

# Lehigh Valley Metro Design, LLC

## Web Site Development and Hosting Terms and Conditions

Revision Date: January 1, 2012

This Agreement governs your purchase and use, in any manner, of all Web site hosting or development, ordered by you and accepted by Lehigh Valley Metro Design and describes the terms and conditions that apply to such purchase and use of the Services. You AGREE TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED HEREIN. Lehigh Valley Metro Design reserves the right to change or modify any of the terms and conditions contained in this Agreement at any time and from time to time in its sole discretion, and to determine whether and when any such changes apply to both existing or future customers. Lehigh Valley Metro Design may make changes or modifications to referenced policies and guidelines without notice to you. Your continued use of the Services following Lehigh Valley Metro Design posting of any changes or modifications will constitute your acceptance of such changes or modifications.

1. Payment. As consideration for Lehigh Valley Metro Design providing the Hosting Services hereunder, Customer agrees to pay Lehigh Valley Metro Design the aggregate monthly fee based on the monthly hosting services and the terms selected.

2. Provision of Services. Lehigh Valley Metro Design will provide Customer with the Services ordered that are described in the Hosting Package Features elsewhere in this document. Customer understands and agrees that Lehigh Valley Metro Design will host and create the Web site solely in accordance with the information provided by Customer.

3. Rights to the Web Site and Content. With the exception of any Third-Party Materials and Background Technology as set forth in Section 4, Customer owns the Customer Content. "Customer Content" means all content or information (including, without limitation, any text, music, sound, photographs, video, graphics, data, or software), in any medium, provided by Customer to Lehigh Valley Metro Design. "Third-Party Materials" means any content, software, or other computer programming material that is owned by an entity other than Lehigh Valley Metro Design, and licensed by Lehigh Valley Metro Design or generally available to the public, including Customer, under published licensing terms, and that Lehigh Valley Metro Design will use to display or run a Web site. Lehigh Valley Metro Design owns the rights to the design of the web site. If a customer stops paying the monthly fee for the web site upon cancellation the customer is not entitled to use the web site for any purposes whatsoever.

4. Limited License to the Background Technology. "Background Technology" means computer programming/formatting code or operating instructions developed by or for Lehigh Valley Metro and used to host or operate the Web site or a Web server in connection with a Web site. Background Technology includes, but is not limited to, any files necessary to make forms, buttons, checkboxes, and similar functions and underlying technology or components, such as style sheets, animation templates, interface programs that link multimedia and other programs, customized graphics manipulation engines, and menu utilities, whether in database form or dynamically driven. Background Technology does not include any Customer Content. Customer may not duplicate or distribute any Background Technology to any third party without the prior written consent of Lehigh Valley Metro Design. All rights to the Background Technology not expressly granted to Customer hereunder are retained by Lehigh Valley Metro Design. Without limiting the foregoing, Customer agrees not to reverse-engineer, reverse-assemble, decompile, or otherwise attempt to derive any source code of the Background Technology, except as allowed by law.

5. Limited License to Content. Customer hereby grants to Lehigh Valley Metro Design the limited, nonexclusive right and license to copy, distribute, transmit, display, perform, create derivative works from, modify, and otherwise use and exploit Web site, any Customer Content, or any Customer Marks provided to Lehigh Valley Metro Design hereunder, solely for the purpose of rendering Lehigh Valley Metro Design Services under this Agreement. Such limited right and license shall extend to no other materials or for any other purpose and will terminate automatically upon termination of this Agreement for any reason. 6. Content Standards. Customer agrees not to provide Customer Content, and Lehigh Valley Metro Design will not intentionally provide to

Customers any content, that (a) infringes on any third party's intellectual property or publicity/privacy rights; (b) violates any applicable law or regulation; (c) is defamatory, violent, clearly harmful, or obscene or pornographic or infringes on citizens' rights; or (d) contains any viruses, Trojan horses, worms, time bombs, cancel bots, or other computer programming routines that are intended to damage or interfere with any system, data, or personal information. If Customer is international, then Customer agrees to comply with all applicable local and national laws. Lehigh Valley Metro Design reserves the right to refuse any other subject matter it deems inappropriate.

7. Support. Lehigh Valley Metro Design agrees to provide reasonable technical support by email to Customer during Lehigh Valley Metro Design's normal technical support hours. Lehigh Valley Metro Design will provide customer support by telephone if the customer purchased telephonic support time.

8. Term and Termination. (a) This Agreement is effective as of the Effective Date and shall continue unless terminated; (b) Lehigh Valley Metro Design may terminate this Agreement after five (5) days' written notice to Customer if Customer materially breaches this Agreement, including, without limitation, failure to pay, and fails to cure such breach during such five (5) day period; and (c) upon the termination of this Agreement, Customer will pay Lehigh Valley Metro Design for all Services provided to Customer by Lehigh Valley Metro Design prior to termination. Sections 2, 3, 4, 5, 9, 11, and 12 will survive termination of this Agreement.

9. Warranty Disclaimer. Except as expressly provided in this Agreement, the Services are provided "as is," and Lehigh Valley Metro Design expressly disclaims all warranties and conditions of any kind, express, implied, or statutory, including, without limitation, the implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose. Interruption of Service: You hereby acknowledge and agree that Lehigh Valley Metro Design will not be liable for any temporary delay, outages or interruptions of the Services. Each party acknowledges that it has not entered into this Agreement in reliance upon any warranty or representation except those specifically set forth herein. Unless an approval process is specified herein or in a Statement, all Hosting provided by Lehigh Valley Metro Design to a Customer will be deemed accepted when delivered.

10. Indemnity. (a) Customer Indemnity. Customer will defend Lehigh Valley Metro Design against any third-party claim, action, suit, or proceeding alleging any breach of the covenants contained in Section . Subject to Section 11, Customer shall indemnify Lehigh Valley Metro Design for all losses, damages, liabilities, and all reasonable expenses and costs incurred by Lehigh Valley Metro as a result of any such third-party claim, action, suit, or proceeding. (b) Lehigh Valley Metro Design Indemnity. Lehigh Valley Metro Design will defend Customer against any third-party claim, action, suit, or proceeding alleging any breach of the covenants contained in Section 6. Subject to Section 11, <Company Name> shall indemnify Customer for all losses, damages, liabilities, and all reasonable expenses and costs incurred by Customer as a result of any such third party claim, action, suit, or proceeding. (c) Mechanics of Indemnity. The indemnifying party's obligations are conditioned upon the indemnified party: (i) giving the indemnifying party prompt, written notice of any claim, action, suit, or proceeding for which the indemnified party is seeking indemnity; (ii) granting control of the defense and settlement to the indemnifying party; and (iii) reasonably cooperating with the indemnifying party at the indemnifying party's expense.

11. Limitation of Liability. Lehigh Valley Metro Design's LIABILITY HEREUNDER SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER TO Lehigh Valley Metro Design DURING THE THREE (3) MONTH PERIOD BEFORE THE ACTION AROSE. Lehigh Valley Metro Design SHALL NOT BE LIABLE FOR (A) ANY LOSS OF USE, LOSS OF DATA, OR INTERRUPTION OF BUSINESS OR (B) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), REGARDLESS OF THE FORM OR ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF Lehigh Valley Metro Design HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGES THAT THESE LIMITATIONS ARE AN ESSENTIAL ELEMENT OF THIS AGREEMENT, AND ABSENT SUCH LIMITATIONS, Lehigh Valley Metro Design WOULD NOT ENTER INTO THIS AGREEMENT.