



# Billing and Payment Service Policy

This Billing and Payment Service Policy hereby incorporates by reference all terms, conditions rules, policies and guidelines on the Site, including the [Elance Terms of Service](#) (“**Terms of Service**”). Capitalized terms not defined in this Billing and Payment Service Policy are defined in the Terms of Service.

This Billing and Payment Service Policy is effective as of November 12, 2009. Your continued use of the Site after such time will signify your acceptance of this Billing and Payment Service Policy. We reserve the right to modify the provisions in this Billing and Payment Service Policy without prior notice to you, so please check back often for updates.

## INTRODUCTION

The Elance Billing and Payment Service (“**Payment Service**”) enables Providers to issue invoices and enables Clients to make payments for services. When Client makes a payment through the Payment Service, Elance deducts the appropriate Service Fee and Payment Processing Fee due Elance as described on the Site. The Payment Service is intended for business use, so you agree to use the Payment Service primarily for business, and not primarily for personal, family, or household purposes.

## MANDATORY USE OF BILLING AND PAYMENT SERVICE

As a Client, you agree to use the Payment Service to make all payments to a Provider, for a period of one year after you identify the Provider through the Site, whether first-time, repeat, or follow-on. You also agree not to take any action directly or indirectly to circumvent the Elance Service Fee. You may opt out of the foregoing obligation for any Provider you identify, if you pay Elance an Opt-Out Fee for such Provider as provided below.

As a Provider, you agree to use the Payment Service to receive all payments from a Client for a period of one year after you identify the Client through the Site, whether first-time, repeat, or follow-on (“**First-Year Payments**”). In addition, you acknowledge and agree that a Client is not obligated to pay any invoice to you unless you originated that invoice through the Payment Service. If Elance notifies you that your Client has paid Elance an Opt-Out Fee, the foregoing obligations will not apply for your work with that Client.

## OPT-OUT FEE

A Client and Provider are not required to use the Payment Service only if the Client pays Elance a fee in the amount of \$750 (“**Opt-Out Fee**”) for identifying the Provider through the Site. The Client may elect to pay the Opt-Out Fee at any time. Once the Client pays the Opt-Out Fee, the Client and the Provider may request, make, and accept payments outside the Site for any work they do together thereafter. You must contact Elance by sending an email to us at the following email address: ***optoutfee (at) elance.com*** for instructions on how to pay an Opt-Out Fee.

If a Client does not use the Payment Service to make all First-Year Payments to a Provider as agreed above, and fails to pay the Opt-Out Fee, then the Client agrees that it is liable and will pay to Elance the greater of: (a) \$750, or (b) the amount of all Service Fees that Elance would earn or would have earned on all First-Year Payments, and in either case plus interest at the rate of 18% per annum or the maximum rate permitted by applicable law, whichever is less, calculated from the date the Client first makes payment to the Provider identified through the Site.

## NON-CIRCUMVENTION OF PAYMENT SERVICE

You agree not to circumvent the Payment Service. Prohibited acts include (but are not limited to) the following:

- Submitting proposals or soliciting Clients identified on the Site to contact, hire, manage or pay outside the Site.
- Accepting proposals from or soliciting Providers identified on the Site to contact, deliver Provider Services, invoice, or receive payment outside the Site.
- Invoicing or reporting on the Site an invoice or payment amount different than that agreed between Client and Provider.

As a Client, you agree to notify Elance immediately if your Provider solicits payment from you outside the Site. As a Provider, you agree to notify Elance immediately if your Client seeks to pay you outside the Site. If you are aware of a breach of the foregoing prohibitions, or any potential circumvention of the Payment Service, please submit a confidential report to Elance by sending an email to us at the following email address: ***policy (at) elance.com***.

## **LEGAL NATURE OF PAYMENT SERVICE**

When you use the Payment Service to bill for or pay service fees, Elance acts as your agent based upon your direction and your requirements to perform tasks on your behalf. Elance holds your Account funds separate from its corporate operating accounts, and will not voluntarily make your funds available to its creditors in the event of a bankruptcy or for any other purpose.

ELANCE IS NOT A BANK, AND AMOUNTS TRANSFERRED THROUGH OR STORED IN THE PAYMENT SERVICE ARE NOT INSURED DEPOSITS. You will not receive interest or other earnings on the funds in your Account. Elance may earn and retain interest on those funds, or may receive a reduction in fees or expenses charged for banking services or other compensation in respect of any balances in Accounts.

By initiating invoices and sending payments through the Payment Service or adding funds to your Account, you appoint Elance as your agent to obtain the funds on your behalf and to transfer the funds to the recipient that you designate, subject to the terms and conditions of this Billing and Payment Service Policy and the Elance Terms of Service. Each Provider must properly discharge and credit Clients for all payments that Elance receives through the Payment Service from such Clients.

### **No Responsibility for Provider Services or Client Payments**

Elance acts as a payment provider by creating, hosting, maintaining, and providing the Payment Service to you via the Internet. Elance does not have any control over the Provider Services invoiced or paid for with the Payment Service, nor whether a Client or Provider you are dealing with will actually complete the transaction. Nothing in the Payment Service will be deemed to constitute Elance your agent with respect to any Provider Services purchased and sold by Users through the Site, or expand or modify any warranty, liability or indemnity stated in these Terms of Service.

### **Disputes Between Clients and Providers**

Any disputes in connection with services provided by Providers or payments made by Clients remain between such Clients and Providers. By using the Payment Service, you agree to follow the [Dispute Resolution Process](#). You further acknowledge that Elance will not be a party to any such dispute. Elance will attempt to take the actions set forth in the Dispute Resolution Process, but Elance will not be obligated to take any other action or refrain from taking any other action toward resolving any such dispute. Elance may, at its sole discretion, and in the case of Escrow Jobs may be required to, withhold or delay payment or continue to hold amounts in Escrow or make payment or release funds in Escrow, in the event of dispute between a Client and a Provider.

## **HOW TO BILL FOR SERVICES USING THE PAYMENT SERVICE**

To request payment from a Client using the Payment Service, Provider must follow the instructions and Payment Service links on the Site and provide the information requested. By requesting payment, Provider authorizes Elance to bill such Client and receive payments from the Client on Provider's behalf in the amounts stated on the applicable Payment Service Web page.

When Provider requests payment from a Client, such request is: (1) Provider's representation that it has completed the applicable Provider Services fully and satisfactorily, and (2) Provider's irrevocable instruction to Elance to invoice and accept payment from the Client on Provider's behalf. Once Elance has charged the Client, if the Client's credit card company, bank, or PayPal charges back any amount to Elance for any reason, Provider hereby agrees to repay Elance for such amounts, plus reasonable attorney fees and costs of collection.

## **HOW TO PAY FOR SERVICES USING THE PAYMENT SERVICE**

To pay a Provider using the Payment Service, Client must follow the instructions and links on the Site and provide the information requested. Client must be a Member that holds a valid credit card issued by a bank acceptable to Elance or a Member that holds a Verified PayPal account. Unless Client has a balance in their Account, Elance will charge the Client's credit card, bank account, or PayPal for the necessary amount. By providing Elance with credit card or bank account information, Client authorizes Elance to charge such credit card or bank account for the amounts stated on the applicable Payment Service Web page.

When Client instructs Elance to pay a Provider using the Payment Service, such instruction is: (1) Client's representation that it has inspected the work and the Provider has completed the applicable Provider Services fully and satisfactorily; (2) Client's final acceptance of the Provider Services; and (3) Client's irrevocable instruction to Elance to pay the Provider. Once Elance has paid funds to the Provider, Client agrees NOT to ask its credit card company or bank to charge back any amount to Elance for any reason. If Client does so, Client hereby agrees to repay Elance for such amounts, plus reasonable attorney fees and costs of collection.

## **PAYMENT TERMS FOR SPECIFIC JOB TYPES**

### **Non-Escrow Fixed Price Jobs**

For Non-Escrow Fixed Price Jobs, Payment is due net fifteen (15) days after the milestone completion and subsequent invoice from Provider.

### **Escrow Fixed Price Jobs**

For Escrow Fixed Price Jobs, Payment is due net fifteen (15) days after the milestone completion and subsequent Release request from Provider.

### **Automatic Release for Escrow Fixed Price Jobs**

For Escrow Fixed Price Jobs, Client has up to net thirty (30) days from the milestone completion and subsequent Release request from Provider to review the work and approve a milestone for payment or dispute payment. If Client does not review the work and does not dispute payment within thirty (30) days, the escrow funds shall be automatically released to the provider. This Section, "Automatic Release for Escrow Fixed Price Jobs," shall be effective on November 12, 2009, for Jobs awarded on or after that date.

### **Hourly Jobs**

For hourly Jobs, Provider is required to submit weekly Timesheets by 11:59 PM Eastern Time, USA, each Sunday. Client is required to review and approve weekly Timesheets and make payment by Friday of the week following submission of the Timesheet. A week begins on Monday at 12:00 AM midnight Eastern Time, USA, and ends Sunday at 11:59 PM Eastern Time, USA.

### **Automatic Payment for Hourly Jobs**

For hourly Jobs, Client may choose the "Auto Pay" option. If "Auto Pay" is selected, Client authorizes Elance to automatically charge Client's default payment method on the Friday of the week following submission of the Timesheet, unless Client timely stops payment.

## **MISCELLANEOUS PAYMENT SERVICE TERMS**

### **Authorized Payments are Final**

Your use of the Payment Service constitutes your agreement to pay for any amounts which you authorize us to charge against your Account and, as appropriate, your credit card, bank account, or PayPal. Such payments, once authorized, are final.

### **Erroneous or Duplicate Transactions; Charge Backs**

E lance reserves the right to seek reimbursement from you, and you will to reimburse E lance, if E lance discovers erroneous or duplicate transactions, or E lance receives a charge back from any Client's credit card company, bank, or PayPal for any reason. You agree that E lance has the right to obtain such reimbursement by charging your Account, deducting amounts from future payments or withdrawals, charging such your credit card, or obtaining reimbursement from you by any other lawful means. Failure to pay for reimbursements of charge backs is cause for termination of your Account.

### **Currency**

The Payment Service operates in US Dollars and therefore E lance is not responsible for currency fluctuations that occur when billing or crediting a credit or debit card denominated in a currency other than US Dollars, nor is E lance responsible for currency fluctuations that occur when receiving or sending payment via wire transfer, check or automated clearinghouse to and from your Account. Payments made to E lance in currency other than US Dollars may take up to eight weeks to process, depending on relationships among the banking and payment systems between the two countries. Consequently, balance adjustments may be delayed.

### **Withdrawal of Funds**

To withdraw funds from your Account, you must request such funds using any of the withdrawal methods available on the Site. Any such requests shall be subject to the conditions and restrictions contained on the Site and in these Terms of Service. Notwithstanding any other provision of these Terms of Service, if E lance determines in its sole discretion that a Member has violated the conditions and restrictions of the Site or Terms of Service, E lance has the right to refuse to process the withdrawal.

### **Hold on Account Funds**

E lance will make funds deposited in your Account generally available for you to use or withdraw. E lance reserves the right, at its sole discretion, to place a hold on funds for Client payments to clear, or if E lance suspects monies may be subject to charge back or if fraud is suspected. E lance will release a hold as soon as practical.

### **Agreement to Pay**

If, for any reason, E lance does not receive payment for any amounts that you have authorized to be paid through your use of the Payment Service or other E lance Services, you agree to pay such amount immediately upon demand by E lance. You also agree to pay any interest charges, attorneys' fees and other costs of collection incurred by E lance in collecting from you the authorized but unpaid amount. In such case, E lance may, at its option, stop processing any further payments made by you and apply any amounts then held by E lance on your behalf toward any deficiencies, losses or costs that we have incurred as a result of your use of the Payment Service or other E lance Service. We may also make appropriate reports to credit reporting agencies, financial institutions, tax agencies and law enforcement authorities, and cooperate with them in any resulting investigation or prosecution.

### **Inactive Accounts; Abandoned Accounts**

For purposes of determining Inactive Account status and Abandoned Account status, "**activity**" means payment of subscription fees, payment or receipt of Job fees, or actions under the Dispute Resolution Process.

**Inactive Accounts.** If your Account has a balance, but has had no activity for at least five (5) consecutive months, your Account will be placed on "**Inactive**" status. E lance will notify you that your Account is Inactive by sending an email to your registered email address and give you the option of keeping your Account open and maintaining the balance or withdrawing the balance. If, within thirty (30) days of such notice, your account has no activity, E lance will automatically deduct an Inactive Account Fee of \$5, or the entire balance of your Account if such balance is less than \$5, per month thereafter, to recover administrative costs of holding funds. E lance will send monthly notices of such fees to your registered contact information. E lance

will cease such deductions if subsequently (i) your Account has activity or (ii) your Account no longer has a balance.

**Abandoned Accounts.** If your Account has a balance, but it has had no activity for at least 18 consecutive months or has been on Inactive status for at least 12 consecutive months, Elance will automatically close your Account and attempt to either (a) wire transfer the entire Account balance to your registered bank account, or (b) mail a check in the amount of your entire Account balance to your registered mailing address. If those attempts fail, the Account balance may escheat to the State of California.

## **CONTACTING US**

If you wish to report a violation of the Terms of Service, have any questions or need assistance, please contact Elance Customer Support as follows:

**Web Support:** <http://www.elance.com/service>

**Email:** [services@Elance.com](mailto:services@Elance.com)

**Phone:** (Mon-Fri, 8 a.m. - 5 p.m. Pacific Time): 1-877-4-ELANCE (1-877-435-2623)

**Online Help Topics:** <http://www.elance.com/help>