

Terms of Use

for the myTESWORLD portal offered by TESVOLT GmbH

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PREAMBLE

TESVOLT GmbH develops and produces high-quality battery storage solutions based on lithium-ion technology (“TESVOLT battery storage systems”). Certain TESVOLT battery storage systems are sold by TESVOLT in combination with the TESVOLT Energy Manager. The TESVOLT Energy Manager is an energy management system comprised of a small box with TESVOLT Energy Manager software that enables optimised management of the TESVOLT battery storage system. Using the web-based myTESWORLD portal from TESVOLT, users can configure and manage their TESVOLT battery storage system and the resulting energy flows individually. The following terms of use apply for the myTESWORLD portal.

1 SCOPE, PROVIDER AND EXCLUSION OF OTHER TERMS OF USE

1.1 Scope

These terms of use apply for all agreements between the user and the provider regarding the use of the myTESWORLD portal (hereafter: “the portal”) for managing the TESVOLT battery storage system and its energy flows as well as the individual configuration and optimisation of the system.

1.2 Provider

The provider and operator of the portal is TESVOLT GmbH (hereafter: “TESVOLT”), Am Heideberg 31, 06886 Lutherstadt Wittenberg, registered with the Stendal District Court under registration number HRB 20947.

1.3 Exclusion of other terms and conditions

The portal is used solely on the basis of these terms of use, provided there are no other written agreements between TESVOLT and the user that deviate from or supplement them in individual cases (section 126 of the German Civil Code, BGB). Conflicting, supplemental or deviating terms of use maintained by the user shall not become part of the agreement. There are no verbal side agreements.

2 REGISTRATION AND CONCLUSION OF THE AGREEMENT

2.1 Registration

A user account must be created in order to be able to register. Creating a user account and registering require the following steps:

- To register, the user provides an email address and a personal password. The email address and password are used later for the user name and for communication with TESVOLT.
- After the registration process has been completed, the user is informed by email that the registration request has been received. The email contains an activation link.
- To active the registration, the user clicks on the activation link. TESVOLT confirms the registration to the user in a confirmation email.
- The user will then be able to log into the portal using his/her user name (email address) and personal password.

2.2 Conclusion of the agreement

Completion of the online registration process represents a legal binding offer by the user to conclude an agreement with TESVOLT. However, this shall not result in a licence agreement. The licence agreement with TESVOLT shall only be concluded after TESVOLT confirms the registration by sending the confirmation email or after the user account has been approved by TESVOLT.

3 PASSWORD CREATION AND SAFEKEEPING REQUIREMENTS

The TESVOLT service offering provided in the framework of the portal is only available to registered users (for information about registration, see para. 2.1). Each login requires entry of a password.

The user must adhere to the following requirements for creating a password:

- Each password must be made up of at least eight characters comprised of letters, numbers and special characters.
- Old passwords may not be repeated.

The user must keep his/her password secret and not disclose it to third parties. If it is believed that third parties have gained knowledge of a user's access details or that unauthorised third parties are attempting to access to the portal, for example, if a password is entered incorrectly several times, TESVOLT reserves the right to (temporarily) block access.

The user is prohibited from sharing his/her login details with third parties and/or providing third parties with access to the portal without entering login details. However, if expressly permitted by TESVOLT, the user may provide third parties with access to functionalities in the portal via his/her stored data. The portal may not be used to store and manage third-party data.

4 SCOPE OF SERVICES AND FUNCTIONS OF THE PORTAL

The portal enables the management of the energy flows on the TESVOLT battery storage system. The following individual functions are available.

4.1 Products

TESVOLT provides users with various usage formats ("products") on the platform. These products vary in terms of service scope and price. Each service scope is based on the product offerings that applied when the agreement was concluded. TESVOLT aims to enhance and improve the offering formats on a continuous basis. TESVOLT may provide offering formats only to individual users during test phases.

4.2 User account

Under the “User account” function, the user can view and maintain his/her personal details (e.g. surname and first name, address, date of birth and customer number) as well as their energy management data.

4.3 Right to data usage

TESVOLT is entitled to collect data during the use of the platform by users and to use such data for its own purposes, in particular, statistical purposes as well as to identify and exploit potential for optimisation.

5 PROVISION AND AVAILABILITY OF THE PORTAL

5.1 Provision

TESVOLT provides users with the portal via the internet. The portal can be accessed with internet browser software, such as Chrome, MS Internet Explorer, Firefox or Safari. TESVOLT aims to operate the portal without interruption. This is inherently limited to the services over which the operator has influence. The operator is free to restrict access to the portal in full or in part, temporarily or for an extended period of time, as a result of maintenance work, capacity issues or due to other events outside its control.

5.2 Technical requirements

All users are responsible for ensuring the necessary technical conditions required for their use of the portal and the compatibility of the portal and its functions with the user’s individual hardware and software.

6 USAGE FEES AND PAYMENT TERMS

6.1 Usage fees

The usage fees for the individual products and services in the portal are based on the product offering that applied when the agreement was concluded. All usage fees specified on the product pages are for one year (12 months) of use and are net amounts, where the applicable statutory value added tax and other price components have not been added and shown separately. TESVOLT does not guarantee that functionalities that are offered free of charge remain free of charge forever. TESVOLT may instead offer the users to use such functionalities against remuneration for the future.

6.2 Price adjustment

TESVOLT shall be entitled to adapt prices at his reasonable discretion (Section 315 et seq. of the German Civil Code) and to increase prices if a service provision on a consideration of common interests is no longer acceptable to TESVOLT. TESVOLT is further entitled to increase prices if the last increase in price is at least 6 months ago. TESVOLT will notify the user via email one month before the price adjustments comes into effect. If the user does not disagree in a written notice or via email within 4 weeks this is deemed as consent to the price adjustment. TESVOLT will explicitly mention this consequence in the notice.

6.3 Payment terms

Agreed usage fees must be paid after the respective product or service has been approved. They are due for payment for the full year of use at the beginning of the year of use, 14 days after receipt of the invoice. User invoices are sent by post or email or provided in the portal.

6.4 Payment methods

Payments may be made by invoice, credit card, PayPal or direct debit.

In the event of payment by credit card, the agreed usage fee will be reserved on the user’s credit card when the user access is booked (“authorisation”). The amount will be charged to the user’s credit card after the product or service has been approved and at the beginning of each new year of use.

In the event of payment by direct debit, the user shall bear any costs that result from a rebooking of a payment transaction due to insufficient funds or incorrect bank account details.

TESVOLT reserves the right to expand or limit the available payment methods (including for individual services) at any time.

6.5 Late payment and prohibition against offsetting

If the user is late in making payment, TESVOLT shall be entitled to charge late payment interest in the amount of 9 percentage points above the respective base rate. It reserves the right to demand further compensation.

The user may only use legally established claims or claims recognised by TESVOLT in writing for offsetting.

7 USER OBLIGATIONS

7.1 Designated purpose

The user may only use the portal in the framework of the intended scope of services and for the contractually agreed purposes. Use for other purposes, in particular, misuse of the functionalities that does not comply with the designated purpose, is not permitted. In particular, the portal may not be used for unlawful, obscene, offensive or fraudulent activities, such as causing or promoting damage to, attacks on or a breach of the integrity or security of a network or system, the circumvention of filters, the dispatch of unwanted, abusive or misleading messages (including messages with advertising content and spam), the dissemination of viruses or harmful software or the violation of the rights of third parties. The user must refrain from any activity that might harm and/or strain the operation of the portal or the underlying technical infrastructure. In particular, this includes

- the use of software, scripts or databases in conjunction with the use of the portal, and
- blocking, overwriting, modifying, copying data and/or other content,

where this is not necessary for the ordinary use of the portal.

7.2 Accuracy and maintenance of information

If, in the context of his/her use of the portal, the user provides information, the accuracy and completeness of which is necessary to perform the contractual relationship with the user, the user is obliged to provide accurate and complete information and to keep the information up to date for the duration of this usage agreement. The user also undertakes to use the portal only to store and manage information that is correct to the best of the user's knowledge.

7.3 Consequences of unlawful use or use contrary to the agreement

If the user does not adhere to the permitted use, for example, if the user uses the portal in a way that breaches these terms of use or applicable law, TESVOLT is entitled – irrespective of any other claims (including immediate extraordinary termination of the usage relationship) – to block use by the user.

8 USER'S USAGE RIGHTS

TESVOLT grants the user, for the duration of the usage relationship, a non-exclusive, revocable, non-transferable and non-sublicensable right to use the portal within the intended scope, in particular, to store and manage data about the user's energy flows.

The user is not entitled to decompile, disassemble, translate, copy, edit, restructure or rework the portal software, or make it publicly accessible or disseminate it, unless doing so is essential.

9 LIABILITY

9.1 Unrestricted liability

TESVOLT has unrestricted liability for intentional or gross negligence as well as in accordance with mandatory statutory liability provisions (e.g. pursuant to the Product Liability Act). The operator has unlimited liability for simple negligence in the event of damages arising from injury to or the death of persons.

9.2 Limited liability

In addition, the following limited liability applies: In the event of simple liability, TESVOLT shall be liable only in the event of the breach of a material contractual obligation. Material contractual obligations are obligations, the fulfilment of which enable the proper performance of the agreement and compliance upon which the user can normally rely. The amount of liability for simple negligence is limited to the foreseeable damage that could typically be expected to occur when the agreement was concluded. This limitation of liability also applies for the agents of TESVOLT.

9.3 Forecasts and simulations

If simulations and forecasts are provided on myTESWORLD, TESVOLT points out that TESVOLT accepts information and data provided by the TESVOLT battery storage system or by the user without reviewing them for their accuracy or plausibility. Other data from other sources is selected and reviewed with the level of care that is customary in science. However, actual developments may deviate from forecast and simulated developments, and such deviation does not represent a deficiency in the services of TESVOLT. TESVOLT does not guarantee that developments simulated or forecast using myTESWORLD will actually occur.

10 DURATION AND TERM OF THE USAGE RELATIONSHIP

10.1 Duration

The agreement to use the portal begins with the approval of the user account on the portal, provided there is no other contractually agreed term. It has an initial duration of one year of use. The agreement will automatically be extended for one additional year of use if neither contracting party terminates it with a period of notice of three months to the end of the term of the agreement.

10.2 Termination for good cause

Above and beyond this, the parties may also terminate the agreement with immediate effect for good cause. For TESVOLT, good cause exists if the user is late with the payment of the usage fee or a not inconsiderable portion of the usage fee for a period of at least four weeks and, despite reminders and the threat of termination, the outstanding amount is not paid within two weeks or if the user breaches his/her obligations under para. 7. If a product or service is terminated, the user's account will be reset to the agreed scope still in effect after such termination (e.g. basic). If the entire agreement is terminated, all of the user's profile data will be deleted from the user account.

11 DATA PROTECTION

11.1 Data and processing purposes

In the context of his/her use of the portal, the user's personal data is processed by TESVOLT, as the data controller, and stored for as long as is necessary to fulfil the defined purposes and statutory obligations. Pursuant to Art. 4, No. 1 of the General Data Protection Regulation (GDPR), personal data is all information that refers to an identified or identifiable natural person.

11.2 Disclosure to third parties

If legally permitted and required for the performance of contractual relationships with users pursuant to Art. 6, para. 1, cl. 1(b) GDPR, the personal data of users will be disclosed to third parties. In particular, this includes disclosure in the framework of the provision of the portal and disclosure of payment details to payment service providers or credit institutions in order to carry out a payment process. The disclosed data may only be used by the third party for the specified purposes.

In addition, usage data generated via the portal may be evaluated and shared in anonymised form for research purposes.

11.3 Storage duration

Personal data will only be stored for as long as necessary to perform the contractual relationship between TESVOLT and the user, and TESVOLT is not obliged to store it for a longer period on the basis of retention and documentation obligations under tax and commercial law (on the basis of the German Commercial Code, German Penal Code and the German Tax Code) pursuant to Art. 6, para. 1, cl. 1(c) GDPR or the user has consented to a longer storage period pursuant to Art. 6, para. 1, cl. 1(a) GDPR.

11.4 Further information

Further information can be found in the privacy policy for the TESVOLT portal.

12 CHANGES TO THE TERMS OF USE

The portal is enhanced on an ongoing basis. In particular, TESVOLT enhances and supplements the available products and usage formats. The enhancement of the portal may make changes to these terms of use necessary in the future. TESVOLT is therefore entitled to make changes or additions to these terms of use with future effect if such changes or additions are necessary to take account of changes or additions to the portal or to close any gaps that might result in considerable difficulties with respect to the performance of the agreement. The customer must not be placed in a worse position than when the agreement was concluded as a result of changes made after the agreement is concluded. Changes or additions must be disclosed to the customer in writing at least six weeks before the changes or additions are to take effect. The terms of use, as amended, can be accessed, saved and printed via the portal (mytesworld.tesvolt.com) at any time.

13 FINAL PROVISIONS

13.1 Applicable law

This agreement is subject exclusively to German law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

13.2 Severability

If individual provisions of this agreement are or become partially or fully ineffective, the effectiveness of the other provisions shall not be affected. In such cases, the parties agree to replace the invalid provision with an effective provision that approximates the economic purpose of the invalid provision as closely as possible. The same applies for any gaps in the agreement.

13.3 Jurisdiction

The head office of TESVOLT is agreed as the jurisdiction for all disputes that arise from the performance of this agreement.