

**BAR PROCESSING CORPORATION (“BPC”)  
TERMS AND CONDITIONS FOR SERVICES**

1. **Taxes.** BPC’s prices do not include sales, use, excise or similar taxes. Any amount of any such present or future tax shall be paid by the Customer or, in lieu thereof, the Customer shall provide BPC with a tax exemption certificate acceptable to the taxing authorities.

2. **Passage of Title.** BPC assumes no responsibility for delay, breakage, or damage after having made delivery in good order to carrier. Unless otherwise specified in writing, title remains with the Customer.

3. **Risk of Loss; Force Majeure.**

3.1 Customer shall bear the sole risk of loss for Customer’s goods and materials whether at the Customer’s premises, BPC’s facility or in transit to and from the Customer’s Premises or BPC’s facility. If inspection Services are to be performed on Customer’s goods and materials at BPC’s facility, Customer shall be responsible for transporting the goods and materials to and from BPC’s facility.

3.2 BPC shall not be responsible for delivery or failure to deliver thereunder, due to acts of God or the Government action (civil or military), or to fire, embargo, strike, differences with workmen, wrecks, or delays in transportation, unusually severe weather, or inability to obtain necessary labor or materials from the usual source of supply, or any circumstances beyond our control not hereinabove enumerated which shall prevent BPC from making deliveries in the normal and usual course of our business. BPC shall not, however, be relieved from making shipment or the Customer from accepting delivery, when causes interfering with deliveries have been removed. BPC also cannot be held responsible for shipping issues attributed to lack of or improper shipping release information.

4. **Limited Warranty and Limits of Liability.**

4.1 The sole and exclusive warranty which BPC makes is that material shall be processed in accordance with BPC’s standard processing practices, subject to commercial tolerances and variations with respect to dimension and weight; to normal variations in surface conditions and quality; to deviations from tolerances and variations consistent with practical testing and inspection methods; and to standard commercial practice on over and under shipments; goods so processed and shipped are deemed free from all defects and deficiencies and can give rise to no claim by the Customer. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. BPC’s warranty is conditioned upon proper handling, use, and storage of the goods and upon the Customer making a written claim for breach of warranty within thirty (30) days (the “Warranty Period”).

4.2 The Customer’s exclusive remedy for claims arising from defective or nonconforming processing shall be limited to the amounts stated below. BPC SHALL NOT BE

LIABLE FOR ANY LOSSES, DAMAGES OR EXPENSES, WHETHER DIRECT, INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE (INCLUDING WITHOUT LIMITATION LOSS OF PROFIT OR REVENUE, LOSS OF PRODUCT, LOSS OF USE OF EQUIPMENT, INTERRUPTION OF BUSINESS, COST OF CAPITAL, COST OF COVER, DOWNTIME COSTS, INCREASED OPERATING COSTS, FAILURE TO DETECT ANY FLAW IN THE SUBJECT MATTER OF A TEST, LOSS OF GOODWILL, LOSS OF OPPORTUNITIES, CLAIMS OF CUSTOMER'S CLIENTS FOR SUCH DAMAGES) CAUSED BY OR RESULTING FROM THE USE OF DEFECTIVE OR NONCONFORMING GOODS OR FROM DELAY IN DELIVERING GOODS OR FOR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES. BPC'S TOTAL LIABILITY, WHETHER ARISING FROM OR BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, INCLUDING BPC'S NEGLIGENCE, STRICT LIABILITY, INDEMNITY OR ANY OTHER CAUSE OR BASIS WHATSOEVER, IS EXPRESSLY LIMITED TO THE PROCESSING COST OF THE GOODS INVOLVED.

4.3 IF SERVICES DO NOT MEET THE ABOVE WARRANTIES, CUSTOMER SHALL PROMPTLY NOTIFY BPC IN WRITING WITHIN THE WARRANTY PERIOD. BPC SHALL THEREUPON, AT BPC'S OPTION, RE-PERFORM THE DEFECTIVE SERVICES. IF IN BPC'S REASONABLE JUDGMENT THE SERVICES CANNOT BE RE-PERFORMED, BPC SHALL REFUND OR CREDIT MONIES PAID BY CUSTOMER FOR THAT PORTION OF SERVICES THAT DO NOT MEET THE ABOVE WARRANTIES. NO REPAIR, REPLACEMENT OR REPERFORMANCE BY BPC HEREUNDER SHALL EXTEND THE WARRANTY PERIOD. THE PARTIES SHALL MUTUALLY AGREE ON THE SPECIFICATIONS OF ANY TEST TO DETERMINE THE PRESENCE OF A DEFECT.

4.4 IF CUSTOMER IS SUPPLYING BPC'S SERVICES TO A THIRD PARTY, CUSTOMER SHALL REQUIRE THE THIRD PARTY TO AGREE TO BE BOUND BY THIS SECTION 4. IF CUSTOMER DOES NOT OBTAIN THIS AGREEMENT FOR BPC'S BENEFIT, CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD BPC HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS MADE BY THE THIRD PARTY IN EXCESS OF THE LIMITATIONS AND EXCLUSIONS OF THIS SECTION 4, AND SHALL PAY ALL COSTS AND EXPENSES ASSOCIATED THEREWITH, INCLUDING WITHOUT LIMITATION ATTORNEY FEES.

4.5 THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION 4 SHALL APPLY REGARDLESS OF WHETHER A CLAIM IS BASED IN CONTRACT, WARRANTY, INDEMNITY, TORT / EXTRA CONTRACTUAL LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

**5. Inventory Holding Policy.** Due to limited inventory space, information reporting requirements, traceability issues, any unprocessed material which remains in excess of ninety (90) days at BPC's facilities will be billed a charge of Two Dollars (\$2.00) per ton for each month or part thereof over ninety (90) days. Additionally, all processed material which remains without disposition or remains on BPC's facility over sixty (60) days will also be billed a charge of Two Dollars (\$2.00) per ton per month or part thereof.

6. **Returned Material Authorization and Packaging.** In order to provide accurate traceability of all returned material pursuant to BPC's ISO 9001 Certified Quality Management System, BPC will accept no returned material without authorization obtained from the appropriate BPC personnel. Additionally, for safety reasons, proper packaging equivalent to the original as received package must be maintained to provide necessary bundle security for transportation and unloading. BPC will not be responsible receiving and/or damage to any material due to improper packaging.

7. **Scrap Policy.** BPC charges per weight (lb., CWT, Ton or other) will be based upon the incoming weight. In order to modify customer owned product to the customer's requested specifications, there is an expected loss of material ("scrap").

In the normal course of business, BPC generates scrap materials from its turning, cutting, and other operations. Unless there is a written agreement between BPC and Customer with regard to scrap ownership, all scrap generated, as would reasonably be expected by BPC in its operations, shall belong to BPC.

8. **Freight Policy.** Unless otherwise agreed in writing, BPC services are performed FOB BPC location. Any inbound and outbound freight costs will be the responsibility of the customer.

9. **Government Requirements.** Any provisions required to be included in an agreement of this type by an applicable federal, state or local law or ordinance or governmental rule, regulation, or other governmental requirement shall be deemed to be incorporated herein. Customer shall at all times comply with all laws, ordinances and regulations applicable thereto. Without limiting the generality of the foregoing, to the extent that any Services covered by this Contract are supplied by Customer for BPC's use in the performance of any government contract or subcontract, Customer shall comply with all applicable Government Requirements. "Government Requirements" means all applicable present and future federal, state, local and, if applicable, foreign statutes, laws, ordinances, codes, rules, regulations, standards, orders, decrees, mandates, policy statements, guidance documents, interpretations, permits, licenses or other governmental requirements of any kind (including judicial orders, decrees and decisions), and any present or future amendments thereto.

10. **Payment.** Unless otherwise specifically agreed in writing by BPC, the total price is due and payable to BPC, without set-off or other deductions or charges, net thirty (30) days of BPC's invoice. Payments shall be made at par in legal tender of the United States of America, and directed to the payment address, lockbox or other means specified in BPC's invoice. Customer shall make such arrangements for payment as BPC shall from time to time reasonably require and BPC may suspend scheduling, Services, shipment or delivery of goods until such arrangements are made. If BPC reasonably believes that Customer is or may become unable to perform its obligations hereunder, BPC may require that Customer provide BPC with security for, or other assurance of performance, in either case acceptable to BPC. In the event that Customer fails to do so or fails to make payment in full within the time period set forth on the invoice or expressly agreed upon in writing by the parties, such failure will constitute a material breach of contract by Customer permitting BPC to suspend all or a portion of the Services under

the Agreement. Customer shall pay to BPC interest on any unpaid amount at the maximum rate permitted by law or the Prime Rate in effect by Comerica Bank (or any successor institution) on the first day of the month such amounts first become past due plus six percent (6%), whichever is less. BPC shall have, in addition, all other remedies permitted to BPC by law, equity, or this Agreement. If BPC takes legal action to collect any amount due hereunder, Customer shall pay all dispute resolution costs, including court costs plus reasonable legal fees incurred by BPC in bringing such legal action. BPC shall have the right to set-off against any monies due BPC hereunder any obligations of BPC or its subsidiaries and affiliates to Customer.

**11. Waiver or Invalidity.** Waiver by BPC or the Customer of any provision or of the breach of any provision shall not be construed as a waiver of any other provision or of any other breach of that provision or of any other provision. The invalidity of any provision shall not affect the validity of the remaining provisions or of the Agreement as a whole.

**12. Termination.** BPC may terminate any agreement with the Customer, evidenced by purchase orders, releases or otherwise (“Agreement”) upon the occurrence of any of the following:

- (a) Customer materially breaches, or defaults in respect of any of its obligations in any Agreement, which breach or default is not remedied within ten (10) Business Days of receiving written notice of such breach or default from BPC.
- (b) Customer becomes insolvent, commits or threatens to commit an act of bankruptcy, files, or has filed against it, a petition in bankruptcy, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of its insolvency, or commences any other proceedings under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect, or by any act indicates any of its consent to, approval of or acquiescence in any such proceedings and such proceedings, if instituted against Customer, are allowed against or consented to by Customer, or are not dismissed or stayed within thirty (30) days after such institution.

**13. Assignment.** Any Agreement between the Customer and BPC shall inure to the benefit of the successors and permitted assigns of Customer and BPC; provided, however, BPC shall not assign any portion of its rights or delegate any portion of its obligations under any Agreement with the Customer without obtaining Customer’s prior written consent which will not be unreasonably withheld or delayed. A sale by BPC of all or substantially all of its assets shall not be considered an assignment if the transferee agrees to perform all of BPC’s obligations under any Agreement between BPC and the Customer.

**14. Survival.** The provisions of Sections 4, 5, 6, 7, 8, 9, 10 and 15 shall survive the expiration or termination of any agreement between Customer and BPC.

**15. Severability.** In case any one or more of the provisions or parts of a provision contained herein are, for any reason, held to be invalid, illegal and, such invalidity, illegality or

unenforceability will not affect any other provision or part of a provision hereof, but if these Terms and Conditions are capable of being reformed and construed as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein, then such part will be reformed, so that it would be valid, legal and enforceable to the maximum extent permitted while retaining as much as possible the original intent of the provision.

**16. Web Page Disclaimer.** BPC has taken reasonable measures to ensure that the information and data presented on BPC's website are accurate and current. However, the information and data contained therein may not necessarily be comprehensive, complete, accurate or up to date.

Further, BPC makes no express or implied warranty regarding such information or data, and hereby expressly disclaims all legal liability and responsibility to persons or entities who use or access this site and its content, based on their reliance on any information or data that is available through this website including, but not limited to, any liability for errors, inaccuracies, omissions or misleading statements.

This general disclaimer is in addition to, and not in lieu of, any other disclaimers found on pages, applications or programs within BPC's website. In addition, the terms of this disclaimer extend to BPC, its officers, directors, shareholders and employees.

**17. Applicable Law and Jurisdiction.** BPC and the Customer agree that interpretation of and performance under this Agreement, as well as all other aspects of the transaction contemplated by these Terms and Conditions or and the Agreement , shall be governed by the laws of the State of Michigan, including the Uniform Commercial Code. BPC and Customer hereby irrevocably submit to the exclusive jurisdiction and venue of the state courts located in Wayne County, Michigan, and federal courts located in the Eastern District of Michigan in connection with any action relating to these Terms and Conditions or the Agreement. The mailing to the last known address of the respective parties of any process by registered mail shall constitute lawful and valid service of process.

**18. No Other Terms.** Supply of Services is expressly conditioned on Customer's consent to these Terms and Conditions. No other terms or conditions, other than those stated herein, and no agreement or understanding, oral or written, in any way purporting to modify these Terms or Conditions, whether contained in Customer's purchase or shipping release forms, or elsewhere, shall be binding on BPC unless hereafter made in writing and signed by a duly authorized officer, agent or representative of BPC. Furthermore, no pre-printed purchase order, acknowledgment or other form purporting to replace these Terms and Conditions shall modify these Terms and Conditions even if signed by an officer, agent or representative of Customer. Any oral or written representation, warranty, course of dealing or trade usage not contained in these Terms and Conditions or the Agreement shall not be binding on either party.