

## **General Terms and Conditions of Business of Renusol Europe GmbH**

(As at 12/04/2017)

### **Clause 1 General Provisions – Scope of Application**

1. These General Terms and Conditions of Business (hereinafter referred to as the “**T&Cs**”) shall apply in relation to all present and future business relationships of Renusol Europe GmbH, Piccoloministraße 2, 51063 Cologne, Germany (hereinafter referred to as “**Renusol**” or “**we**”) with entrepreneurs (section 14 Germany Civil Code [“*Bürgerliches Gesetzbuch*”, “**BGB**”]), merchants, legal persons under public law or a special fund under public law (hereinafter referred to as the “**Customer**”).
2. These *T&Cs* constitute the framework agreement and shall also apply to future contracts entered into between *Renusol* and the *Customer* regarding the sale and/or supply of goods and/or the provision of services, without *Renusol* having to make reference to this in each individual case. The current version as amended from time to time can be accessed on the website of *Renusol* under <http://www.renusol.com/de/service/downloads.html>.
3. These *T&Cs* apply to the exclusion of all others. Any of the *Customer’s* terms and conditions of business that deviate from, contradict or supplement these General Terms and Conditions of Business shall not become part of the contract, even if *Renusol* is aware of them, unless *Renusol* has expressly consented to their applicability in writing.
4. *Renusol* is entitled to modify these *T&Cs* at any time outside of an ongoing business relationship. The modified *T&Cs* shall take effect once the *Customer* has again agreed to them prior to placing his next order. Any contracts entered into with the *Customer* prior to the modification of the *T&Cs* shall not be affected by the modification; these contracts are always subject to the *T&Cs* that were agreed at the time the contract was entered into. In the course of an ongoing business relationship, any modifications made to these *T&Cs* shall only become effective if the *Customer* has not objected to the modification within one month from receipt of a written modification notice and *we* have notified the *Customer* of his right of objection and the deadline in the modification notice. If the *Customer* objects to the modification, the previous *T&Cs* shall continue to apply. Any modifications that relate to an obligation on the part of *Renusol* or the *Customer* whose fulfilment only makes the implementation of this contract possible in the first place and on whose fulfilment the other party relies and may duly rely (“**Material Contractual Obligation**”) shall be excluded from this right of modification during this course of an ongoing business relationship.
5. We are entitled to transfer the rights and obligations arising from the agreements entered into with the *Customer* on the basis of these *T&Cs* to one or more third parties. If we avail ourselves of this option, *Renusol* shall notify the *Customer* of this in writing no later than one month prior to the intended assumption of contract. In this case the *Customer* shall be entitled to terminate the contract, with retroactive effect if required, by giving one month’s notice from receipt of the notification regarding the transfer of contract, to take effect at the time of the transfer of contract.
6. The obligations under section 312i(1) sentence 1 no. 1 to no. 3, sentence 2 BGB shall not apply to the relationship between *Renusol* and the *Customer*.
7. Any references to the application of statutory provisions shall only be for purposes of clarification. Even in the absence of such clarification, the statutory provisions shall therefore apply to the extent that they are not directly modified or expressly excluded in these *T&Cs*.

### **Clause 2 Quotation, Order and Conclusion of Contract**

1. Our quotations are without obligation and non-binding unless we declare, expressly and in writing, that a quotation is to be binding. If we declare, in writing, that a quotation is to be binding, we consider ourselves bound by this for a period of thirty days from receipt of the quotation by the *Customer*.
2. Illustrations, drawings and other materials (catalogues, brochures, technical documentation, e.g. drawings, plans, computations, calculations, references to standards) or other descriptions of goods or services or information regarding these, which relate to our quotations (“**Product Information**”), generally only constitute a presentation of the goods. The *Product Information* shall remain subject to any modifications and errors until the order is submitted.
3. Subject to clauses 7 and 8, *Renusol* does not accept any responsibility for ensuring that the goods sold to the *Customer* in the configuration chosen by the *Customer* are compatible with one another and can be used together or with other systems of the *Customer*; accordingly, the only features of the goods that are being

contractually guaranteed are those that *Renusol* has declared, expressly and in writing, as having been guaranteed.

4. A written order of goods by the *Customer* constitutes a binding request on the part of the *Customer* to *Renusol* for the completion of a contract regarding the acquisition of the goods. We are entitled to accept the *Customer's* request within two weeks of receipt. Acceptance may be declared in writing or by making the goods available for shipping to the *Customer*; in the latter case, the *Customer* waives his right to receive the declaration of acceptance pursuant to section 151 sentence 1 BGB.
5. We retain title and copyright in any quotations, drawings, product descriptions, documentation and other documents and any other rights that may be contained or embodied therein. The same applies in relation to electronic documents. Particularly the calculation aids provided to the *Customer* for their autonomous use are covered by copyright. Only the calculation created using these calculation aids may be released.

### **Clause 3 Extended Retention of Title, Processing and Release in Cases of Excess Security**

1. We retain title to the goods until all current and future claims under the contract and under an ongoing business relationship ("secured claims") with the *Customer* have been met in full.
2. The goods that are subject to a retention of title must neither be pledged nor transferred by way of security to any third parties until the secured claims have been met in full.
3. The *Customer* is under an obligation to notify us without delay of any third party access to the goods which are subject to a retention of title, for instance in the case of attachment, as well as of any damage to or destruction of the goods. The *Customer* shall notify us without delay of any change in possession of the goods that are subject to a retention of title as well as any change of the *Customer's* registered office for as long as the *Customer* is in possession of any goods that are subject to a retention of title.
4. The *Customer* shall be entitled to sell on and/or process the goods that are subject to a retention of title in the ordinary course of business.  
In this case, the following provisions shall apply in addition:
5. The retention of title shall also extend to the full value of the products created by way of processing, mixing or combining the supplied goods; *Renusol* is deemed to be the producer of such products. If, in the event of processing, mixing or combination with third party goods, the third party retains its right of ownership, *Renusol* shall acquire joint ownership in proportion of the invoice values of the goods that have been processed, mixed or combined. Apart from that, the resulting product is subject to the same rules as the goods delivered subject to a retention of title.
6. The *Customer* hereby assigns to us by way of security all claims that arise in connection with the resale, either in full or equivalent to our joint ownership share in accordance with the above paragraph. We hereby accept such assignment.
7. Following the assignment the *Customer* shall remain authorised to collect the claim as long as we do not revoke this authorisation. We reserve the right, however, to collect the claim ourselves if the *Customer* fails to duly meet his payment obligations, if he is in default of payment or if an application for the commencement of insolvency proceedings has been made in relation to the *Customer*.
8. Any work on and processing of the goods by the *Customer* always occurs on our behalf. If goods are processed together with any items that do not belong to us, we shall acquire joint ownership in the new item in proportion to the value of the goods delivered by us in relation to the other processed items. The same applies if the goods are mixed with other items which do not belong to us.
9. We undertake, upon the *Customer's* request, to release the securities to which we are entitled to the extent that the realisable value of our securities exceeds the value of the claims to be secured by more than 10 %; we are entitled to select which securities are to be released.
10. The *Customer* is under an obligation to treat the goods that are subject to a retention of title with due care. If maintenance and inspection works are required, the *Customer* shall carry these out at his own costs unless they fall within the rules on liability for defects in accordance with clause 7.

### **Clause 4 Delivery and Delivery Dates**

1. Delivery dates stated by *Renusol* are non-binding unless *Renusol* has, in exceptional cases, expressly and in the written form, declared them to be binding. Compliance with delivery dates always requires that the *Customer* has met his duties of cooperation vis-à-vis *Renusol*. If compliance with a delivery date that has been declared to be binding vis-à-vis the *Customer* depends on acts of cooperation on the part of the *Customer*, *Renusol* will notify the *Customer* of these in good time in written form.

2. If *Renusol* is unable to meet binding delivery dates for reasons for which *Renusol* is not responsible, *Renusol* will notify the *Customer* of this fact without delay and, at the same time, notify the *Customer* of the estimated new delivery date. If the goods and/or services are still not available as at the new delivery date, *Renusol* is entitled to withdraw from the contract in whole or in part; *Renusol* will reimburse the *Customer* for any consideration already paid. *Renusol* shall not be deemed to be responsible for the delivery date being exceeded if *Renusol* itself receives late deliveries by its upstream supplier where *Renusol* has entered into a matching transaction to cover its obligations ("*kongruentes Deckungsgeschäft*"). This shall not affect *Renusol's* statutory rights of withdrawal and termination as well as the statutory provisions regarding the dissolution of a contract in the event that the obligation to perform the contract is excluded.
3. A binding delivery date shall be extended by a reasonable period if, for reasons of force majeure (power failure, outage of the telephone network or the internet, fire, explosions, earthquakes, severe weather, floods, industrial action) *Renusol* is unable to provide the goods or services either at all or significant parts thereof. *Renusol* shall notify the *Customer* without delay in the event of force majeure and give the *Customer* a new delivery date. The delivery date shall be extended for the duration of the force majeure at *Renusol's* premises plus an additional three working days for the resumption of business operations by *Renusol*. The clause shall apply mutatis mutandis if it is not *Renusol* but the respective upstream supplier of the goods acquired by the *Customer* from *Renusol* who is unable, due to force majeure, to perform his performance obligations vis-à-vis *Renusol* or if *Renusol* is unable to meet an agreed delivery deadline despite entering into a matching transaction to cover its obligations (clause 4.2).
4. Even in the absence of a corresponding agreement with the *Customer* we are entitled to make partial deliveries provided these are reasonable for the *Customer*. In derogation from clause 5.1, *Renusol* shall bear the costs of the partial deliveries if they exceed the costs that would have arisen had the goods acquired by the *Customer* been delivered as a whole.
5. In international business dealings, the *Parties* may agree the application of INCOTERMS®2010 in derogation from this contract; these include conditions and rules for the technical realisation of transportation and contain stipulations regarding the transfer of costs and transport risks from *Renusol* to the *Customer*. If the *Parties* agree the application of certain INCOTERMS®2010, this supplemental agreement shall have primacy of application over any contradictory rules in these *T&Cs*.

#### **Clause 5 Payment**

1. Payment applies ex works, including loading at the production plant and packaging. The prices are subject to value added tax at the statutory rate as amended from time to time. Any transport costs, duties, charges, insurances, taxes and other public charges shall be borne by the *Customer*.
2. Our invoices are due and payable immediately. The *Customer* is in default of payment if he has not paid within thirty days from the due date and receipt of an invoice or comparable payment schedule. During a period of default, default interest at the statutory rate as amended from time to time (section 288(2) BGB) shall be payable. We reserve the right to claim additional loss or damage caused by the default. In dealings with merchants for the purposes of the German Commercial Code ("*Handelsgesetzbuch*", "*HGB*") the claim of *Renusol* to the commercial default interest (section 353 HGB) shall remain unaffected.
3. The *Customer* has a set-off right only if his counterclaims have been upheld and declared unappealable by a court of law, if they have been accepted by *Renusol* or if they are undisputed. The *Customer* is entitled to exercise a right of retention only if his counterclaim is based on the same contractual relationship.
4. If under a separate agreement the *Customer* is permitted to pay in instalments, the outstanding payment is immediately due and payable either if the *Customer* is in arrears with the payment of an amount equivalent to at least one instalment despite *Renusol* having set a reasonable grace period for payment or, and this does not require the setting of a grace period, if the *Customer* is in arrears with an amount equivalent to at least two instalments.
5. If the *Customer* is in default of payment pursuant to clause 5 no. 2, *Renusol* reserves the right to also demand the immediate payment of all other unpaid receivables under other contracts or deliveries.
6. The deduction of a cash discount requires prior explicit agreement in writing.

#### **Clause 6 Passing of Risk**

1. Subject to any written agreements with the *Customer* to the contrary (clause 4.5), the risk of accidental destruction and accidental deterioration of the goods transfers to the *Customer* upon delivery of possession; in the event of a contract of sale involving the carriage of goods, such risk passes to the *Customer* upon delivery of the goods to the forwarding agent, the carrier or any other person or organisation entrusted with the carriage of goods. The delivery of possession shall be equivalent to the *Customer* being in default of acceptance. Unless

otherwise expressly agreed in writing with the *Customer* (clause 4.5) we shall be entitled to determine the manner in which delivery is to be effected (in particular transport companies, transport route, packaging).

2. In the event that it has been agreed that the *Customer* will collect the goods himself, the risk shall transfer when the goods are made available for collection in our warehouse. The goods must be collected by the *Customer* within one week from notification that they have been made available. If the goods are collected late, we reserve the right to charge for the storage costs incurred; this shall not affect any additional rights that may arise from the *Customer's* default in acceptance.

#### **Clause 7 Liability for Defects**

1. Rights of the *Customer* in the event of any defects in quality or deficiencies in title shall be subject to the statutory provisions unless otherwise provided for below. Special statutory provisions that apply regarding recourse against suppliers if the goods are to ultimately be delivered to a consumer pursuant to sections 478, 479 BGB shall remain unaffected in any event.
2. The primary basis for any liability for defects shall be the quotation generated by us, including any features we have guaranteed where relevant. Subject to clause 8, *Renusol* does not assume any liability regarding public statements, marketing claims or advertising by the manufacturer or other third parties.
3. If the *Customer* is a merchant for the purposes of the German Commercial Code, any claims for defects on the part of *Customer* require that he has complied with his statutory duty to inspect goods and notify the other party of any defects (sections 377, 381(2) HGB). If a defect becomes apparent during the inspection or at a later stage, *Renusol* has to be notified of this fact in written form without delay. A notice of defect is deemed to have been provided without delay if it is provided within two weeks; it is deemed to have been submitted in time if the notice was sent within the prescribed time limit. Independent of this inspection and notification obligation on the part of merchants, each *Customer* has to notify *Renusol* of any obvious defects (including any incorrect or incomplete deliveries) in written form within two weeks from delivery; the notice of defects is deemed to have been submitted in time if it was sent within the prescribed time limit. If the *Customer* fails to carry out a proper inspection and/or fails to report a defect within the prescribed time, any damages claims of the *Customer* against *Renusol* for an obvious defect that has not been reported are excluded.
4. The *Customer* shall notify *Renusol* of any defects other than obvious ones in written form within two weeks from their detection. If the *Customer* fails to comply with this obligation, with regard to these defects he shall be entitled to assert all claims for defects without limitation. If, however, *Renusol* has suffered any disadvantages as a result of the failure to report a defect other than obvious defects, we reserve the right to assert damages claims against the *Customer* for a failure to notify us. This shall not affect the *Customer's* statutory claims for defects.
5. If, following a failure of supplementary performance, the *Customer* chooses to withdraw from the contract due to a defect in quality or deficiency in title, he shall have no further damages claim for a defect caused by us acting with minor negligence.
6. Defects caused – after the risk has passed – by unsuitable or inappropriate use, faulty installation or commissioning by the *Customer* or third parties, natural wear and tear, unsuitable equipment, replacement materials, inadequate execution work or unsuitable foundations are not covered by our liability for defects, in the exceptional event that we are responsible for these defects. If the *Customer* himself or a third party instructed by the *Customer* has made an attempt at rectifying a defect or has interfered with the goods in any other way and has thereby caused a new defect in the goods after the risk has passed, this is also not covered by our liability for defects.
7. On the basis of a separate written agreement (section 126 BGB), the *Customer* may be granted a separate warranty in accordance with our warranty conditions; in the absence of any agreements to the contrary, *Renusol* does not grant any other warranties. Such warranties shall not affect the *Customer's* statutory claims for defects.
8. Any deviations in terms of quantity, in particular any excess or short deliveries of up to 5 % of the contract volume shall be permissible provided that the deviation is reasonable for the *Customer*, taking into account *Renusol's* interest. Deviations in terms of quantity shall be deemed reasonable for the *Customer* provided that, in the case of a short delivery, this does not result in the *Customer*, on his part, defaulting on his contractual obligations vis-à-vis third parties due to the deviation in terms of quantity and provided that, in the case of excess delivery, any deviation in terms of quantity that does not oblige the *Customer* to accept goods that he does not require in order to fulfil his contractual obligations vis-à-vis third parties within a reasonable time from delivery. The contractually agreed payment shall be adjusted in accordance with the excess/short delivery.
9. Damages claims of the *Customer* only exist in accordance with clause 8.

#### **Clause 8 Limitations of Liability**

1. Unless otherwise provided in these T&Cs, in the event of a breach of contractual and non-contractual obligations *Renusol* shall be liable in accordance with the applicable statutory provisions. This shall apply, mutatis mutandis, in relation to statutory representatives and persons engaged by *Renusol* in performing the contract with the *Customer*.
2. Irrespective of the legal basis, we shall be liable for damages in cases of intention and gross negligence.
3. In the case of simple negligence, we shall only be liable a) for loss or damage arising from injury to life, limb or health and b) for loss or damage arising from the breach of a fundamental contractual obligation (an obligation whose fulfilment makes the proper implementation of this contract possible in the first place and on whose compliance the *Customer* relies and may duly rely).
4. In the case of a simply negligent breach of a fundamental contractual obligation, liability is limited to compensation for loss or damage that is foreseeable and typical for the contract in question, and liability for indirect loss or damage, and in particular for loss of profits, is excluded.
5. The limitations of liability set out in paragraph 3 and paragraph 4 shall not apply if we have fraudulently concealed a defect or have, in exceptional cases, granted a guarantee of quality in relation to the goods supplied. The same shall apply in relation to claims of the *Customer* pursuant to the German Product Liability Act ("*Produkthaftungsgesetz*").

#### **Clause 9 Limitation of Claims**

1. In derogation from section 438(1) no. 3 BGB, the general limitation period for claims for defects in quality or deficiencies in title shall be one year from delivery in the case of new goods and six months from delivery in the case of second-hand goods. This shall not apply to damages claims in the cases set out in clause 8.2 and clause 8.3. Moreover, it shall not apply to special statutory provisions in cases of bad faith on the part of *Renusol* (section 438(3) BGB) and to claims in cases of recourse against suppliers if goods are to ultimately be delivered to a consumer (section 479 BGB).
2. The aforementioned limitation periods shall also apply in relation to contractual and non-contractual damages claims of the *Customer* which are based on a defect of the goods, unless the application of the regular statutory limitation period (sections 195, 199 BGB) would result in a shorter limitation period in a particular case. The limitation periods of the German Product Liability Act shall remain unaffected. Other than that, damages claims of the *Customer* in accordance with clause 8 shall be subject only to the statutory limitation periods.

#### **Clause 10 Points to Note Regarding the Goods and Services Provided by Renusol**

1. We would like to point out that, without exception, the goods supplied by us need to be installed by a suitable, specialist company, while taking into account any recommendations for installation. The goods we sell are not suitable for installation by a layperson. If, despite this, the *Customer* carries out the installation of the goods supplied by us himself or has a third party carry it out without the necessary specialist knowledge and without following any installation recommendations provided, this may lead to liability on the part of the *Customer* for any loss or damage incurred as a result. With the exception of the cases set out in clauses 8.2 and 8.3, *Renusol* does not accept any liability.
2. The quotations generated by *Renusol* in accordance with clause 2 are based on details provided by the *Customer*. *Renusol* does not check the details provided by the *Customer* for accuracy and completeness, and *Renusol* is not obliged to carry out such a check or an assessment of whether the solar mounting systems configured by the *Customer* meet the requirements of the *Customer* or his end customer. *Renusol* does not give any guarantee that the solar mounting systems configured by the *Customer* are suitable and fit for the purpose required by the *Customer* or his end customer. It is therefore the *Customer's* responsibility to immediately check the quotations generated by *Renusol* in accordance with clause 2 for accuracy and completeness with regard to the details provided by the *Customer*.
3. To the extent that *Renusol* offers calculations regarding the structural analysis for a solar mounting system configured by the *Customer*, this does not constitute a binding calculation of the structural analysis for the respective system configured by the *Customer* but only non-binding assistance for the *Customer* in order to determine the necessary scope of the order in relation to the respective system. The *Customer* is expressly reminded that this non-binding calculation regarding the structural analysis does not satisfy statutory requirements. Only at the written request of the *Customer*, which is not covered by these T&Cs and which is charged for separately, will *Renusol* prepare a verifiable structural analysis for the *Customer* for future use on



the basis of the details provided by the *Customer*. This verifiable structural analysis forms the basis of the assessment to be arranged by the *Customer* himself as to whether the structure of the solar mounting system configured by the *Customer* complies with statutory requirements, and it does not replace the assessment by the *Customer*.

4. *Renusol* manufactures construction products in accordance with the EU Construction Products Regulation (Regulation No. 305/2011). Accordingly, the factory production control (FPC) of the load bearing components and kits for steel and aluminium structures produced by *Renusol* are certified under EN 1090-2 (steel) or EN 1090-3 (aluminium) up to EXC 2. Unless otherwise requested by the *Customer*, EXC 2 is automatically deemed agreed for these products. *Renusol's* European-harmonised products receive CE marks.

#### **Clause 12 Final Provisions**

1. There are no verbal side agreements in relation to the contract entered into with the *Customer* and in relation to these *T&Cs*. Any changes and supplements to this contract as well as all contract-related declaration and notices must be made in the written form. The written form requirement pursuant to these *T&Cs* shall have been satisfied when "text form" (section 126b BGB, in particular fax and email) is used. On request by the recipient made immediately after receipt, the party making the declaration shall confirm the respective declaration in writing without delay (section 126(1) BGB).
2. The law of the Federal Republic of Germany shall apply, to the exclusion of the laws of all other countries and in particular to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Requirements and consequences of the retention of title pursuant to clause 3 shall be subject to the law at the respective location of the item to the extent that, under such law, the choice of German law is impermissible or invalid.
3. The exclusive contract language shall be German. Insofar as translations of these *T&Cs* into languages other than German are produced, only the German version shall be legally binding.
4. The place of performance shall be Cologne, Germany.
5. If the *Customer* is a merchant, a legal person under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly under this contractual relationship anywhere in the world shall be Cologne, Germany. The same applies even if the *Customer* does not have any general place of jurisdiction in Germany or if his place of residence or habitual abode is not known at the time these legal proceedings are brought. *Renusol* is entitled to assert judicial claims against the *Customer* at his general place of jurisdiction.
6. If *Renusol* incurs costs and/or other expenses caused by the fact that legal action against the *Customer* may only be taken outside of Germany or *Renusol* has decided to take such legal action, the *Customer* shall reimburse *Renusol* for such costs without delay. This shall not affect the assertion of damages in excess of the above.
7. If individual provisions in the contract with the *Customer* including these *T&Cs* are or become invalid, in whole or in part, then this shall not affect the validity of the remaining provisions.