

Chapter 2: Designer Agreements and Payments

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2.1 STANDARD FORMS OF AGREEMENT

The standard forms of agreement between Owner and Designer used by the University of Tennessee under authority of the State Building Commission are as listed below. Example forms of agreement are provided in Appendix 1.

1. Standard Form of Agreement Between Owner and Designer.
2. Standard Terms and Conditions for Agreements Between Owner and Designer.
3. Standard Form of Supplement to an Agreement Between Owner and Designer.

2.2 STANDARD FORM OF AGREEMENT BETWEEN OWNER AND DESIGNER

- A. Owner Initiation: The Owner will inform the Designer in writing of selection as Designer for the Project and request completion of a Designer Information Form shown in Appendix 1. The Owner will prepare the Agreement utilizing Project information and information the Designer provides on the form. The Owner will transmit five copies of the prepared Agreement to the Designer with copies of the Terms and Conditions and Exhibit A. Additional comments on portions of the Agreement prepared by the Owner are below.
 1. Project information on the Agreement corresponds to the project information approved by the State Building Commission.
 2. Design Phases to be completed for the Designer's Basic Services correspond to those authorized by the State Building Commission. Design Phases are defined in the Terms and Conditions.

- The Designer's Basic Services are most often compensated by a Lump Sum Fee calculated as a percent of the Maximum Allowable Construction Cost (MACC) in accordance with the formula provided in the Terms and Conditions. Example calculations for a Lump Sum Fee for Basic Services are provided below.

New Construction Project: \$2,000,000 MACC
 Fee Percentage: $35 / (\log(\$2,000,000) - 1.15) = 6.795\%$
 Fee: $\$2,000,000 \times 0.06795 = \mathbf{\$135,900}$

Renovation Project: \$1,000,000 MACC
 Fee Percentage: $35 / (\log(\$1,000,000) - 1.15) = 7.216\%$
 Fee: $\$1,000,000 \times 0.07216 \times 1.25 = \mathbf{\$90,200}$

- When the Designer's compensation for Basic Services is by a multiple of Direct Expense with a Not to Exceed Maximum Fee, the maximum amount is normally not more than what a Lump Sum Fee would be.
- Only the Principal(s) can act for the Designer in execution of the Agreement and subsequent modifications. The Principal(s) receive no more than the hourly compensation at the Principal's rate shown on the Agreement.
- The minimum amount of coverage for Professional Liability Insurance is as set forth in the Terms and Conditions. Additional insurance requirements are considered on a per-project basis; however, it is customary to scale the limit of liability according to the project MACC as shown below.

If MACC > or =	\$0	\$2,500,000	\$5,000,000	\$10,000,000	\$20,000,000
and <	\$2,500,000	\$5,000,000	\$10,000,000	\$20,000,000	\$40,000,000+
then limit of liability =	\$100,000	\$250,000	\$500,000	\$750,000	\$1,000,000

- Discussion between the Owner and the Designer is required to fill in the Schedule information.

If the Designer's Basic Services include services through the Design Development Phase, described through paragraph 2-1-21 of the Standard Terms and Conditions, the first box is marked and a number, indicating the number of calendar days, is filled in, thus setting the deadline for the Design Development Phase in terms of calendar days after receipt of the fully executed copy of the Designer's Agreement.

If the Designer's Basic Services include services through the Construction Document Phase, described through paragraph 2-1-26 of the Standard Terms and Conditions, the second box is marked and a number, indicating the number of calendar days, is filled in, thus setting the deadline for the Construction Document Phase in terms of calendar days after approval of the work performed through the Design Development Phase.

- Completion by the Designer: Complete the five copies and attachments as described below and return them to the Owner.

- Designer Signature on Agreement and Exhibit A Counterparts: Each of the five copies of the Agreement and the corresponding Exhibit A shall be signed by a Principal legally empowered to bind Designer to Contract, and listed in B.3.3 of the Agreement. If a joint venture, a principal of each firm shall sign.
- Designer Professional Liability Certificate of Insurance: Attach to each copy of the Agreement a certificate or certificates showing the names of insured, producer, and

carrier(s), coverage complying with Part C of the Agreement, the Owner as certificate holder, and the customary stipulation of notice in the event of change or renewal. When the Designer is a Joint Venture, certificates shall recognize the Joint Venture relationship, and the limit of liability for each firm in the Joint Venture shall not be less than the required total limit divided by the number of firms. Values of all limits and deductibles need to be given in like units.

- C. Execution by the Owner: The Owner executes the Agreement as described below.
1. Review and Approval: The Owner transmits the five Designer-signed copies of the Agreement to the State Architect or his designee for review and approval signature and date. Four copies are returned to the Owner.
 2. Owner Signatures: The Owner secures the required Owner signatures, returns two executed copies to the Designer, and retains two executed copies.

2.3 STANDARD FORM OF SUPPLEMENT TO AN AGREEMENT

The Standard Form of Supplement is used for modification of an Agreement. The Supplement is processed in a manner similar to the Agreement; it is initiated by the Owner, completed by the Designer, and executed by the Owner. However, a Supplement to an Agreement does not require review and approval by the State Architect. Additional information on Agreement modifications by a Supplement is provided below.

1. Counterparts: A Supplement is prepared with four copies.
2. Part A: Part A provides information on the original Agreement, Supplements prior to this Supplement, and the required Design Services and MACC cumulatively established by those documents.
3. Part B: Part B provides information on the Scope of the project, MACC, required Design Services, and compensation to the Designer cumulatively established by the original Agreement, prior Supplements, and this Supplement. Additional language may be added to Paragraph B.1 by the Owner to stipulate changes not otherwise addressed in Part B such as changes in the parties, consultants, hourly rates of compensation, or the Terms and Conditions.
4. Part C: Part C provides the amount of professional liability insurance coverage required by the Owner for the project including this Supplement. When appropriate, the Designer shall attach updated insurance certificates. New certificates shall be required if prior certificates have expired.
5. Part D: Part D provides the schedule requirements cumulatively established by the original Agreement, prior Supplements, and this Supplement. Additional language may be added to Paragraph D.1 by the Owner to further describe schedule requirements such as project phasing.

2.4 ADDITIONAL SERVICES PROVIDED UNDER AGREEMENTS

Additional Services may be provided by the Designer to the Owner under the previously executed Agreement in accordance with the Terms and Conditions. The Designer's Additional Services require written Owner approval prior to the time the Additional Services are rendered. The Owner's written approval is typically made in response to the Designer's written proposal for Additional Services.

2.5 REIMBURSABLE EXPENSES INCURRED UNDER AGREEMENTS

In accordance with the Terms and Conditions, Reimbursable Expenses incurred by the Designer may be submitted to the Owner for payment. The Designer's Reimbursable Expenses for travel expenses and bidding document printing do not require prior Owner approval. All other Reimbursable Expenses require the Owner's prior written approval.

2.6 PAYMENTS TO DESIGNERS

- A. Executed Agreement Receipt Prior to First Invoice: No invoice shall be submitted before the Designer's receipt of the fully executed Agreement from the Owner.
- B. Separate Invoices: Separate invoices are required for the following services and expenses.
1. Basic Services.
 2. Additional Services.
 3. Reimbursable Expenses, with a separate invoice for each Reimbursable Expense.
 4. Travel Expenses, with separate detail information for each traveler.
 5. Pass-Through Costs.
- C. Essential Invoice Components: Each invoice shall include the following.
1. The invoice date.
 2. A unique invoice number.
 3. The Designer's name.
 4. The Designer's remit to address.
 5. The Project title as shown on the Agreement.
 6. The Project SBC Number as shown on the Agreement.
 7. Extent of services provided thus far.
 8. Differentiate portions of the project which are progressing on different timetables or are subject to separate approvals.
 9. Amount invoiced to date from all prior invoices.
 10. Amount to remit.
 11. Submit the original invoice and two copies to the Owner.
 12. Attach an executed and dated copy of Exhibit A (attach to the original invoice and both copies).
- D. Invoices for Compensation by a Lump Sum Fee: Invoices for services compensated by a Lump Sum Fee shall provide information on the period of time being invoiced, the current fee, invoice amount for each phase, and other information as shown in the example invoice format herein.
- E. Invoices for Compensation by a Multiple of Direct Expense: Invoices for services compensated by a Multiple of Direct Expense shall provide information on the period of time being invoiced, billable rates, hours worked, and other information as shown in the example invoice format provided herein. Consultant invoices with details of billable rates and hours billed shall be attached.

- F. Invoices for Additional Services: Invoices for Additional Services shall generally follow the guidelines for either compensation by a Lump Sum Fee or compensation by a Multiple of Direct Expense in accordance with the type of compensation for the Additional Services.
- G. Invoices for Reimbursable Expenses:
1. Invoices for Reimbursable Expenses shall attach an invoice if the service was provided to the Designer and shall provide information to identify the expense and other information as shown in the example invoice format provided herein. Service provider invoices with details of charges shall be attached.
 2. Postage, delivery, and other handling costs for design submittals, construction documents, and correspondence will not be reimbursed.
- H. Invoices for Travel Expenses:
1. Travel expenses should be itemized separately from other reimbursable expenses. The Terms and Conditions define the requirements for travel expenses.
 2. Receipts for each travel expense item being reimbursed for the actual amount shall be submitted with the travel expense invoice. Do not submit receipts for travel expenses covered by the meals and incidentals daily allowance.
 3. The vehicle standard mileage rate, the daily lodging allowance, and the daily meals and incidentals allowance are defined by The University of Tennessee Travel Reimbursement Rate Schedule which is revised from time to time. The allowances are based on the General Services Administration rates for the continental United States (CONUS rates). The current Schedule can be found through the following Web site.
<http://treasurer.tennessee.edu/travel/>
 4. Travel expenses are reimbursable only if project related travel is required to a destination outside a 50 mile radius of the Designer's or Designer's Consultant's principal place of business. Expenses for project related travel within the 50 mile radius are not reimbursed.
 5. The 50 mile radius requirement applies to a Designer's vehicle mileage expenses as well, meaning that vehicle mileage expenses for project related travel within the 50 mile radius are not reimbursed. For example, if the Designer's vehicle is used on a project related trip 85 miles to a destination and 85 miles back to the Designer's principal place of business, then 70 miles of vehicle mileage is reimbursable at the standard mileage rate (85 miles minus 50 miles is 35 miles; then multiply 35 miles times 2 for both legs of the trip to get 70 miles).
- I. Final Invoice: Provide documents required by the Standard Terms and Conditions prior to the final request for payment. An SBC-25 Form as shown in Appendix 1 must be completed and submitted with the final Designer invoice.

Basic Services
Compensated by a Lump Sum Fee

<p>To: George S. Criss, Director Division of Facilities Planning University of Tennessee 5723 Middle Brook Pike, Suite 119 Knoxville, TN 37996-0040</p> <p>Invoice Date: May 1, 2009 Invoice Number: A-54321</p> <p>Designer: A-to-Z Design Firm Remit to Address: 555 Fifth Street, Uptown, TN 37555-1234</p> <p>Project: University Classroom Building SBC No.: 540/XX-YY-ZZ Services/Expenses: Basic Services, Paragraphs 2-1-1 through 2-1-41 Compensated by a Lump Sum Fee Current Approved Fee: \$400,000.00</p> <p>Invoice Period: April 1, 2009, through April 30, 2009</p>	<p>EXAMPLE INVOICE</p>																																																																				
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Design Phase</th> <th style="text-align: center;">Phase Percent</th> <th style="text-align: right;">Fee</th> <th style="text-align: center;">Phase % Complete</th> <th style="text-align: right;">Cumulative Amount Due</th> <th style="text-align: right;">Prior Invoices</th> <th style="text-align: right;">Amount to Remit</th> </tr> </thead> <tbody> <tr> <td>Program Phase</td> <td style="text-align: center;">3%</td> <td style="text-align: right;">\$12,000.00</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$12,000.00</td> <td style="text-align: right;">\$12,000.00</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Schematic Design</td> <td style="text-align: center;">12%</td> <td style="text-align: right;">\$48,000.00</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$48,000.00</td> <td style="text-align: right;">\$48,000.00</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Design Development</td> <td style="text-align: center;">25%</td> <td style="text-align: right;">\$100,000.00</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$100,000.00</td> <td style="text-align: right;">\$100,000.00</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Construction Document</td> <td style="text-align: center;">30%</td> <td style="text-align: right;">\$120,000.00</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$120,000.00</td> <td style="text-align: right;">\$120,000.00</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Bidding</td> <td style="text-align: center;">3%</td> <td style="text-align: right;">\$12,000.00</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$12,000.00</td> <td style="text-align: right;">\$12,000.00</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">23%</td> <td style="text-align: right;">\$92,000.00</td> <td style="text-align: center;">(Note 1) 43%</td> <td style="text-align: right;">\$39,560.00</td> <td style="text-align: right;">\$37,200.00</td> <td style="text-align: right;">\$2,360.00</td> </tr> <tr> <td>Close-Out</td> <td style="text-align: center;">4%</td> <td style="text-align: right;">\$16,000.00</td> <td style="text-align: center;">0%</td> <td style="text-align: right;">\$0.00</td> <td style="text-align: right;">\$0</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>TOTAL</td> <td style="text-align: center;">100%</td> <td style="text-align: right;">\$400,000.00</td> <td></td> <td style="text-align: right;">\$331,560.00</td> <td style="text-align: right;">\$329,200.00</td> <td style="text-align: right;">\$2,360.00</td> </tr> </tbody> </table>							Design Phase	Phase Percent	Fee	Phase % Complete	Cumulative Amount Due	Prior Invoices	Amount to Remit	Program Phase	3%	\$12,000.00	100%	\$12,000.00	\$12,000.00	\$0.00	Schematic Design	12%	\$48,000.00	100%	\$48,000.00	\$48,000.00	\$0.00	Design Development	25%	\$100,000.00	100%	\$100,000.00	\$100,000.00	\$0.00	Construction Document	30%	\$120,000.00	100%	\$120,000.00	\$120,000.00	\$0.00	Bidding	3%	\$12,000.00	100%	\$12,000.00	\$12,000.00	\$0.00	Construction	23%	\$92,000.00	(Note 1) 43%	\$39,560.00	\$37,200.00	\$2,360.00	Close-Out	4%	\$16,000.00	0%	\$0.00	\$0	\$0.00	TOTAL	100%	\$400,000.00		\$331,560.00	\$329,200.00	\$2,360.00
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<p>Note 1: Construction Phase Percent Complete in proportion to gross payments to Contractor per Terms Section 7-5.</p> <p>Attachment: Completed Exhibit A, signed and dated May 1, 2009</p>																																																																					

Basic Services

Compensated by a Multiple of Direct Expense with a Maximum Fee

To: George S. Criss, Director
 Division of Facilities Planning
 University of Tennessee
 5723 Middle Brook Pike, Suite 119
 Knoxville, TN 37996-0040

EXAMPLE INVOICE

Invoice Date: **May 1, 2009**
 Invoice Number: **B-54321**

Designer: **A-to-Z Design Firm**
 Remit to Address: **555 Fifth Street, Uptown, TN 37555-1234**

Project: **University Classroom Building**
 SBC No.: **540/XX-YY-ZZ**
 Services/Expenses: **Basic Services, Paragraphs 2-1-1 through 2-1-17**
Compensated by a Multiple of Direct Expense with a Maximum Fee
 Current Approved Fee: **\$22,500.00 Maximum Fee**

Invoice Period: **April 1, 2009, through April 30, 2009**

Personnel	Billable Rate	Period Hours	Period Hrs X Rate	Cumulative Hours	Cumulative Hours X Rate	Prior Invoices	Amount to Remit
Principal Alice	\$155.00	6.5	\$1,007.50	18.0	\$2,790.00	\$1,782.50	\$1,007.50
Principal Bob	\$155.00	6.0	\$930.00	13.0	\$2,015.00	\$1,085.00	\$930.00
Employee Carol	\$125.50	4.0	\$502.00	16.0	\$2,008.00	\$1,506.00	\$502.00
Employee Dave	\$78.00	7.5	\$585.00	12.0	\$936.00	\$351.00	\$585.00
TOTAL					\$7,749.00	\$4,724.50	\$3,024.50

Consultant	Period Invoice	Period Inv X 1.2 Multiple	Cumulative Invoices	Prior Invoices	Amount to Remit
Quality Consultant Co.	\$895.80	\$1,074.96	\$2,110.50	\$1,035.54	\$1,074.96
EngineerHelp, Inc.	\$320.00	\$384.00	\$870.00	\$486.00	\$384.00
TOTAL			\$2,980.50	\$1,521.54	\$1,458.96

GRAND TOTAL	\$10,729.50	\$6,246.04	\$4,483.46
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Attachments:

Invoices from Quality Consultant Co. and EngineerHelp, Inc. with details of hourly rates and hours billed.
 Completed Exhibit A, signed and dated May 1, 2009.

Reimbursable Expenses
For Bid Document Printing

To: George S. Criss, Director
 Division of Facilities Planning
 University of Tennessee
 5723 Middle Brook Pike, Suite 119
 Knoxville, TN 37996-0040

EXAMPLE INVOICE

Invoice Date: **May 1, 2009**
 Invoice Number: **D-54321**

Designer: **A-to-Z Design Firm**
 Remit to Address: **555 Fifth Street, Uptown, TN 37555-1234**

Project: **University Classroom Building**
 SBC No.: **540/XX-YY-ZZ**
 Services/Expenses: **Reimbursable Expenses**
Bid Document Printing

Invoice Period: **April 1, 2009, through April 30, 2009**

Reimbursable Expense	Cost	Multiple	Amount to Remit
ALL-Right Printing Services (invoice 1)	\$895.99	1.0	\$895.99
ALL-Right Printing Services (invoice 2)	\$45.00	1.0	\$45.00
Rabbit Reproduction Co.	\$114.35	1.0	\$114.35
TOTAL			\$1,055.34

Attachments:

Invoices 1 & 2 from ALL-Right Printing Services and invoice from Rabbit Reproduction Co.

Reimbursable Expenses
For Testing Services

To: George S. Criss, Director
 Division of Facilities Planning
 University of Tennessee
 5723 Middle Brook Pike, Suite 119
 Knoxville, TN 37996-0040

EXAMPLE INVOICE

Invoice Date: **May 1, 2009**
 Invoice Number: **E-54321**

Designer: **A-to-Z Design Firm**
 Remit to Address: **555 Fifth Street, Uptown, TN 37555-1234**

Project: **University Classroom Building**
 SBC No.: **540/XX-YY-ZZ**
 Services/Expenses: **Reimbursable Expenses**
Testing Services

Invoice Period: **April 1, 2009, through April 30, 2009**

Reimbursable Expense	Cost	Multiple	Amount to Remit
Nuclear Testing, Inc.	\$1,750.00	1.2	\$1,748.80
Rocky Soil Testors (Invoice A1)	\$3,105.00	1.2	\$3,726.00
Rocky Soil Testors (Invoice A2)	\$2,799.00	1.2	\$3,358.80
TOTAL			\$8,833.60

Attachment:

Invoices A1 and A2 from Rocky Soil Testors and invoice from Nuclear Testing, Inc.

Travel Expenses

To: George S. Criss, Director
 Division of Facilities Planning
 University of Tennessee
 5723 Middle Brook Pike, Suite 119
 Knoxville, TN 37996-0040

EXAMPLE INVOICE

Invoice Date: **May 1, 2009**
 Invoice Number: **F-54321**

Designer: **A-to-Z Design Firm**
 Remit to Address: **555 Fifth Street, Uptown, TN 37555-1234**

Project: **University Classroom Building**
 SBC No.: **540/XX-YY-ZZ**
 Services/Expenses: **Travel Expenses**
JANE DOE

Invoice Period: **April 1, 2009, through April 30, 2009**

Principal Place of Business: **Chattanooga, TN**
 Travel Destination: **Knoxville, TN**

Round Trip Miles Between Place of Business and Destination: **224**
 Billable Miles for Round Trip Between Place of Business and Destination: **124**
Total one way miles must exceed 50 for ANY travel expenses to be reimbursed.

Standard Mileage Rate per UT Rate Schedule: **\$0.54**
 Lodging Allowance (CONUS rate) for Destination: **\$83.00** Plus Tax
 Meal and Incidental Daily Allowance (CONUS rate) for Destination: **\$49.00**

Application of Meal and Incidental Daily Allowance	
Hours in Travel Status	Percent of Meal & Incid. Allowance
0:01 to 6:00	25%
6:01 to 12:00	50%
12:01 to 18:00	75%
18:01 to 24:00	100%

Date	Hours in Travel Status	Percent of Meal/Incid. Allowance	Meal/Incid. Expense	Lodging Expense	Lodging Tax Expense	Airline	Mileage Expense	Other Expense (e.g. taxi)
Tuesday, 3/17/09	8:30	50%	\$24.50	\$77.00	\$10.97			
Wednesday, 3/18/09	24:00	100%	\$49.00	\$77.00	\$10.97			
Thursday, 3/19/09	24:00	100%	\$49.00	\$77.00	\$10.97			
Friday, 3/20/09	14:00	75%	\$36.75					
TOTAL			\$159.25	\$231.00	\$32.91	\$0.00	\$66.96	\$0.00
GRAND TOTAL Reimbursable Travel Expenses for Traveler								\$490.12

Attachments:

Traveler's receipts for lodging (showing tax), airline, and other expenses.

END OF CHAPTER