

Terms and Conditions

Bitpanda Metals GmbH

Version 2.0, published on 4 July 2022

1. GENERAL PROVISIONS

- 1.1. The general terms and conditions herein (“**Metals TC**”) shall be applicable to all business relations between Bitpanda Metals GmbH, with its corporate seat in A-1020 Vienna, Stella-Klein-Löw Weg 17 (“**Bitpanda Metals**”) and its clients. The Metals TC apply in particular, but not limited to the purchase and sale of physically vaulted precious metals such as, but not limited to, gold, silver and palladium, with/on Bitpanda Systems.
- 1.2. All other services available on Bitpanda Systems are provided by another Bitpanda Affiliate and, hence, their terms and conditions apply.
- 1.3. Bitpanda Metals offers services in cooperation with third parties.
- 1.4. The provisions of the general terms and conditions of Bitpanda (“**Group TC**”) as well as the Annexes and Definitions of Group TC, available under <https://www.bitpanda.com/en/legal/bitpanda-group-general-terms-conditions>) are hereby agreed upon.

2. AMENDMENTS TO THE METALS TC

- 2.1. Material Changes (as defined in point 2.2) to the Metals TC, including this point, require the explicit or implied agreement between Bitpanda Metals and the Bitpanda Client.
- 2.2. Material Changes are any changes or amendments (i) with respect to the primary obligation (*Haupfleistungspflicht*) or (ii) that significantly alter the contractual relationship in a way that they tantamount to the conclusion of a new agreement. For instance, as Material Changes qualify payment obligations of the Bitpanda Client or Bitpanda Metals’s obligation to sell to and buy M-Token from the Bitpanda Client.
- 2.3. Other changes or Editorial Changes (as defined in section 2.6) to the Metals TC, which do not qualify as Material Changes, may be made for objectively justified reasons at any time and become effective
 - 2.3.1. if no specific effective date is indicated: at the earlier of (i) the Bitpanda Client explicitly accepting the amended Metals TC (for example on Bitpanda Systems) or (ii) two month having passed after publishing such changes or amendments, subject to the Bitpanda Client not objecting under point 2.4; respectively
 - 2.3.2. if a specific effective date (after the publish date) is indicated: at the later of (i) the specified effective date and the (ii) earlier of (a) the Bitpanda Client explicitly accepting the amended Metals TC (for example on Bitpanda Systems) or (b) two month having passed after publishing such changes or amendments , subject to the Bitpanda Client not objecting under point 2.4.
- 2.4. The Bitpanda Client's consent shall be deemed granted if the Bitpanda Client doesn't object in textform or electronically (e.g. by e-mail or via the Bitpanda Client Account). In the amendment offer, the Bitpanda Client is informed that (i) its silence by failing to object in writing or electronically (e.g. by e-mail or via the Bitpanda Client Account), within the deadline as set out in point 2.3.1 or 2.3.2, shall be deemed as consent to the amendments, as well as that (ii) the Bitpanda Consumer Client shall have the right to terminate its contract and the services agreed under the contract without notice until the amendments take effect.
- 2.5. Without the Bitpanda Client's explicit consent, other changes may only be made for good reason and only provided there has been a risk weighing, properly balancing the interest of Bitpanda or the community of the Bitpanda Clients against the interest of the Bitpanda Client, i.e.
 - 2.5.1. due to the offering of new services, which are either free of charge or may not or only optionally be utilised by the Bitpanda Client;

- 2.5.2. there are no disadvantages to the Bitpanda Client;
- 2.5.3. due to regulatory or tax law requirements;
- 2.5.4. due to the change of service providers or contractors;
- 2.5.5. due to the need to have consistent Metals TC due to Bitpanda's international expansion;
- 2.5.6. the amendment or implementation of secondary obligations; or
- 2.5.7. any reasons comparable to the ones described above.

2.6. Editorial Changes are changes to clarify unclear provisions, adjustments to formats or fonts.

2.7. For Bitpanda Business Clients, Material Changes may be effected according to points 2.3 and 2.4.

3. BITPANDA BROKER BY BITPANDA METALS

3.1. After successful completion of your Client Verification Process, you will gain access to the trading platform on Bitpanda Systems ("**Bitpanda Broker**").

3.2. **M-Token.** Bitpanda Metals offers the purchase and sale of physical precious metals such as, but not limited to, gold, silver and palladium ("**M-Token**"). M-Tokens are a digital representation of a certain quantity of precious metals held in the form of bullions or similar form ("**Physical Bars**") in accordance with applicable market standards with a vault operator (as defined below). Holders of an M-Token acquire co-ownership rights (Miteigentum) in the precious metals held with the Vault Operator in accordance with the substantive law of the jurisdiction in which the Physical Bars are held. The fraction of co-ownership acquired by each holder of M-Token is equal to the number of M-Token held by such holder divided by the total number of M-Tokens issued at any time in relation to the specific Physical Bars. To the maximum extent permitted by applicable law, the holders of M-Tokens have no right to request delivery of Physical Bars from the Vault Operator or Bitpanda. Only Bitpanda Metals, in its capacity as possessor of the Physical Bars, is entitled to provide instructions to the Vault Operator. M-Token do not constitute and are not offered in the form of a security (Wertpapier), certificate, contract for difference or other form of financial instrument. Bitpanda Metals reserves the right, to be exercised in its sole discretion, to add new precious metals or to remove precious metals from its M-Token offering, but only after the respective M-Tokens have been reacquired from Clients.

3.3. **Sale/purchase** (*Verkauf/Kauf*) of M-Token with Bitpanda Metals is exclusively done in the following way:

3.3.1. **Offer:** You offer bindingly to exchange, sell or buy (part of) M-Token(s) to Bitpanda Metals.

3.3.2. **How to make a binding offer:** To make such a binding offer you have to (i) correctly fill in all necessary, valid and correct data on Bitpanda Systems and (ii) click/confirm either the "Buy now" or "Sell now" button (such offer the "**Final Offer Exchange**" and item (ii) referred to as the "**Final Offer Click Exchange**").

3.3.3. **Interpretation of Final Offer Exchange.** For the avoidance of doubt, each Final Offer Exchange made by clicking "buy now" (each a "**Final Buy Offer Exchange**") is to be interpreted and qualified exclusively as "binding offer from the Bitpanda Client to Bitpanda Metals to accept the receipt of M-Token from Bitpanda Metals in exchange for payment of the specified amount in F-Token" and each Final Offer Exchange made by clicking "sell now" (each a "**Final Sell Offer Exchange**") is to be interpreted and qualified exclusively as "binding offer from the Bitpanda Client to Bitpanda Metals to receive your requested amount in F-Token in exchange for transfer of a specified amount and type of M-Token to Bitpanda Metals".

3.4. **Settlement:** A Final Offer Exchange with Bitpanda Metals can be settled in F-Token.

- 3.5. A “**Bitpanda Swap**” with Bitpanda Metals is exclusively offered in the following way:
- 3.5.1. **Offer.** You offer bindingly to exchange (part of) M-Token into another type of M-Token, E-Token, or A-Token or *vice versa*.
 - 3.5.2. **How to make a binding offer.** To make such binding offer you have to (i) correctly fill in all necessary, valid and correct data on Bitpanda Systems and (ii) click/confirm "Swap now" button (such offer a "Final Offer Swap" and item (ii) referred to as the "**Final Offer Click Swap**" together with the Final Offer Click Exchange and the Final Offer Click Savings the “**Final Offer Clicks**”).
 - 3.5.3. **Interpretation of Final Offer Swap.** For the avoidance of doubt, each Final Offer Swap is to be interpreted and qualified exclusively as a combination of (a) one Final Sell Offer Exchange to receive F-Token in exchange for transfer of a specified amount and type of Token and (b) one corresponding Final Buy Offer Exchange to receive Token in exchange for payment of the amount of F-Token received under step (a).
 - 3.5.4. **Swap: No direct exchange of E-Token, M-Token or A-Token.** While a Bitpanda Swap effectively and economically (after taking into consideration the applicable fees and spreads on Bitpanda Systems) corresponds to a direct exchange of E-Token, M-Token or A-Token (as the case may be), from a technical point of view, it is not possible to directly exchange E-Token, M-Token or A-Token into any other E-Token, M-Token or A-Token on Bitpanda Systems. If a Final Offer Swap is accepted, the relevant Token subject to the Bitpanda Swap will first be converted into F-Token and, consequently, the resulting F-Token will be applied to purchase the Token you requested in the Final Offer Swap. This procedure will take place automatically and coincidentally and you will not be able to use the F-Token received in this process for any purpose other than completing the Bitpanda Swap.
- 3.6. The Final Offer Exchange, the Multiple Debit Order and the Final Offer Swap are herein referred together as “**Bitpanda Client Offer**”.
- 3.7. **Conditions of the binding offer.** The conditions under which you may make a Bitpanda Client Offer are communicated to you on Bitpanda Systems and are valid for a certain period of time ("**Client Offer Term**"). During the Client Offer Term, you may validate and confirm the conditions with the Final Offer Click. If you fail to confirm the Final Offer during the Client Offer Term, the trading window will be refreshed and updated conditions will be displayed, and a new Client Offer Term commences.
- 3.8. **Offer Period.** You are bound by a Bitpanda Client Offer for a period of 24 hours after the respective Final Offer Click (“**Offer Period**”). Bitpanda Metals will promptly confirm to you the receipt of a Bitpanda Client Offer.
- 3.9. **Acceptance of Bitpanda Client Offers.** A Bitpanda Client Offer may either be accepted or rejected within the Offer Period. The Bitpanda Client will be informed about the acceptance or non-acceptance of the Bitpanda Client Offer. If the Bitpanda Client Offer is accepted by Bitpanda Metals, a binding agreement (*Vertrag*) with the terms set out in the relevant Bitpanda Client Offer is concluded and the addition/deduction of M-Token is shown on Bitpanda Systems ("**M-Token Trade Agreement**").
- 3.10. **Fulfilment of M-Token Trade Agreements.**
- 3.10.1. M-Token Trade Agreements pursuant to which you acquire M-Token are fulfilled on part of Bitpanda Metals by transfer of property (*Eigentumsübertagung*) of the relevant (part of) precious metal to you and on part of the Bitpanda Client by payment of the purchase price.

- 3.10.2. M-Token Trade Agreements pursuant to which you sell M-Token are fulfilled by Bitpanda Metals by transfer of property (*Eigentumsübertragung*) of the relevant (part of) precious metal from you to Bitpanda Metals and simultaneous payment of the relevant sale price from Bitpanda Metals to you.
- 3.11. **Transfer of property.** Whenever a M-Token Trade Agreement is concluded, the ownership of the corresponding precious metal is transferred to the Bitpanda Client in case of point 3.10.1 and to Bitpanda Metals in case of point 3.10.2 without undue delay.
- 3.12. **Authorization of Bitpanda Metals.** You herewith authorize and instruct Bitpanda Metals to carry out all steps necessary for the transfer of ownership of M-Token according to the concluded M-Token Agreement in your name and on your behalf. You herewith release Bitpanda Metals and any other Affiliate from any restrictions (under § 1009 of the Austrian Civil Code or otherwise) against self-dealing and double representation in connection with the other services offered by it on Bitpanda Systems.
- 3.13. **Minimum transaction volume.** In general, each Bitpanda Client Offer must have a value of at least EUR 1.00 (based on the figures used by Bitpanda System). For certain Token the minimum transaction volume may be higher than EUR 1.00 (if this is the case, the minimum transaction volume will be shown in Bitpanda Systems before making a Bitpanda Client Offer). You will not be able to make a Bitpanda Client Offer that falls below any of those thresholds.
- 3.14. **Payment service provider.** For any payments from and to you in a currency that is a legal tender, a payment service provider is used.
- 3.15. **No binding offers on Bitpanda Systems.** Any figures, numbers or exchange reference prices on Bitpanda Systems, do not constitute binding offers for an exchange but an invitation to you to submit an offer for exchange on Bitpanda Systems (*invitatio ad offerendum*).
- 3.16. **Unforeseeable delays.** Due to unforeseeable technical disruptions, there may be delays in processing Bitpanda Client Offers.
- 3.17. **No P2P sale of M-Token.** You may transfer your M-Token to other Bitpanda Clients provided that you do so without any consideration of any kind (e.g. a cash payment or another digital or physical asset). Bitpanda Systems explicitly prohibit the sale or trade of M-Token (i.e. transfer of M-Token against payment or other consideration of any kind) between Bitpanda Clients or third parties.
- 3.18. **No transfer of M-Token to or from a wallet outside Bitpanda Systems.** M-Token cannot be transferred to or from your Wallet to a wallet outside Bitpanda Systems. No such request will be processed.
- 3.19. **Fees.** Each M-Token Trade Agreement triggers fees that the Bitpanda Client accepts with the Final Offer Click and that will be deducted by Bitpanda Metals after the fulfilment of the M-Token Trade Agreement.

4. BITPANDA SAVING

- 4.1. Bitpanda Systems offer Bitpanda Clients the option to create a savings plan for M-Token ("**Bitpanda Savings**"). A Bitpanda Client can create a savings plan for M-Token on Bitpanda Systems in the following way:
- 4.1.1. **Bitpanda Savings offer.** You offer bindingly to purchase (part of) M-Token on a regular and recurring basis on Bitpanda Systems. To make such binding offer you have to (i) correctly fill in all necessary, valid and correct data on Bitpanda's respective trading screen and (ii) click/confirm "Confirm now" button (such offer a "**Multiple Debit Order**" and item (ii) referred to as the "**Final Offer Click Savings**").
- 4.1.2. **Interpretation of a Multiple Debit Order.** For the avoidance of doubt, each Multiple Debit Order is to be interpreted and qualified exclusively as "binding offer from the Bitpanda Client to accept the receipt of M-

Token on a regular and recurring fixed payment determined by the Bitpanda Client in a currency which is a legal tender".

- 4.1.3. **Acceptance of Multiple Debit Order.** The Multiple Debit Order may either be accepted or rejected. If a Multiple Debit Order is accepted in accordance with points 3.9 et. seq., a Bitpanda Savings Plan is being set up. The Bitpanda Client will be informed about the acceptance or non-acceptance of the Multiple Debit Order.
- 4.1.4. **No guarantee of continued price stability.** The prices displayed to you when making the Final Offer Click Savings are subject to change from time to time and while the amount spent remains the same, the amount of M-Token you receive on a recurring basis may greatly vary.
- 4.2. **Termination of Multiple Debit Order or Bitpanda Savings Plan by the Bitpanda Client.** The Multiple Debit Order and Bitpanda Savings Plan can be terminated by following the steps as displayed on Bitpanda Systems.
- 4.3. **Termination of Bitpanda Savings Plan.** Each Bitpanda Savings Plan may be cancelled at any time with respect to purchases, that have not yet been factually fulfilled. The cancellation of a Bitpanda Savings Plan shall not affect M-Token received prior to it thereunder.
- 4.4. **Multiple Bitpanda Savings Plans.** Each Bitpanda Client may have multiple Bitpanda Savings Plans, which are independent of each other, but each Bitpanda Savings Plan may only comprise a single type of M-Token.
- 4.5. **Payment methods.** In case of using Bitpanda Savings, you can choose between SEPA Direct Debit mandate or recurring credit card debiting as payment method:
 - 4.5.1. **SEPA Direct Debit mandate.** By using SEPA Direct Debit mandate, you hereby revocably grant Bitpanda Metals a SEPA Direct Debit mandate for the collection of payments payable by you when due from your Client Bank Account. The initial setup of a SEPA Direct Debit mandate may take up to ten calendar days after submitting your necessary data on Bitpanda Systems until it is fully implemented and hence, can be executed. The same applies in case you amend the amount of your Multiple Debit Order.
 - 4.5.2. **Recurring credit card payment.** By using recurring credit card payments, you hereby revocably authorise Bitpanda Metals to charge your credit card accordingly and in accordance with the general terms and conditions of your credit card. The initial setup of the credit card payment mandate may take up to ten calendar days after submitting your necessary data on Bitpanda Systems until it is fully implemented and hence can be executed. The same applies in case you amend the amount of your Multiple Debit Order.
 - 4.5.3. **Collection of payments and notification.** The time of collection from your payment will be 10 days prior to the respective recurring purchase time specified by you. You will be informed of the payment amount and the debit dates before any collections of payments are made. You hereby also authorise your bank to redeem the payments.
 - 4.5.4. **Chargeback.** You have the right to initiate a chargeback to your Client Bank Account within 56 calendar days (8 weeks) from the debit date without stating any reasons ("Chargeback") according to section 70 ZaDiG. Please note: The claim due is revived in case of a Chargeback.
 - 4.5.5. **Execution failure.** If the execution of a Multiple Debit Order is not possible, for whatever reason, no M-Token will be credited to your Wallet. In such a case, you will be notified by e-mail of the failure of executing the Multiple Debit Order.
 - 4.5.6. **Revocation.** You may revoke a Multiple Debit Order issued by SEPA Direct Debit or credit card at any time. A revocation shall take effect no later than two Business Days after your revocation was communicated on Bitpanda Systems. Please note that your Multiple Debit Order will still be executed after revocation or pause, provided that your revocation or pause falls between the time of collection from your bank account and the respective recurring purchase time.

- 4.6. **Data disclosure requirements.** You have to fully comply with all data disclosure requirements in the payment processes, particularly when paying via SEPA. If you do not comply with the data disclosure requirements, the respective payment cannot be matched with your Bitpanda Client Account. This leads to a manual tracking process. You have to bear the costs of the manual tracking process, if you are at fault and to the extent that such compensation fees are necessary to cover adequate costs to administer such deficiency.
- 4.7. **Costs of failed payments.** If the collection of the payment is not possible (e.g. bank refuses or rejects the Direct Debit) or a Chargeback occurs and you are at fault for such delay or failure, you will bear any resulting costs to the extent that such costs are necessary to cover adequate costs to administer such deficiency. Additionally, you authorise the re-execution of the payment on a later date. The provisions as set forth in point 19 of the Group TC apply equally in these cases.
- 4.8. **Change of payments methods.** The accepted payment methods may be changed, amended and/or disallowed for objectively justified reasons, if these changes are communicated to the Bitpanda Client in advance.

5. PRECIOUS METALS HOLDINGS

- 5.1. **Vault Operator.** The precious metal is held in a form generally accepted in settlement of physical precious metals markets around the world. The precious metals are physically stored and held by a vault operator ("**Vault Operator**") and the only access to such holdings is via Bitpanda Systems. Bitpanda Metals is the contracting party of this Vault Operator (including the custody agreement).
- 5.2. **No contractual relationship with Vault Operator.** Bitpanda Metals has the contractual relationship with the Vault Operator, not the Bitpanda Client. Hence, the agreement to manage your precious metals is between you and Bitpanda Metals only. You find current Vault Operators and places of precious metals holdings on Bitpanda's website (<https://www.bitpanda.com/metals>). Bitpanda Metals may change the Vault Operator and the place of precious metals holdings due to objectively justified reasons. The Bitpanda Client cannot contact the Vault Operator directly (e.g. access to holdings, information) in the absence of a direct contractual relationship.
- 5.3. **Holding of a portion of precious metals bars.** Any precious metals' holding you own do not relate to a specific bar but rather to portions of precious metals bars that, when added up, is equal to the full reserves of all Bitpanda Clients. By this method Bitpanda Metals is able to achieve its low prices while also giving the option to trade milligrams of precious metals.
- 5.4. **Insolvency.** In case of insolvency of Bitpanda Metals GmbH, the Bitpanda Client as the owner of the precious metals has a segregation right (*Aussonderungsrecht*) against the insolvency estate under applicable law which he may invoke vis-à-vis the appointed insolvency administrator. To verify the ownership status, the Bitpanda Client has to provide the insolvency administrator the transaction ID(s) shown on Bitpanda Systems for the respective M-Token purchase.
- 5.5. **Storage fee.** Your M-Token holdings on Bitpanda Systems are charged with a storage fee. The concrete storage fee depends and varies on the type of M-Token (e.g. gold or silver, etc.). You find the current rates of the storage fee displayed on Bitpanda's website (<https://www.bitpanda.com/limits>). As such storage fee depends on external factors, which are outside of Bitpanda's sphere, current rates and prices may vary and you confirm and accept that rates of the storage fee are not guaranteed and may differ from time to time. The storage fee is calculated on the weighted average value of the respective M-Token (e.g. gold or silver, etc.) during your M-Token holding time. Such fee is due and payable (i) every Monday at 12:01 am or (ii) upon exchange of M-Token for E-Token, A-Token, F-Token or another type of M-Token. You empower and grant Bitpanda Metals the right to deduct the storage fee from your M-Token. Such deduction will take place at latest within four days after the storage fee is due and payable.

6. MISCELLANEOUS

- 6.1. **Priority of Metals TC.** Any terms and conditions that you may at any time have or propose are excluded from being applicable on the relationship between you and Bitpanda and the Affiliates.
- 6.2. The Metals TC shall continue to apply even after termination of the business relationship until complete settlement.
- 6.3. **Contractual language.** The Metals TC are made and published in various languages. In case of any discrepancies or in case of dispute the German language version of the Metals TC shall prevail.