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## BOARD NOTICES • RAADSKENNISGEWINGS

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### BOARD NOTICE 65 OF 2020

#### SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION

#### BOARD NOTICE

**Framework for guidelines professional fees in respect of architectural services rendered by registered architectural professionals.**

#### 1. Introduction

- a) In terms of section 34 (2) of the Architectural Profession Act 44 of 2000 the South African Council for the Architectural Profession, hereafter referred to as SACAP, must annually, after consultation with the Voluntary Associations, determine guideline professional fees and publish those fees in the *Gazette*.
- b) The Guideline professional fees shall be in line with the principles referred to in section 4(k)(v) of the Council for the Built Environment Act 43 of 2000 which stipulates that “the principles upon which Council must base guideline professional fees should be in accordance with any legislation relating to the promotion of competition”.

#### 2. Purpose

- a) The Council of the Built Environment (CBE) **Policy Framework on determination and review of guideline professional fees for built environment professions** stipulates that, the guideline professional fees are determined and published as a guide only and not as prescribed fees which registered professionals are entitled to charge.
- b) Guideline professional fees are for the purpose of guidance required to promote market efficiency, and redress consumers and the public information deficit, relative to the professional’s knowledge and expertise. The guideline professional fees are not prescribed or set as maximum or minimum mandatory fees to be charged for professional services rendered, but serve as guideline.

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### 3. Principles

- a) The guideline professional fees are based on cost of works as per fee survey undertaken by the profession. As per the **Policy Framework on determination and review of guideline professional fees for built environment professions**, the guideline professional fees take into consideration reasonable rate of return on investment, intellectual capital, effort and, most importantly, risk.
- b) The guideline professional fees tables have been split into 3 complexities to align with the Identification of Work.
- c) The guideline professionals fee tables represent the fees for a full service by a hypothetical average sized architectural practice, practising in a responsible and sustainable manner. This means that the tables are not meant to fit any one specific project perfectly and in almost all cases should be adjusted up or down in relation to specific project conditions.
- d) The guideline professional fees are expressly not suitable for use in a basket of professional fees calculation, where all professional fees are reduced to fit a required overall fee basket. Reduction of fees in this manner, without due regard to a concurrent agreed reduction of service, is strongly discouraged.

### 4. General provisions

The guideline professional fees published under Gazette No. 38863, 12 June 2015 under board notice 121 & 122 are hereby repealed. The provisions of previous board notice shall apply in respect of services rendered during a stage which has not yet been completed by the date of commencement of this board notice. The new board notice shall apply to all subsequent work stages.

### 5. Definitions and interpretations

In this document, unless the context otherwise indicates, an expression or word hereunder shall mean:

**SACAP** means the South African Council for the Architectural Profession;

**Act:** means the Architectural Profession Act, 2000 (Act No. 44 of 2000);

**Agreement** means a written agreement between a client and the registered

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professional;

**Alteration** in terms of Clause 23 means a change in a building or facility that affects or could affect the usability of a building or facility or portion thereof.

**Addition** in terms of Clause 24 means projects that increase, expand, or extend a facility's gross floor area or height of a facility are considered additions.

**'Registered Person'** means a person registered in one of the categories of professionals and candidates referred to in section 18 of the Act;

**Architectural professional:** means a person registered in one of the categories of professionals referred to in section 19(2)(b);

**Architectural Practice** means a juristic person appointed to provide the architectural service for the project;

**Board notice** means the notice containing the guidelines professional fees which, in terms of section 34(2) of the act is published annually by SACAP in the Government Gazette;

**Budget** means the anticipated cost of the project and/or works, provided that estimates on which the budget is based, shall be deemed to be valid for a period not exceeding 3 months;

**Building contract** means the Joint Building Contracts Committee (JBCC) Principal Building Agreement or any other building contract entered into between the client and the contractor;

**Client** means the party appointing the architectural professional to perform the services or any part thereof referred to in this document

**Consultant** means a professional person/s or entity/entities appointed by the client to provide services with respect to the project;

**Construction documentation** means graphic representations, plans, sections, elevations, site plans, specifications, construction details, service co-ordination information, schedules and such other details and descriptions as are within the reasonable competence of an architectural professional which are sufficient to indicate the scope of the works;

**Contract** means an agreement entered into by the client with a contractor for the execution of the works or part thereof; it may also be referred to as the building contract;

**Contractor** means the entity or entities contracting with the client for the execution of the works or part thereof;

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**Inspection** means such periodic visits to, or in connection with the works, by the architectural professional as are necessary to establish conformity of the work to the contract documentation and quality in terms of the acceptable industry standards, and to provide on-site clarification and further information during the progress of the work. **Inspect** shall carry the same meaning;

**Practical completion** means the stage of completion where the works or a section thereof are certified by the principal agent as substantially complete and can effectively be used for the purpose intended;

**Principal Agent** means the person appointed to fulfil the obligations of the principal agent in the agreed form of construction contract;

**Principal consultant** means the person authorised by the client to lead the consultants in all matters including technical co-ordination;

**Project** means the development for which the architectural professional and consultants are appointed for and may not be limited to the works;

**Specialist** means an architectural professional highly skilled in a specific and restricted field;

**Principal** means the proprietor, partner, director or member who bears the risks of practice and takes full responsibility for the potential liabilities of practice;

**Works** means all work executed or intended to be executed according to the building contract;

**The hourly rates** shall be deemed to include establishment charges and charges for time expended by clerical staff;

**The words** "advise", "appoint", "approve", "authorise", "certify", "consent", "decide", "delegate", "designate", "instruct", "issue", "notify", "object", "reply", "request", and "specify" shall indicate an act required to be carried out in writing;

**All monetary amounts** exclude VAT which shall be added to any amounts which become due and payable;

**Notice in terms of service agreements** shall be deemed to have been duly received when delivered by hand on the day of the delivery; sent by registered post 7 (seven) days after posting; and sent by e-mail 3 (three) days after transmission.

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### 6. The Architectural professional service

6.1 A **client** appoints an **architectural professional** to provide a service for a project as contemplated by the Architectural Profession Act, South African National Standards 10 400, the National Building Regulations and Building Standards Act 103 of 1977 as amended and the National Building Regulations published in terms of this Act.

6.2 The architectural professional accepts the appointment to exercise reasonable professional skill, care and diligence in the performance of obligations, for a fee as defined in a written agreement.

6.3 The guideline professional fees as published annually by SACAP in the Government Gazette is a guideline only and does not amount to direct or indirect price fixing. The guideline professional fee is deemed to provide a fair and reasonable remuneration to the architectural professional in order to provide an appropriate level and quality of service in terms of the Standard of Service.

6.4 Registered persons may be appointed for a standard service as **architectural professionals, principal consultants** and **principal agents**. Furthermore, services additional to the standard service may be included, and these additional services are included as the parties may deem appropriate, and are provided for herein.

### 7. Fees description

The calculation of fees based on a percentage of project cost is the normal basis for determining professional fees and represents the accepted basis by the Built Environment Professions for remuneration of professional services. Such fees are referred to as project cost-based fees. An alternative to a project cost-based fee is a time-based fee.

**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****8. Project cost-based fee**

8.1 A project cost-based fee is appropriate when there is a well-defined scope of service for the architectural professional. This is based on a budget for the works for fee calculation purposes, and shall be adjusted on the final cost of the works.

8.2 The project cost-based fee results in a sliding scale, which arises from the series of percentages related to the value of the works and its complexity – low, medium or high – as defined in guideline profession fees board notice. The primary fee is stated as an appropriate value to smooth the sliding scale.

8.3 The adjustment provided for in the guidelines professional fee is based on the reduced aggregate of the value of the works and/or project from which the budget for the works for fee purposes is derived. This arises from the provision that fees for architectural services are calculated on the total value of the works and represent an average over all elements of the works and/or project.

8.4 Where a fee is calculated as a project cost-based fee, the fee consists of a primary fee (Column C) plus a secondary fee. The secondary fee is calculated as a percentage (Column D) of the value of the works on the balance over per cost bracket indicated in Column E. *Refer to guideline professional fees Board Notice.*

8.5 The formula and examples thereof are in the guidelines professional fee.

8.6 Where an architectural professional has undertaken work to change the agreed design and the fee is not covered by an increase in fees relative to the construction cost, a time-based fee may be agreed for this change.

**9. Time-based fee**

9.1 Where the scope of service is not clearly defined, or the service relates to small scale projects, or the service is of an unusual or specialised nature, a

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time-based fee is recommended to be used as the basis of remuneration. Where fees for architectural professional services are time based, such fees may be based on an hourly rate as set out in the guidelines professional fee board notice.

9.2 Where an architectural professional has undertaken work to change the agreed design and the fee is not covered by the agreed time-based fee, additional fees may be agreed upon.

### **10. The Standard Service is generally divided into 6 work stages.**

The essential functions of each work stage relevant to the service are identified hereafter as follows:

#### **Stage 1: Inception**

- a) Receive, appraise and report on the client's requirements with regard to the client's brief;
- b) Determine the site and rights and constraints;
- c) Determine budgetary constraints;
- d) Determine the need for consultants;
- e) Determine project programme;
- f) Determine methods of contracting; and
- g) whether other statutory authority applications are required or desirable.

#### **Stage 2: Concept and viability (concept design)**

- a) Prepare an initial design concept and advise on:
  - i the intended space provisions and planning relationships;
  - ii proposed materials and intended building services; and
  - iii the technical and functional characteristics of the design.
- b) Check for conformity of the concept with the rights to the use of the land.
- c) Consult with local and statutory authorities.
- d) Review the anticipated costs of the project.
- e) Review the project programme.

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- a) Develop all aspects of the design from concept to full development, including but not limited to, construction systems, materials, fittings, and finishes selections;
- b) Review the programme and budget with the client, principal consultant or other consultants;
- c) Coordinate other consultants designs into building design;
- d) Prepare design development drawings including drafting technical details and material specifications;
- e) Discuss and agree on the building plan approval requirements with the local authority;

**Stage 4: Documentation and procurement****Stage 4.1**

- a) Prepare documentation required for local authority building plan application submission;
- b) Co-ordinate technical documentation with the consultants and complete primary co-ordination sufficient to support building plan submission;
- c) Review the costing and programme with the consultants;
- d) Obtain the client's authority, and submit documents for approval at the local authority.

**Stage 4.2**

- a) Prepare specifications for the works;
- b) Complete technical documentation sufficient for tender;
- c) Obtain offers for the execution of the works;
- d) Evaluate offers, and recommend a successful tenderer for appointment;
- e) Prepare the contract documentation and arrange the signing of the building contract by the client and the successful tenderer;
- f) Complete remaining technical documentation and coordinate same with the consultants;

**Stage 5: Construction**

- a) Administer the building contract;



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- b) Give possession of the site to the contractor;
- c) Issue construction documentation;
- d) Review sub-contractor designs, shop drawings and documentation to ensure conformity with the designs;
- e) Inspect the works for conformity with the contract documentation and acceptable quality in terms of industry standards;
- f) Administer and perform the duties and obligations assigned to the principal agent in the building contract;
- g) Manage the completion process of the project;
- h) Assist the client with obtaining the required documentation necessary for obtaining the occupation certificate.

**Stage 6: Close-out**

- a) Facilitate the project close-out including the preparation of the necessary documentation to effect completion, handover and operational manual of the project.
- b) When the contractor's obligations with respect to the building contract have been fulfilled, the architectural professional shall issue the certificates related to the contract completion.
- c) Provide the client with as-built drawings and the relevant technical and contractual undertakings by the contractor and sub-contractors.

**11. Partial services and additional services**

- a) The Architectural Profession Act provides for the appointment of various architectural professionals for fulfilling each or any stage of a standard service or parts thereof.
- b) Partial and additional services may be agreed on, and the options most regularly utilised are the following:
  - i. Appointment as architectural professional and principal consultant (not as principal agent);
  - ii. Appointment as a design architectural professional (design only);
  - iii. Appointment as architectural professional of record (design by others, can be principal agent);

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- iv. Appointment as principal agent only; and
- v. Appointment to perform additional services.

**12. Additional services**

The following services are additional to the standard service and qualify for additional fees and these services may be added individually or in varying combinations, and shall be provided by prior agreement between the client and the architectural professional:

**a) Special design services**

The preparation of special designs within, or in relation to, the facilities which are contemplated in a standard service, may include the following:

- i. Rational design and Green Star design by other consultants; participation in the preparation of rational designs and green star design and document format conversion of other consultants' designs;
- ii. Town-planning and/or urban design including participation in the application for the establishment and/or amendment of regional and local town-planning and urban design schemes and the amendment of title conditions, negotiations with interest groups and authorities;
- iii. Master planning – defining and planning the layout of future development of buildings and/or services on the same site;
- iv. Landscape design – participation in landscape planning and construction;
- v. Interior design – the design of interiors and the selection of furnishings, fixtures and special finishes;
- vi. Specialized equipment lay-out;
- vii. Liaison with special designers and specialist consultants;
- viii. Purpose-made items: the design and documentation of purpose made items;
- ix. Promotional material, art work and immersed digital experiences, participation in the preparation of promotional material;

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- x. Plant operation and production layouts, participation in the definition of plant operation layouts;
- xi. Building Information Modelling (BIM) services beyond construction work stages' scope of works. BIM services intended for asset maintenance and/or facilities management.

**13. Special management services**

- a) Elaboration of architectural professionals' services including inter alia:
  - i. the preparation of broad project parameters;
  - ii. project scope statements;
  - iii. project milestones;
  - iv. budget and cash-flow forecasts;
  - v. tender enquiry documentation;
  - vi. contractor and supplier selection;
  - vii. adjudication and tender awards;
  - viii. progress status monitoring;
  - ix. variations management;
  - x. quality management over and above the industry norms;
  - xi. communication management;
  - xii. payment processing and
  - xiii. final account close-outs.
- b) *Cost and valuation services*: participation in the administration of costs and payments where a quantity surveyor has not been appointed and
- c) *Special inspections*: more intensive inspections and assessment of the works than the norm for assessing compliance with specifications.
- d) *Special Project Management Functions*: more extensive project management of the works than the norm for complex projects.

**14. Special studies**

- a) *Preparation of the client's brief* – assist the client in the preparation of his requirements with regard to the purpose, scope, use and operation of the project;
- b) *Site selection* – research the suitability and location of a site for a proposed project;

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- c) *Feasibility studies* – participation in technical and/or economic feasibility studies;
- d) *Environmental studies* – participation in environmental studies;
- e) *Energy analysis, studies and planning* – Green Star Ratings;
- f) *Market surveys* – participation in market surveys;
- g) *Traffic studies* – participation in traffic-flow studies.
- h) *Drone studies*; specialised photography for marketing material.

**15. Special Submissions to Statutory Authorities**

- a) Land Use;
- b) Environment;
- c) Heritage;
- d) Trading Licences/Liquor Licences etc.

**16. Work on existing premises**

- a) *Surveys and inspections* – inspect, survey, measure and prepare documentation of existing premises, with other consultants as needed;
- b) *Restorations and renovations* – services in connection with work on existing buildings;
- c) *Heritage buildings* – services in connection with work on heritage buildings;
- d) Services in connection with demolition permits of existing buildings.

**17. Other services**

- a) Participation in litigation and dispute resolution (where a concurrent service is provided);
- b) Additional services as may be mutually agreed on.

**18. Basis of fees agreement**

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- a) The client agrees to pay the architectural professional the fees for the services as recorded in the formal agreement entered into by the parties;
- b) Where a project cost-based fee is applied, the final fee is calculated on the final cost of the works.
- c) This fee is based on a budget for the works for fee calculation purposes, and shall be adjusted on the final cost of the works.

### 19. Project cost-based fees for standard and partial services

- a) The architectural professional shall refer to the guidelines professional fees to determine whether a project is of low, medium or high complexity. Different fee scales apply to different complexities of a project.
- b) These are derived from bracketed project values, and are determined annually by SACAP and published in the Government Gazette.
- c) For a partial service, assuming the fee is a project cost-based fee, the percentage of the fee for each work stage to be performed is agreed between the client and architectural professional.
- d) The budget for fee purposes excludes VAT, contingencies and provision for escalation.

### 20. Project cost-based fees for a reduced service

- a) Where the architectural professional is not the principal agent, a reduction of the fee for the work not exceeding 10% of the fee for stages 5 and 6 may be considered.
- b) Where the architectural professional is not the principal consultant, a reduction of the fee for the work may be negotiated between the architectural professional and the client.

### 21. Apportionment of fees between work stages

- a) The fee applicable to each work stage is apportioned according to the table below, and may be adjusted by agreement.

Work stages 1 to 6	Proportion of fee	Cumulative total
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1	2%	2%
2	15%	17%
3	15%	32%
4.1	10%	42%
4.2	25%	67%
5	30%	97%
6	3%	100%

**22. Guideline fees for additional services;**

Unless otherwise agreed, the fee for additional services is time based, and it is based on hourly rates as in the current guidelines professional fees.

**22.1 Time-based fees**

Where fees for the architectural professional services are time-based fees, the hourly rates as set out in the guideline professional fees may apply. Whenever these rates are revised the new rates may apply to work performed after the effective date of such revision.

**22.2 The categories to which the rates are applicable are as follows:**

Principal	Specialist	The published hourly rates apply
Principal	> 10 years' experience	The published time charge rate per hour applies
Principal	<10 years' experience	The published time charge rate per hour applies
Salaried Staff	Associates and managers	The published time charge rate per hour applies
Salaried Staff	Registered architectural professionals performing work of an architectural nature and carrying direct responsibility for	The published time charge rate per hour applies

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	activities related to a project.	
Salaried Staff	Registered architectural professionals performing work of an architectural nature under the direction and control of a principal.	The published time charge rate per hour applies
Salaried Staff	Staff performing work of an architectural nature and/or support architectural work outputs under the direction and control of a principal.	The published time charge rate per hour applies

**23. Guideline professional fees for alterations**

The fee for work that includes alterations is based on the total project cost and increased for that portion of the work comprising or affected by alterations by 30% (130% of the fee).

**24. Guideline professional fees for additions**

The fee for work associated with an addition to an existing building may not attract additional fees, except for that portion of work associated with the parts of the addition interfacing with the existing building. The fee for this latter work is increased by 30% (130% of the fee).

**25. Guideline professional fees for services provided with respect to the restoration of buildings subject to heritage legislation**

The fee for work that includes restoration of buildings subject to heritage legislation is based on the total project cost and increased for that portion of the work comprising or affected by heritage considerations by 40% (140% of the fee).

**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****26. Guideline professional fees for a project that includes repeated buildings**

- a) For a project consisting of a number of repeated buildings erected under a single building contract for a single client, the fee may be reduced by agreement, subject to the architectural professional being retained for a full service and the repeated buildings being built on one site or a series of adjoining or closely related sites;
- b) either entirely apart from each other or linked with screen walls, common walls or other similar means; and repetitions of one or more prototype designs for units, blocks or elements and built from the repeated use of one or more sets of drawings and related documents with nominal or no modification for each re-use. This does not apply to similar floors or divisions in a multi storey building;
- c) The guideline professional fee for repeated buildings provides for a full fee for the origination of the first buildings, prior to the repeated buildings, known as prototypes. Thereafter the fee adjustment is applied to the repeated buildings;
- d) The reduced fee applies to work stages 1 to 4 inclusive. The reduced fee apportionment is 35% of the guideline professional fee for stages 1 to 4 inclusive;
- e) The reduced fee does not apply to work stages 5 and 6. The full guideline professional fee for these stages shall apply.

**27. Guideline professional fees for buildings repeated under separate building contracts.**

An architectural professional is entitled to be paid full fees on the original building designs. Unless otherwise agreed, where repeated buildings are erected under



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separate building contracts and the drawings and related documents for a project are re-used for subsequent projects with nominal or no modification, the fee may be adjusted.

### **28.Guideline professional fees for an appointment where the architectural professional takes over incomplete work of another professional**

The stage of completion shall be agreed upon, and an appropriate budget for the works agreed upon, and the fee for the incomplete work stages or the stage in which the service is commencing may be subject to an increase of 25%.

### **29.Guideline professional fees for deployment of employees**

Where an employee of the architectural professional is deployed on site for extended inspection or other agreed purposes, the amount of the reimbursement shall be the total cost of employment plus 30%.

### **30.Extended initial contractual contract period**

- a) In the event that the initial contract period is exceeded by more than 10% through no fault of the architectural professional, the architectural professional shall be remunerated for all additional work resulting from the extension of time at the hourly rates according to the effective professional guidelines fees together with related reimbursable expenses. The architectural professional shall inform the client in writing that the allocated period for providing professional services has been exceeded by 10% and therefore the services will be charged at the hourly rates according to the current and effective professional guidelines fees together with related reimbursable expenses.
- b) The fee for the services of the architectural professional during the contract period shall not be linked to a contractor performance or progress. The fees shall be assessed entirely independently.

**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****31. Adjustment of guideline professional fees and disbursements**

- a) The guideline professional fees and disbursements are based on the following parameters:
- i. Scope of services;
  - ii. Scope of the project/works;
  - iii. Project programme;
  - iv. Cost of the works;
  - v. Cost of the project;
  - vi. Appointment of other consultants;
  - vii. Appointment of contractor.
- b) Should any material variation to the parameters as stated occur, the guideline professional fees and disbursements shall be adjusted.

**32. Fast Tracking**

- a) Adjustment to the project programme, commonly known as 'fast tracking', that requires the application of additional resources by the architectural professional, may attract an additional fee. The architectural professional shall motivate to the client the additional resource needed to complete the project within the allocated time and shall be at the total cost of additional employment plus 30%.

**33. Travelling time**

- a) Where the fee is a project cost-based fee, time charges shall apply at 100% of hourly rate for travel greater than 1 hour and 50 km per trip (being 2 hours and 100 km per return trip) or as negotiated between the client and the architectural professional.
- b) Where the fee is on a time basis, time charges shall apply to the full round trip regardless of distance.

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**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****34. Guideline professional fees on termination by the client**

- a) Where the agreement between the client and the architectural professional is terminated, the client shall pay for that portion of the service that has been executed by the architectural professional.
- b) Termination of the project shall attract an additional fee equal to 10% of the full fee.

**35. Guideline professional fees for dispute resolution services**

- a) For acting as expert witness, adjudicator, mediator or arbitrator, the fee shall be in line with specialists' fees charged at the hourly rates published in the guideline professional fees.
- b) Where a project is referred to dispute resolution, architectural professionals retained on that project are to be reimbursed for the additional service required in relation to the dispute resolution processes according to the hourly rates published in the board notice as necessary.

**36. Payment of professional accounts**

- a) The architectural professional's accounts are due and payable on presentation. The architectural professional shall be entitled to render interim accounts. Fee and reimbursement invoices may be invoiced separately.

**37. Re-imbusement of expenses**

- a) In addition to the fees set out in this schedule, the client shall reimburse the architectural professional for all reasonable disbursements properly incurred and accounted for.
- b) The expenses contemplated may include the following:
  - i Specialised professional and other services;

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- ii Payments made on behalf of client for fees and other charges for specialised professional and other services.
- c) Travel
  - i. Travel mileage;
  - ii. Parking;
  - iii. Toll fees;
  - iv. Car hire;
  - v. Airfare;
  - vi. Train;
  - vii. Bus;
  - viii. Taxi;
  - ix. Uber
- d) Subsistence;
  - i. Accommodation;
  - ii. Subsistence allowance;
  - iii. Special daily allowance;
- e) Postage
  - i. Special postage;
  - ii. Postage
  - iii. Courier;
- f) Documentation;
  - i. Typing of original/master per A4;
  - ii. Duplication in white paper (A3 & A4 sizes)
  - iii. Duplicating in coloured paper (A3 & A4 sizes);
  - iv. Duplication in colour (A3 & A4 sizes);
  - v. Document binding;
  - vi. Duplicating of drawings (A3 to A4);
  - vii. Plotting in 80g plain paper (A3 to A0)
  - viii. Plotting in 80g plain paper (A3 to A0)
  - ix. Plotting on quality paper (A3 to A0);
  - x. Plotting on quality paper in colour (A3 to A0)

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- xi. Purchase of document required for project;
  - xii. CD with project-related information;
- g) Special quotes
- i. Maps
  - ii. Models
  - iii. Presentation;
  - iv. Photography
  - v. Artwork.
- h) Other
- i. Any other disbursement requested by and/or agreed to by the client.
- i) A relevant guideline rate may be applied. Refer to Guideline professional fees.
- j) A minimum of 10% of the cost of the disbursement may also be claimed for attendance where a project cost-based fee applies and/or where there is no time-based reimbursement for attendance.

**38. Claims to be separate and not set-off**

- c) Should a client allege a claim against the architectural professional, a contractor or any other party involved in the project, such claim shall be dealt with on its own merits.
- d) A client is not entitled to withhold payment of fees or disbursements or part thereof due to the architectural professional, based on the alleged claim, the client shall make payment without any set-off and waives all rights to any such set-off.
- e) Should a professional error, omission and/or negligence be implied, dispute resolution or litigation shall be used to claim from the architectural professional.
- f) No penalties shall be applied on professional service agreement contracts.

**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****39.Regular invoicing**

Regular invoicing as required by the Value-Added Tax Act, 1991 (Act No. 89 of 1991) is accepted as good practice and is deemed to be the basis of the agreement between the client and architectural professional.

**40.Engagement of architectural professionals**

- a) A professional service is deemed to be subject to an appropriate formal written agreement in which the rights and obligations of the parties and the terms and conditions of service are clearly recorded.
- b) The specific service is agreed on, and the basis for the calculation of professional fees is recorded.
- c) The parties shall also agree on the following: the agreed service to be provided; authority of the architectural professional; the architectural professional's ownership of the intellectual property or copyright; limits to responsibility; limit to professional liability to a term of five (5) years; payment of invoices; interest on overdue invoices; disputed invoices; suspension or deferment; termination of engagement; damage to; or destruction of; the works and dispute resolution provisions.
- d) The expectation is that the agreed fees are based on a budget for the works to ensure that the fees are calculated on the anticipated final project cost. A realistic value of the work has to be done to determine fees.
- e) Where a Professional Architect registered with SACAP is employed in a standard service, such Professional Architect shall be appointed to fulfil architectural services, principal consultant and principal agent services. The services shall be described as a 'full service', partial and/or additional services as may be agreed.

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- f) Where an architectural professional other than a Professional Architect is employed in a project. The services and functions to be provided should be in line with the Identification of Work. Such an appointment may be for a standard service. Partial and/or additional services may be agreed.







