

L&M Processing, LLC
Terms & Conditions
Effective June 1, 2019

This document contains the Terms and Conditions for the provision of processing services and/or the sale of products by L&M Processing, LLC., an Ohio company. Each purchaser of any processing service or product (Customer) of L&M Processing, LLC agrees to be bound by these Terms and Conditions.

1. **Offer & Acceptance.** L&M Processing, LLC's acceptance of a processing or purchase order from a Customer (each order) shall be subject to these Terms and Conditions. Customer accepts these Terms and Conditions unless notifying L&M Processing, LLC in writing to the contrary within five days of receipt of this document. The Order will provide all processing specifications including coil/sheet tag#, product description, quantity required by size, interleave required, delivery dates, shipping instructions, invoicing instructions, and/or any additional instructions needed for all or any part of the products and services described in the Order.
2. **Pricing/Payment.** Prices are agreed upon prior to acceptance of a corresponding purchase order. Unless otherwise noted, a quotation shall be valid for thirty (30) days from the date it was first presented. All purchase orders must be paid in United States dollars. Payment shall be due net thirty (30) days from the date of invoice. Interest will be charged at an amount equal to one and one-half percent (1.5%) per month, or the maximum rate permitted by law, on all amounts past due. Invoices must be paid as outlined in the agreed upon purchase order. Short payments will not be accepted unless previously discussed and agreed upon by a Manager or Executive of L&M Processing, LLC.
3. **Taxes and Other Charges.** Customer shall pay any manufacturer(s) tax, occupation tax, use tax, sales tax, excise tax, value-added tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between L&M Processing, LLC and Customer.
4. **Shipping & Delivery.** All Customer products are received and shipped FOB to L&M Processing, LLC's processing facility located in Masury, Ohio. L&M Processing, LLC will place Customer products on a truck according to Customer instructions. L&M Processing, LLC will not load a truck until loading instructions are received and will not pay for a truck sitting idle (detention fee). Periodically, L&M Processing, LLC may assist Customer in arranging a shipment, but L&M Processing, LLC is doing so merely as an accommodation and is not undertaking any obligation or liability for lending such assistance. If damage occurs to Customer product after said product is loaded onto the method of transport, L&M Processing, LLC shall not have any liability for such product and/or damage thereto.
 - a. **Claims.** Claims for shortages or other errors in delivery must be made in writing to L&M Processing, LLC within ten (10) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance of shipments made prior to L&M Processing, LLC's receipt of Customer's notice of claim and shall constitute a waiver of all such claims by Customer. Claims for loss or damage to goods in transit should be made to the carrier and not to L&M Processing, LLC.

5. **Force Majeure.** All delivery dates are approximate. L&M Processing, LLC shall not be liable for any damage as a result of any delay or failure to deliver due to any act of God, act of Customer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown or labor difficulties, war, terrorism, riot, delay in transportation, defaults of common carriers or, without limiting the foregoing, any other delays beyond L&M Processing, LLC's control.

6. **Warranty.**

- a. L&M Processing, LLC warrants that the products shall be free from defects with respect to L&M Processing, LLC workmanship on that product and shall materially conform to the specifications set forth in the accepted Order or applicable Quotation at the time of delivery. Commercial standards will apply except as provided herein or unless L&M Processing, LLC has received, reviewed and acknowledged by written acceptance of Customer's own specified tolerances and standards. If Customer notifies L&M Processing, LLC in writing of non-conformity with this warranty within ten (10) days of Customer receipt, L&M Processing, LLC, at its election, shall (i) promptly use reasonable efforts to remedy the non-conformity at no additional expense to Customer or (ii) pay Customer the replacement cost of any materials processed by L&M Processing, LLC. Replacement costs shall be equal to the lower of the Customer's cost of materials or the materials fair market value on the date Customer submitted their written warranty claim. L&M Processing, LLC will attempt to repair claimed material to the best of their ability as a first option, if material cannot be repaired L&M Processing, LLC will pay the replacement cost in the form of Customer credit. L&M Processing, LLC will not issue a check or any form of payment. Products may not be returned to L&M Processing, LLC without L&M Processing, LLC's prior written permission; such returns must be discussed and agreed upon in advance by a Manager or Executive of L&M Processing, LLC.
- b. THE EXPRESS WARRANTY IN THIS SECTION IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. Any description of the products, whether in writing or made orally by L&M Processing, LLC, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Customer's order are for the sole purpose of identifying the products and shall not be construed as an express warranty. Any suggestions by L&M Processing, LLC regarding use, application or suitability of the products shall not be construed as an express warranty unless confirmed to be such in writing by L&M Processing, LLC.

7. **Limitation of Liability**

In no event will L&M Processing, LLC, its Officers or Employees be liable for (a) consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including lost profit or opportunity costs), regardless of the form of action, damage, claim, liability, cost, expenses, or loss, whether in contract, statute, tort, (including negligence), or otherwise. (b) any actions, damages, claims, liabilities, cost expenses, or losses in any way arising out of or relating to these terms and conditions for an aggregate amount in excess of the fees set forth in the invoice for the products giving rise to liability. The warranty given under Limited Warranty shall not apply:

- a. If Customer does not present a claim for breach of warranty by the end of the Warranty Term (60 days)
- b. If Customer is in default of any of its obligations to L&M Processing, LLC, including payment of any amount due hereunder or otherwise.
- c. If the Product is secondary Product * (i.e. Product that does not have written mill certification as "Prime")
- d. If the Product is .030" thick or lighter.*
*Products are run on a "reasonable efforts" basis and Customer agrees to accept "as is."
- e. If the Product is aluminum or any material that can rust or corrode and Customer does not have it processed within 72 hours of its delivery, picked up within 72 hrs of processing, or found to be water stained after the date shipped from L&M Processing, LLC's facility. L&M Processing, LLC is not a climate-controlled facility and will not be responsible for material experiencing water damage or rust on such material that is warehoused in the facility due to normal moisture exposure.
- f. If the yield loss does not exceed at least 3% of the incoming coil weight or if more than 10% of the coil has been processed without authorization from L&M Processing, LLC.

8. Technical Information. Any sketches, models, samples or designs submitted by L&M Processing, LLC shall remain the property of L&M Processing, LLC, and shall be treated as confidential information unless L&M Processing, LLC has in writing indicated a contrary intent. No use or disclosure of such sketches, models, and samples, or any design or production process or techniques revealed thereby, shall be made without the express written consent of L&M Processing, LLC.

9. Assignment. Neither party may assign, transfer or delegate any of the rights or obligations under these Terms and Conditions without the written consent of the other party, except that L&M Processing, LLC may (i) assign and/or subcontract all or a portion of L&M Processing, LLC's Terms and Conditions to an affiliate or subsidiary without consent of Customer or (ii) assign its rights and obligations hereunder to any successor in interest to all or substantially all of the assets and business of L&M Processing, LLC, without the consent or approval of Customer.

10. No Waiver of Breach. No waiver of breach of these Terms and Conditions will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

11. Severability. If any provision of these Terms and Conditions shall be deemed illegal or unenforceable, such illegality or unenforceability shall not affect the validity and enforceability of any legal and enforceable provision hereof, which shall be construed as if such illegal and unenforceable provision(s) had not been inserted herein.

12. Governing Law; Jurisdiction. These Terms and Conditions will be governed and construed under Ohio law without regard to its conflict of law provisions. Customer hereby submits to the personal non-exclusive jurisdiction of the courts of the state of Ohio for all purposes connected to the purchase and sale of the processing services and products. In any legal proceeding between the parties, venue shall exclusively lie in the state and federal courts situated in Trumbull County, Ohio. Unless a lesser time period is specifically provided herein, any action by Customer against L&M Processing, LLC must be brought forth within twelve months after the event giving rise to the cause of action, or such action shall be barred notwithstanding any statutory limitations to the contrary.