

Metal Account Terms and Conditions

BASF Italia S.p.A.

Divisione Catalizzatori



1. Definitions

A. **Account** – The relationship between BASF and Customer defined by these terms and conditions and commonly referred to as a metal account, pool account, or unallocated metal account.

B. **Customer** – A party maintaining one or more Accounts with BASF.

C. **BASF** – BASF Italia S.p.A., Divisione Catalizzatori, an Italian limited liability company.

D. **Forward Contract** – Shall mean the sale and purchase of an agreed amount, type and purity of Metal at an agreed price with payment and transfer of title taking place at a date more than 2 days in the future.

E. **Metal** – Any precious metal (including but not limited to gold, silver, platinum, palladium, rhodium, iridium, rhenium and ruthenium) meeting the applicable specifications provided herein. A separate Account shall be maintained for each Metal and all obligations and undertakings herein with respect to any Metal shall be computed and performed separately for each Metal.

2. Release of Metal

BASF will release a quantity of Metal not exceeding the current credit balance in Customer's Account, following receipt of timely written instructions from Customer's authorized representative. Any quantity so released will be made available Free Carrier Rome Site (FCA Rome Site) for the purposes of Incoterms 2010 (or such other location as may be established by mutual agreement). **BASF will release such quantity as promptly as practicable, following the receipt of Customer's instruction and, subject to Section 5, within no more than three (3) weeks (or such other time as may be established by mutual agreement) following the receipt of such instruction.** Customer may request that a quantity of Metal not exceeding the then current credit balance in Customer's Account has to be transferred to the account of a third party or transferred for release to customer at a BASF location other than Rome; Customer acknowledges the unallocated nature of the account and expressly accepts that BASF's obligation is limited to the release of a quantity of Metal no greater than the current credit balance in Customer's account and conforming to the Specifications set forth in Section 3 hereof. Any such transfer shall be subject to the fee and terms then applied by BASF to such transfers, generally unless otherwise mutually agreed. BASF may provide packaging, certification of assay or other services in connection with the release of Metal, all subject to the fees and terms applied by BASF to such services generally unless otherwise mutually agreed.

Any negotiation about the release of Metal, together with discussion on payment terms shall be carried out separately between BASF and Customer; any instruction regarding the Metal shall require written confirmation by the Customer.

3. Specifications

Metal released from an Account by BASF on Customer's instruction shall conform to the following specifications:

Metal	Gold	Silver	Platinum	Palladium	Rhodium	Iridium	Rhenium	Ruthenium
Form ¹	Powder /Grain	Powder /Grain	Sponge /Grain	Sponge /Grain	Sponge /Powder	Sponge /Powder		Sponge /Powder
Purity ²	99.99%	99.90%	99.95%	99.95%	99.90%	99.90%	69.40%	99.90%

¹Where more than one form is listed; BASF may release Metal in any listed form at its option unless otherwise mutually agreed. Rhenium is released in the form of Ammonium Perrhenate Crystals with a fine metal content of 69.40%.

²The credit to an Account, stated in troy ounces or grams (or avoirdupois pounds for rhenium), reflects the net weight (fine metal content) of gold and rhenium available for release, and the gross weight for all other metals.

4. Nature of Account

BASF may credit or debit quantities of Metal to an Account from time to time to reflect any mutually agreed transaction including, without limitation: (i) BASF's acceptance (in its discretion following sample, assay and such other testing as BASF deems appropriate) or release of Metal delivered by, to, or for or on behalf of Customer; (ii) Customer's purchase or sale of Metal from or to BASF; (iii) a refining settlement with

Customer; or (iv) transfer from or to another Account. BASF undertakes, with respect to any quantity of Metal properly credited to an Account, to honor these terms and conditions. Accounts are not depository or warehousing agreements and BASF does not undertake to maintain, identify or allocate physical inventories for or to any Account. Customer acknowledges that Metal is fungible and BASF may deal with Metal in any manner it sees fit, including the commingling, consignment, lease or disposition thereof subject to the undertakings provided herein.

5. Force Majeure

Any delays in or any failure of performance by BASF shall not constitute default or give rise to any claims for damages if and to the extent caused by acts of God, acts of the Customer, acts, rules or regulations of governmental authority (civil or military executive, legislative, judicial or otherwise), strikes or other concerted acts of workmen, lockout, labor difficulties, fires, floods, storm, accident, epidemics, war, riots, rebellion, sabotage, terrorism, insurrection, difficulties or delays in public transportation or in public or postal delivery services, car shortage, fuel shortage, inability to obtain from BASF's usual sources of supply (including disruptions precluding receipt of delivery against supply and futures contracts), inability to obtain suitable or sufficient energy, labor, machinery, facilities, supplies or materials, as and when required, or by any other circumstances beyond BASF's reasonable control, whether of a similar or dissimilar nature. Upon the occurrence of any of the foregoing circumstances, BASF shall have no obligation whatsoever to make any allocation of its available production, deliveries, services, raw materials or other resources but may, at its option, elect to allocate its available production, deliveries, services, raw materials or other resources among any or all customers (including Customer, purchasers and counterparties generally) as well as department, divisions, subsidiaries and affiliates of BASF. Upon such basis as BASF, in its sole discretion, may determine, without liability whatsoever for any failure of performance which may result therefrom. In any event, BASF may determine not to allocate any of its available deliveries, services, raw materials or other resources to Customer without any liability whatsoever for any failure of performance which may result therefrom.

6. Warranties

BASF warrants that Metal released hereunder shall conform to the specifications provided above. BASF's liability for breach of warranty shall be limited to replacing such Metal provided however that written notice of such defect or non-conformance is given to BASF within thirty (30) days of release to Customer of such defective or non-conforming Metal and further provided that Customer shall return the defective or nonconforming Metal to BASF strictly in accordance with BASF's written instructions concerning handling, shipping, insurance, mode of transportation, etc., all at BASF's expense. THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED ARISING BY LAW OR CUSTOM INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PURPOSE.

7. Limitation of Damages

In no event shall (i) BASF be liable for incidental, consequential, punitive or special damages incurred by Customer arising out of or relating to the transactions contemplated hereby or (ii) the aggregate liabilities of BASF to Customer arising out of or relating to the transactions contemplated hereby exceed the aggregate net quantities of Metal properly credited to Customer's Accounts.

8. Delivery Charges

Except as otherwise mutually agreed, all Metal is released Free Carrier Rome Site (FCA Rome Site) for the purposes of Incoterms 2010 and all freight, insurance or other delivery-related charges incurred by BASF for alternate delivery arrangements at Customer's request will be prepaid or paid by Customer promptly on receipt of BASF's invoice.

9. Communications and Statements

Account statements will be issued upon request by the Customer, but no statement need be issued on zero balance or inactive accounts. Customer should review each statement carefully and advise BASF promptly of any error or discrepancy. Absent manifest error, books and records pertaining to any Account which are maintained in good faith by BASF will be presumed accurate and statements (including corrections) issued in good faith by BASF will be binding upon Customer, notwithstanding errors contained therein, unless Customer provides written notice of error or discrepancy within sixty (60) days following the date of the applicable statement. Any notice or communication should be directed to Customer Service Supervisors, BASF Italia Srl, Divisione Catalizzatori, Via Di Salone 245, 00131 Rome, Italy, (Tel) +39-06-41992602/603/306, (Fax) +39-06-41992338. Customer will use reasonable efforts to respond promptly and accurately to requests for balance confirmation made by BASF or its auditors. Any notice or communication to Customer will be effective upon receipt (actual or deemed) and will be deemed received on the fourth business day following transmittal by first class mail, postage prepaid to the last address provided by Customer.

10. Representations

Customer represents that (i) it is a producer, processor, commercial user and/or merchant in each Metal or by-product thereof for which it maintains an Account and utilizes its Accounts solely in connection with such uses and not for any investment or speculative purpose; (ii) it does not and will not assign, pledge or encumber any Account or deal with any Account or any interest therein or statement thereof in such manner that it constitutes a security or futures contract; (iii) all actions taken by it in connection with any Account are duly and validly authorized and in compliance with applicable laws or regulations; and (iv) it will deal with its Accounts solely as a principal. Each individual acting for or on behalf of customer represents that he or she is a representative of Customer, with full authority to act for Customer in all actions taken by such person for or in the name of Customer.

11. Taxes

Customer shall be liable and pay for any tax or other levy imposed anywhere with respect to the establishment, issuance, sale, transfer or assignment of an Account or the purchase, sale or delivery of any Metal credited thereto. Customer shall indemnify BASF against any payments made by BASF on account of said tax or levy, whether correctly or incorrectly asserted.

12. Amendments

BASF reserves the right to change or add to the terms and conditions stated herein. Any such change or addition shall become effective after twenty-eight (28) days following inclusion on a written statement issued to Customer or such later effective date as may be specified by BASF.

13. Set-Off

If Customer (i) fails to timely pay or perform any other obligation to BASF; (ii) becomes subject to any bankruptcy or insolvency proceeding; or (iii) admits its inability to pay its debts as they become due, BASF may:

A. At its sole discretion terminate any or all contracts and other agreements including but not limited to Forward Contracts then in effect with Customer;

B. Value any and all metal (including Metal) owed or owing under any terminated contractual obligation to or from Customer (whether or not then due) at its original fair market value in U.S. Dollars at the close of business London time on the day of such termination or, if not a business day, then the next business day;

C. Aggregate the value of all obligations to Customer under all terminated contracts (including any payment obligations converted to U.S. Dollars, where necessary, at the exchange rate in effect at the close of business, London time on the day of termination or, if not a business day, then the next business day); and

D. Set off the value of all such obligations against the value of all such obligations owing from Customer to BASF computed on the same basis.

The net obligation following exercise of such right of set off shall be promptly paid in U.S. Dollars.

14. Governing Law

The terms and conditions set forth herein (i) contain the sole and entire agreement between BASF and Customer with respect to any Account; (ii) supersede any and all prior discussions, proposals, quotations, representations and agreements; (iii) shall not be modified or amended except as provided in Section 12 hereof or by an instrument in writing signed by or on behalf of both BASF and Customer; and (iv) shall be governed by the laws of Italy, exclusive of its choice and conflict of laws provision. Each of the parties submits to the jurisdiction of the Court of Milan, in any action or proceeding arising out of or relating to the Agreement; agrees that all claims with respect to the action or proceeding may be heard and determined by such courts; and agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other jurisdiction. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other party with respect thereto. Each party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law.

15. Account Closing

BASF may, with or without cause, close any Account at any time by notice to the Customer specifying the effective date of the closing, which shall be no less than four (4) weeks following the date of the notice. A quantity of Metals equal to the credit balance remaining in any Account on such closing may, at BASF's sole discretion be (i) held for release Free Carrier Rome Site (FCA Rome Site) for the purposes of Incoterms 2010; (ii) delivered to Customer's last known address with all freight and insurance charges payable by Customer on delivery; or (iii) purchased by BASF at its fair market value at the close of business on the business day immediately preceding the effective date of the closing with a check for the net purchase price remitted to Customer within ten (10) days following such purchase.

16. Segregated Accounts

BASF may from time to time maintain segregated accounts for customers dealing with large volumes of Metal. Such accounts are available only by specific written agreement and require the payment of storage, insurance and handling fees which are not applicable to Accounts.