Holding AG, Kormoranweg 5, 65201 Wiesbaden
- b. Verband der Vereine Creditreform e.V., Hellersbergstraße 12, 41460 Neuss
- c. Euler Hermes SA, Friedensallee 254, 22763 Hamburg

19.2. TESVOLT may demand a change in the payment terms if the customer's credit rating is downgraded after the contract has been concluded. If the customer rejects the change in conditions, TESVOLT is entitled to withdraw from the contract.

19.3. If the customer wishes to receive information about the data about it retained by the credit agencies, it can obtain this information directly from the companies named in Section 19.1.

20. Governing law and place of jurisdiction

20.1. German law applies exclusively, excluding the provisions of the UN Convention on Contracts for the International Sale of Goods.

20.2. The exclusive place of jurisdiction for all disputes arising from or in connection with contractual relationships between the customer and TESVOLT is the registered office of TESVOLT. However, TESVOLT is entitled to sue the customer at its place of business.

20.3. The invalidity of individual provisions shall not affect the validity of the remaining provisions.

Part II: Special conditions for installation and/or commissioning of the BESS by TESVOLT

If the order confirmation stipulates that TESVOLT is responsible for installing and/or commissioning the BESS, the following provisions shall apply in addition to the above:

21. Special regulations for installation and commissioning

21.1. Depending on the agreed scope of service TESVOLT will install the BESS and other components, including:

- a. Mounting the BESS on the foundation constructed by the customer
- b. Connecting the BESS to the electricity system to provide auxiliary energy
- c. Commissioning the system

21.2. The customer is obligated to review and create the necessary conditions for the installation and/or commissioning of the BESS at its own expense and to take all necessary measures to protect the delivery and assembly personnel. This includes in particular:

- a. The application and procurement of all permits, approvals and authorizations required for the construction and operation of the BESS
- b. Civil engineering work required on site, in particular for the laying of cables
- c. Installation or laying of the necessary electrical cables, distributors and supply systems in the building or property
- d. Provision of the necessary connections to the electrical lines, distributors and supply systems of the building or the transfer station
- e. Review of the electrical system at the installation site for suitability or establishing the suitability of the existing electrical system for the installation and operation of the BESS
- f. Compliance with the applicable safety, health, employee protection and environmental protection regulations
- g. Provision of continuous internet access for BESS
- h. Provision of the necessary reference and feed-in power for the execution of the trial operation and the site acceptance test in cooperation with the authorised grid operator

21.3. Even if the BESS is installed and commissioned by TESVOLT, the risk of accidental loss is transferred to the customer in accordance with the INCOTERMS. Section 5.1 applies.

21.4. TESVOLT is entitled to withdraw from the contract under the conditions set out in Section 14.1 if the customer does not cooperate as required in accordance with Section 21 for the installation and/or commissioning of the BESS.

22. Site acceptance test for installation and commissioning by TESVOLT

22.1. After installation and commissioning of the BESS by TESVOLT, the site acceptance test (SAT) will be carried out in accordance with the site acceptance test protocol. TESVOLT will notify the customer in writing of its readiness to carry out the SAT two weeks in advance.

22.2. If significant defects are identified during the SAT, the SAT is considered a failure. The SAT must be repeated after the defects have been remedied. Significant defects are defined as defects that, at the time of the SAT, have a more than insignificant impact on the long-term operation of the BESS or that impair the operational safety of the BESS. The SAT is successfully completed if no significant defects are found.

22.3. The SAT is also deemed to have been successfully completed if the customer uses the BESS in the intended manner or for commercial purposes.

22.4. TESVOLT always commissions or tests the BESS on behalf of and for the customer. TESVOLT itself does not operate the BESS at any time.