

APPENDIX A
SPOTSWOOD BAPTIST CHURCH
STANDARD TERMS AND CONDITIONS

1. General Provisions

- 1.1 Unless otherwise agreed to in a writing signed by an authorized representative from Spotswood Baptist Church, these Standard Terms and Conditions apply to and govern all purchases, regardless of the type of goods or services purchased, by the Spotswood Baptist Church (“SBC”) from _____ (the “Vendor/Contractor”).

2. Definitions

- 2.1 “Solicitation” means the vehicle by which SBC solicited pricing, and if applicable other terms, by which it could acquire goods or services from Vendor/Contractor, regardless of whether the vehicle was an Invitation for Bid, Request for Proposal, Request for Quote or telephone quote.
- 2.2 “Contract Documents” means all documents that constitute any legal and binding agreement between the Vendor/Contractor and SBC, including these Standard Terms and Conditions.
- 2.3 “Contract Period” means the time period from the time that Vendor/Contractor first becomes legally bound to provide goods or services to SBC in response to a Solicitation until all of Vendor/Contractor contractual obligations to the SBC, arising out the Solicitation, cease.
- 2.4 “Obligations” means any and all legal obligations of Vendor/Contractor under any Contract Documents.

3. Laws of the Commonwealth

- 3.1 The Contract Documents shall be governed in all respects whether as to validity, construction, performance, or otherwise by the laws of the Commonwealth of Virginia. Vendor/Contractor represents and warrants to SBC that during the Contract Period it:
- A. Will comply and conform with the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable;
 - B. Not employ illegal alien workers or otherwise violate the provisions of the Immigration Reform and Control Act of 1986; and
 - C. Comply with all federal, state and local laws and regulations applicable to the performance of the services procured.

4. Warranties

- 4.1 The Vendor/Contractor represents and warrants that it has the requisite experience, skills, capabilities, and manpower to perform the Obligations in a good and workmanlike fashion, that it is a legal business entity chartered or authorized to do business in Virginia having all necessary licenses required by law, that the person signing any of the Contract Documents has been fully authorized to do so, and his signature will legally bind the Vendor/Contractor to perform its Obligations. Any goods or services furnished by the Vendor/Contractor under the Contract Documents shall be covered by the most favorable warranties provided by the Vendor/Contractor to any customer, but in no event shall such warranty be less than one (1) year from date of completion of services or sale of goods, as applicable.
- 4.2 Vendor/Contractor warrants to SBC that all materials and equipment furnished shall be new, unless otherwise specified, and that Vendor/Contractor Work shall be of good quality, free from faults and defects and in strict conformance with the Contract Documents. All materials and work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. This warranty shall be in addition to, and not in limitation of, any other warranty or remedy required by law or by the Contract Documents.
- 4.3 The Vendor/Contractor agrees that if warranties set forth in the Contract Documents are in any respect breached, the Vendor/Contractor will pay to SBC the full contract price agreed to by SBC to be paid for the supplies, materials, equipment or services furnished under the bid or proposal. These rights and remedies are in addition to and do not limit those rights and remedies otherwise available to the SBC.

5. Modifications, Additions or Changes

- 5.1 Modifications, additions or changes to these terms and conditions may not be made except in writing and agreed to by SBC. The amount of any contract may not be increased for any purpose without adequate consideration provided to SBC.

6. Bid Acceptance Period

- 6.1 Any bid in response to a Solicitation shall be valid for 60 days. At the end of the 60 days, the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time, it remains in effect until an award is made or the Solicitation is cancelled.

7. Indemnification

- 7.1 The Vendor/Contractor agrees to indemnify, defend and hold harmless SBC and its trustees, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by (i) the use of any materials, goods, or equipment of any kind or nature furnished by the

Vendor/Contractor; (ii) any services of any kind or nature provided by the Vendor/Contractor; or (iii) Vendor/Contractor performance of its Obligations, provided that such liability is not attributable to the sole negligence on the part of SBC.

8. Assignment

8.1 Neither the Obligations nor the Contract Documents may be assigned, sublet, or transferred, in whole or in part, without the written consent of SBC.

9. Audit

9.1 The Vendor/Contractor hereby agrees to retain all books, records, and other documents relative to Vendor/Contractor Obligations and the Contract Documents for five (5) years after final payment or after all other pending matters are closed, whichever is longer. SBC and its authorized agents, state auditors, the grantor of the funds to SBC or any of their duly authorized representatives shall have access to any such books, documents, papers and records of the Vendor/Contractor for the purpose of making audits, examinations, excerpts or transcriptions.

10. Ownership of Documents

10.1 Any reports, studies, photographs, negatives, or other documents prepared by Vendor/Contractor in the performance of its Obligations shall be remitted to SBC by the Vendor/Contractor, without demand therefore, upon the earliest of (i) completion of its Obligations; (ii) completion of the Contract Period; or (iii) termination, cancellation or expiration of the Contract Documents. Vendor/Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of the Obligations without the prior written consent of SBC. SBC shall own the intellectual property rights to all materials produced under this Agreement.

11. Payment and Performance Bond

11.1 If Vendor/Contractor Obligations include construction, the Vendor/Contractor shall furnish to SBC, when specifically requested in the solicitation, payment and/or performance bonds.

12. Required Payment

- 12.1 The Vendor/Contractor covenants and agrees to:
- a) Within seven (7) days after receipt of any amounts paid to the Vendor/Contractor under the Agreement,
 - b) pay any subcontractor for its proportionate share of the total payment received from SBC attributable to the work under the Agreement performed by such subcontractor, or
 - c) notify SBC and the subcontractor, in writing, of its intention to withhold

all or a part of the subcontractor's payment and the reason therefore.

- 12.2 Vendor/Contractor agrees to provide its federal employer identification number or social security number, as applicable, as a condition precedent to SBC being required to make any payment to the Vendor/Contractor under the Contract Documents.
- 12.3 Vendor/Contractor agrees to pay interest at the legal rate or such other rate as may be agreed to in writing by the subcontractor and the Vendor/Contractor on all amounts owed by the Vendor/Contractor that remain unpaid after seven (7) days following receipt by the Vendor/Contractor of payment from SBC for work performed by the subcontractor in furtherance of Vendor/Contractor meeting its Obligations to SBC, except for amounts withheld pursuant to subparagraph 12.1 above.
- 12.4 Vendor/Contractor agrees to include in its contracts with any and all subcontractors the requirements of 12.1(a), 12.1(b), and 12.1(c) above.

13. Liability Coverage

- 13.1 Unless otherwise expressly excepted in the Solicitation documents prepared by SBC, the Vendor/Contractor shall take out and maintain during the Contract Period such bodily injury, liability and property damage liability insurance as shall protect it and SBC from claims for damages for personal injury, including death, as well as from claims for property damage, which could arise from Vendor/Contractor performance of its Obligations. Such insurance shall at least have the coverage's and be in the amounts set forth in section 16 "Insurance and Bond Requirements" set forth below and shall name "Spotswood Baptist Church" as additional insured's. Such insurance must be issued by a company admitted to do business within the Commonwealth of Virginia and with at least an AM Best rating of A-. Within 10 days after Vendor/Contractor is awarded a contract in response to a Solicitation, and in no event later than the first day on which Vendor/Contractor provides goods or services to SBC, the Vendor shall provide SBC with a certificate of insurance showing such insurance to be in force and providing that the insurer shall give SBC at least 30 days' notice prior to cancellation or other termination of such insurance.

14. Loss or Damage in Transit

- 14.1 Delivery by a Vendor/Contractor to a common carrier does not constitute delivery to SBC. Any claim for loss or damage incurred during delivery shall be between the Vendor/Contractor and the carrier. SBC accepts title only when goods are received regardless of the F.O.B. point noted in the Solicitation or the Contract Documents. The receiving agency will note all apparent damages in transit on the freight bill and notify the Vendor/Contractor. Discovery of concealed damages or loss will be reported by the receiving agency to the carrier and the Vendor/Contractor within 15 days of receipt and prior to removal from the point of delivery if possible. The Vendor/Contractor shall make immediate replacement of the damaged or lost

merchandise or be in default of the Contract Documents. It shall be the Vendor's/Contractor's responsibility to file a claim against the carrier. If damage is to a small quantity, with the approval of the agency, the Vendor/Contractor may deduct the amount of damage or loss from his or her invoice to the agency in lieu of replacement.

15. Freight

- 15.1 By signing any response to a Solicitation the bidder certifies that the bid price(s) offered for F.O.B. destination include only the actual freight charges at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Freight charges are, therefore, established for each individual purchase. If a requirement is bid F.O.B. origin, the Vendor/Contractor shall prepay the charges and add the amount to the invoice. A copy of the freight bill should be attached to all invoices that include freight charges. In a solicitation specifying F.O.B. origin SBC will consider freight cost in the evaluation of bids.

16. Insurance and Bond Requirements

- 16.1 The Vendor/Contractor shall maintain the following insurance to protect it from claims that could arise from performance of the Obligations, including claims (i) under the Workmen's Compensation Act; (ii) for personal injury, including death; and (iii) for damage to property, regardless of whether such claims arise out of Vendor's/Contractor's actions or inactions, or those of Vendor's/Contractor's subcontractor or other persons directly or indirectly employed by either of them:
- a) Worker's Compensation and Employer's Liability. Vendor/Contractor shall procure and maintain Worker's Compensation and Employer's Liability Insurance covering all of its employees in conformance with the laws of any state, district or territory of the United States of America in which work towards meeting Vendor/Contractor Obligations are to be performed. Such insurance shall not have a limit of liability less than the following:
 - i) Bodily Injury by accident, \$500,000 for each accident;
 - ii) Bodily Injury by disease, \$500,000 policy limit;
 - iii) Bodily Injury by disease, \$500,000 for each employee.
 - b) Commercial General Liability Insurance. This coverage shall include contractual liability, underground hazard, explosion and collapse, hazard, property damage, independent Vendor/Contractor, and personal injury insurance in support of section 10 of this Agreement entitled "Indemnification". This policy shall be endorsed to include SBC as additional insured's during the Contract Period and shall state that this insurance is primary insurance as regards any other insurance carried by SBC. Vendor/Contractor shall procure and maintain Public Liability Insurance in an amount not less than:

- i) \$1,000,000 for each occurrence involving bodily injury;
- ii) \$1,000,000 for each occurrence involving property damage;
- iii) \$2,000,000 aggregate limits.

c) Comprehensive Automobile Liability. Vendor/Contractor shall procure and maintain Comprehensive Automobile Liability Insurance covering all automobiles, trucks, tractors, trailers, or other automobile equipment, whether owned, not owned, or hired by the Vendor/Contractor, with the following limits:

- i) \$500,000 for each occurrence involving personal injury;
- ii) \$500,000 for each occurrence involving property damage;
- iii) \$1,000,000 aggregate limits.

d) The Vendor/Contractor shall purchase and maintain insurance coverage in a sufficient amount to cover all potential claims on his tools, equipment and machinery.

- 16.2 SBC reserves the right to require insurance of any Vendor/Contractor in greater amounts provided notice of such requirements is stated in the solicitation.
- 16.3 All insurance policies required under this paragraph, or otherwise required by the Solicitation or Contract Documents, shall include a clause waiving any and all subrogation rights against SBC.
- 16.4 Insurance policies shall provide for notification to SBC of non-payment of any premium and shall give SBC the right to make the premium payment thereunder within a reasonable time, if the insurance policy is in danger of lapsing during the Contract Period. Any premium payments made by SBC shall be deducted from amounts due Vendor/Contractor under the Contract.

17. Compliance With Laws

- 17.1 All work performed shall be in accordance with all local, state and federal codes, laws and regulations.

18. No Waiver

- 18.1 Any failure of SBC to demand rigid adherence to one or more of the terms of the Contract Documents, on one or more occasions, shall not be construed as a waiver nor deprive SBC of the right to insist upon strict compliance with the terms of the

Contract Documents. Moreover, it is SBC's position and Vendor/Contractor hereby agrees that the legal theories of Implied Waiver, Statute of Limitation, Estoppel, and Laches do not apply as defenses that the Vendor/Contractor may assert in any action by SBC. Any waiver of a term of this Agreement, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

19. Termination and Cancellation

- 19.1 SBC shall have the unilateral right to terminate any contract with Vendor/Contractor for default on the terms of that contract, or any other contract between the Vendor/Contractor and SBC.
- 19.2 SBC has the unilateral right to cancel and terminate any contract with Vendor/Contractor, in whole or in part, without penalty, merely out of convenience, and shall require no breach of contract by Vendor/Contractor as a condition of termination. This right of termination for convenience may be exercised at the sole unconditional discretion of SBC. If a contract is terminated in whole or in part for the convenience of SBC, the Vendor/Contractor shall be paid the contracted price for the service or goods actually provided or rendered up to the date of the termination of the respective contract, but shall not be paid any other fees or lost profits.
- 19.3 Any contract cancellation notice shall not relieve the Vendor/Contractor of the obligation to perform on all outstanding orders issued prior to the effective date of cancellation.

20. Availability of Funds

- 20.1 It is understood and agreed between the parties herein that SBC shall be bound hereunder only to the extent of the funds available and duly appropriated or which may hereafter become available and duly appropriated for the purpose of fulfilling SBC's obligations with respect to the Contract Documents.

21. Billing, Method of Payment and Offset Rights

- 21.1 Billing shall be done monthly based on the contracted rate bid by the Vendor/Contractor and submitted to SBC's Finance Office. SBC will remit payment within 30 days of receipt of a correct invoice. Incorrect invoices shall be subject to correction and/or rejection by SBC.
- 21.2 Vendor/Contractor agrees that SBC has the unilateral right to offset any bill submitted to SBC by Vendor, or any payment owed to Vendor/Contractor by SBC, by any amount due to SBC from Vendor/Contractor pursuant to the Contract Documents, or any other agreement, contract or transaction between SBC and Vendor/Contractor.

22. Tax Exemption

22.1 SBC, as a non-profit church organization, is exempt from any Virginia retail sales and use tax on tangible personal property purchased directly by the SBC.

23. Work Site Damages

23.1 Any damages, including damage to finished surfaces, resulting from Vendor's/Contractor's performance of its Obligations shall be repaired to the satisfaction of SBC at the Vendor's/Contractor's expense.

24. Choice of Law

24.1 To ensure uniformity of the enforcement of the Contract Documents, and irrespective of the fact that either of the parties now is, or may become, a resident of a different state, this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia and of Spotsylvania County without regard to their principles of conflicts of law.

25. Forum Selection

25.1 Vendor/Contractor agrees, and submits, to sole and exclusive jurisdiction and venue in the General District or Circuit Courts of Spotsylvania County, Virginia for resolution of any and all claims, causes of action or disputes between Vendor/Contractor and SBC. The Vendor/Contractor agrees hereby to waive any jurisdictional or venue defenses related to any such action brought in the courts of Spotsylvania County, and further agrees to not remove or file any such action in Federal Court.

25.2 Vendor/Contractor agrees that service by registered mail to the address set forth in Paragraph 28.1 of these Standard Terms and Conditions shall constitute sufficient service of process for any such action.

26. Severability

26.1 If any provision of any one, or all of the Contract Documents is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reason, such provision shall be fully severable and the remainder of the Contract Documents shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of the Contract Documents, and the remaining provisions of the Contract Documents shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance.

27. Attorneys' Fees

27.1 Should SBC employ an attorney to either (i) institute and maintain a suit against Vendor/Contractor arising out of the Contract Documents or Vendor's/Contractor's Obligations; (ii) assist in enforcing or defending any of SBC's rights under the Contract Documents; (iii) protect SBC's interest in any matter arising under a contract with Vendor/Contractor; (iv) collect damages for the breach of a contract or any other amounts owed to SBC; or (v) recover on a surety bond given by the Vendor/Contractor, then SBC shall be entitled to recover its attorneys' fees, costs, charges, and expenses expended or incurred therein from the Vendor/Contractor if SBC prevails in court, regardless whether SBC recovers at law or in equity.

28. Notices

28.1 All requests, notices and other communications required or permitted to be given under the Contract Documents shall be in writing. Delivery of a notice shall be deemed to have been made when such notice is either:

- a) Duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect; or
- b) Transmitted by hand delivery, telegram, telex, telecopy or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to SBC shall be sent to:

Spotswood Baptist Church
Finance Department, Attn: Director of Finance
4009 Lafayette Boulevard
Fredericksburg, VA 22408

With a copy to:
Spotswood Baptist Church
Attn: Executive Pastor
4009 Lafayette Boulevard
Fredericksburg, VA 22408

29. Contractual Claims Procedure

29.1 Contractual claims or disputes by Vendor/Contractor against SBC, whether for money or other relief, except for claims or disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment; provided, however, that Vendor/Contractor shall give SBC written notice of its intention to file a claim or dispute within fifteen (15) days after the occurrence upon which the claim or dispute shall be based. Any written notice of Vendor's/Contractor's intention to file such a claim or dispute need not detail the amount of the claim, but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Vendor/Contractor files such written notice, Vendor/Contractor shall proceed

with the work as directed. If Vendor/Contractor fails to make its claim or dispute, or fails to give notice of its intention to do so as provided herein, then such claim or dispute shall be deemed forfeited.

- 29.2 SBC, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within one hundred twenty (120) days of final payment. Each such decision rendered shall be forwarded to the Vendor/Contractor by written notice.
- 29.3 If the Vendor/Contractor disagrees with the decision of SBC concerning any pending claim, the Vendor/Contractor shall promptly notify SBC by written notice that the Vendor/Contractor is proceeding with the work under protest. Any claim not resolved, whether by failure of the Vendor/Contractor to accept the decision of SBC or under a written notice of Vendor's/Contractor's intention to file a claim or a detailed claim not acted upon by SBC, shall be specifically exempt by the Vendor/Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- 29.4 SBC's decision on contractual claims shall be final and conclusive unless the Vendor/Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate court.

30. Correction of Defective Work

- 30.1 Vendor/Contractor shall promptly replace or correct any work or materials which SBC rejects as failing to conform to the requirements of the Contract Documents. If Vendor/Contractor does not do so within a reasonable time, SBC shall have the right to replace or correct the defective work or materials and Vendor/Contractor shall be liable to SBC for the cost thereof. If, in the opinion of SBC, it is not expedient to correct or replace all or any part of rejected work or materials, then SBC, at its option, may deduct from the payment due, or to become due, to Vendor/Contractor such amounts as, in SBC's judgment, will represent the higher of: (i) the difference between the fair value of the rejected work and materials and the value thereof, if the work had complied with the Contract Documents; or (ii) the cost of correction.

I agree to these terms and conditions, and understand that they apply to and govern all purchases, regardless of the type of goods or services purchased, by SBC, from Vendor/Contractor.

Name

Title

Vendor/Contractor

Date

