

General Escrow Instructions

These General Escrow Instructions hereby incorporate by reference all terms, conditions rules, policies and guidelines on the Site, including the [E lance Terms of Service](#) (“**Terms of Service**”). Capitalized terms not defined in these General Escrow Instructions are defined in the Terms of Service.

These General Escrow Instructions are effective as of November 12, 2009. Your continued use of the Site after such time will signify your acceptance of these General Escrow Instructions. We reserve the right to modify the provisions in these General Escrow Instructions without prior notice to you, so please check back often for updates.

These General Escrow Instructions govern an Escrow established by Client and Provider pursuant to the Member Contract they have jointly agreed to on the Site. The “**Escrow Instructions**” are comprised of these General Escrow Instructions, the E lance Terms of Service, and the Member Contract. Client and Provider are deemed to have executed the Escrow Instructions pursuant to the federal Electronic Signatures in Global and National Commerce Act (the E-Sign Act) (15 U.S.C. Sec. 7001, et seq.), by clicking to accept the Member Contract or clicking to fund Escrow at the Site, and doing so constitutes an acknowledgement that you are able to electronically receive, download, and print the Escrow Instructions. By clicking to accept an Escrow Job, Client has agreed automatically to the Escrow Instructions effective when Provider clicks to Accept the Job. By clicking to Accept an Escrow Job, Provider has agreed automatically to the Escrow Instructions. All references to the Escrow in these General Escrow Instructions will include the initial Funding Approval and any additional Funding Approval for the Job.

The direct provider of the escrow services pursuant to the Escrow Instructions is E lance Escrow Corporation, a Delaware corporation (“**EEC**”). EEC is a wholly-owned corporate subsidiary of E lance. EEC is licensed as an Escrow Agent by the Department of Corporations, State of California, License No. 963 5086. Client and Provider hereby employ, authorize, and instruct EEC to act as Escrow Holder and Escrow Agent in connection with the applicable Job to provide for the retention, administration, and controlled release of the escrowed funds in accordance with the Member Contract and subject to and conditioned on the Escrow Instructions. You authorize EEC to disburse to E lance amounts released from Escrow pursuant to the Escrow Instructions in payment of Service Fees payable to E lance pursuant to the E lance Terms of Service or other deductions provided in these General Escrow Instructions.

Throughout these General Escrow Instructions, the terms “**E lance**,” “**us**,” and “**we**” are intended to mean both EEC and E lance unless the context otherwise requires.

FUNDING ESCROW

When Client Submits a Funding Approval on the Site, Client irrevocably authorizes E lance to use the Payment Service to charge Client’s Account and, as appropriate, Client’s credit card, bank, or PayPal in the amount of the applicable Funding Approval, and deposit any amounts collected thereby into an Escrow Account for the Job. If E lance cannot collect such amount for any reason, E lance has no obligation with respect to the creation or funding of the Escrow or any addition to such Escrow. Unless and until Client submits the initial Funding Approval with E lance, E lance has no obligation with respect to the Escrow. OTHER THAN CHARGING CLIENT’S ACCOUNT AND, AS APPROPRIATE, CLIENT’S CREDIT CARD, BANK, OR PAYPAL, E LANCE HAS NO OBLIGATION WITH RESPECT TO THE CREATION OR FUNDING OF THE ESCROW OR ANY ADDITION TO SUCH ESCROW.

Client’s Submission of Funding Approval for an Escrow constitutes Client’s agreement to pay the amounts that Client authorizes E lance to charge against Client’s Account and, as appropriate, Client’s credit card, bank, or PayPal. Such payments, once authorized, are final, and E lance will release amounts in the Escrow only pursuant to the Escrow Instructions.

USE OF FUNDS IN ESCROW ACCOUNT

E lance uses funds deposited in the Escrow Account only in accordance with the Escrow Instructions. E lance will not voluntarily make funds deposited in the Escrow account available to its creditors in the event of a bankruptcy or for any other purpose. These General Escrow Instructions are supplementary to the Member

Contract, the Elance Terms of Service, and to any other agreement between Client and Provider concerning the Job, as provided in 11 United States Bankruptcy Code, Section 365(n).

ESCROW ACCOUNT DEPOSIT

Elance deposits and maintains all funds in the Escrow Account in a bank insured by the Federal Deposit Insurance Corporation and approved to receive escrow funds under applicable laws and regulations. You agree that you will not receive interest or other earnings on the funds in the Escrow 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 Escrow Accounts.

ESCROW STATUS

Client and Provider may access current information regarding the status of the Escrow on the Site.

RELEASE AND DELIVERY OF AMOUNTS IN ESCROW

Elance is authorized to and will release applicable portions of the Escrow Account (each portion a "**Release**") to Provider or Client only pursuant to one or more Release Conditions provided below. Provider and Client authorize Elance to use the Payment Service to deliver the amount of any Release, and to withhold from Provider those amounts Elance is entitled to withhold pursuant to the Payment Service.

Release Conditions

As used in these General Escrow Instructions, "**Release Conditions**" means any of the following:

1. Client or Provider has approved the other party's Release request on the Site
2. Client or Provider has failed to timely submit Contrary Instructions to the other party's Release request pursuant to the [Dispute Resolution Process](#)
3. Client has failed to timely approve or dispute payment for a Release request under an Escrow Fixed Price Job pursuant to the [Billing and Payment Service Policy](#)
4. Client and Provider have delivered joint written instructions to Elance authorizing a Release
5. Client or Provider has failed timely to submit to binding arbitration requested by the other pursuant to the Dispute Resolution Process
6. Client and Provider have failed to initiate arbitration for an unresolved dispute by the Limitations Date in accordance with the [Dispute Resolution Process](#)
7. An Escrow Account becomes Dormant as described in these General Escrow Instructions
8. The final binding award of a duly appointed arbitrator from which appeal is not taken
9. The final binding order of a court of competent jurisdiction from which appeal is not taken

Service Fees; Payment Processing Fees

When Client pays or releases escrow funds to a Provider through the Site, Elance deducts certain [Service Fee and Payment Processing Fees](#).

ESCROW DISPUTES

For six months after the Breach Date applicable to any dispute arising between Client and Provider regarding an Escrow (excluding disputes involving claims for injunctive or other equitable relief), the Client and Provider will pursue resolution of the dispute in accordance with the Dispute Resolution Process.

Escrow During Dispute Resolution Process

During the Dispute Resolution Process, Elance will continue to hold the Escrow pending a Release Condition.

RELEASE OF ESCROW ACCOUNT

Upon any Release, the Escrow will terminate as it relates to the portion of the Escrow Account so released. Upon Release of Escrow funds for the final milestone the entire Escrow Account will terminate.

Releases are Final

Your approval of a Release of any amount in the Escrow Account constitutes your agreement to release such amounts from the Escrow. Any such release is final.

ESCROW AGENT DUTIES

Elance undertakes to perform only such duties as are expressly set forth in the Escrow Instructions and no other or further duties will be implied. Elance has no liability under and no duty to inquire as to the provisions of any agreement other than the Terms and the Escrow Instructions. Elance will be under no duty to inquire into or investigate any agreement or communication between Client and Provider, even if uploaded to the Site. Elance has the right to rely upon, and will not be liable for acting or refraining from acting upon, any written notice, instruction, or request furnished to it in accordance with these General Escrow Instructions, if Elance reasonably believes that such notice, instruction, or request is genuine and that it is signed or presented by the proper party or parties. Elance has no duty to inquire into or investigate the validity, accuracy or content of any such document. Elance has no duty to solicit any payments or Releases which may be due to or from any Escrow Account. Elance may execute any of its powers and perform any of its duties under the Escrow Instructions directly or through agents or attorneys (and will be liable only for the careful selection of any such agent or attorney) and may consult with counsel, accountants and other skilled persons to be selected and retained by it. Elance will not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons. If Elance is uncertain as to its duties or rights hereunder or receives instructions, claims or demands from any party hereto which, in its opinion, conflict with any of the provisions of the Escrow Instructions, Elance will be entitled to refrain from taking any action and its sole obligation will be to keep safely all property held in Escrow until it is directed otherwise in writing by Client and Provider or by a final order or judgment of an arbitrator or court of competent jurisdiction.

ESCROW AGENT RIGHTS

Elance has the right in its sole discretion but not the obligation to institute Arbitration in accordance with the foregoing, or to institute any other legal proceedings including depositing funds held in Escrow with a court of competent jurisdiction, to resolve any dispute between Client and Provider related to an Escrow. Any provision of these General Escrow Instructions to the contrary notwithstanding, and regardless whether Elance is identified as a party in interest in any dispute, arbitration or other legal proceeding, nothing herein will be construed to limit Elance's legal and equitable rights, including but not limited to depositing funds held in Escrow with a court of competent jurisdiction. In case of fraud, Elance has the right to Release funds held in Escrow to the defrauded party. Any corporation or association into which Elance may be merged or converted or with which it may be consolidated, or any corporation or association to which all or substantially all the escrow business of Elance may be transferred, will succeed to all the rights and obligations of Elance as escrow agent under these General Escrow Instructions without further act.

TERM AND TERMINATION OF ESCROW

The Escrow will terminate automatically upon Release of all funds in the Escrow Account. Elance reserves the right to terminate the Escrow, for any reason, by providing Client and Provider 20 days written notice.

Survival of Terms Following Termination

Upon termination of the Escrow, the remaining provisions of the Elance Terms of Service will survive, including, without limitation, obligations to pay Elance any amounts, provisions concerning dispute resolution, limitation of liability, and indemnification obligations.

MISCELLANEOUS ESCROW TERMS AND CONDITIONS

Notice of Requested Order

If Provider or Client intends to obtain an order from any arbitrator or any court, which order might direct Elance to take, or refrain from taking any action with respect to the Escrow, that party will: (1) give Elance at least five business days prior notice of the hearing; (2) include in any such order a provision that, as a precondition to Elance's obligation, Elance be paid in full for any amounts to which Elance would otherwise be entitled; and (3) be paid for the reasonable value of the services to be rendered pursuant to such order.

No Third-Party Rights

The Escrow Instructions are intended solely for the benefit of Client, Provider, Elance, and their respective permitted successors and assigns, and no other person or entity has or acquires any right by virtue of the Escrow Instructions unless otherwise expressly agreed to in writing by Client, Provider, and Elance.

Dormant Escrow Accounts

For purposes of determining Dormant status, "**activity**" means business term or milestone updates, Escrow Funding, Escrow Release, Funding requests, Release requests, Job Cancellation requests, Timesheet submittals, Status Report submittals, or actions under the Dispute Resolution Process.

Effective January 4, 2010, if an Escrow Account has a balance but has had no activity for sixty (60) consecutive days after the last milestone date contained in the business terms, then such Escrow Account will be placed on "**Dormant**" status. Elance will notify both Client and Provider when Escrow Accounts become Dormant and ask the parties to claim the balance of each milestone. Upon entering Dormant status, if the funding of any milestone is "pending," such milestone will be automatically refunded to the Client after Elance deducts the greater of 2.75% of the funds or \$10. Each party has fourteen (14) days from the date of such notification (the "**Response Period**") to respond for each milestone.

If neither party responds regarding a particular milestone during the Response Period, that milestone will be released as follows: (i) if the milestone has prior Release requests, it will be released to the Provider after Elance deducts the applicable Service Fee and Payment Processing Fee described in the [User Agreement](#); (ii) if the milestone does not have prior Release requests, it will be released to the Client after Elance deducts the greater of 2.75% of the funds or \$10.

If only one party responds regarding a particular milestone during the Response Period, the milestone will be released to that party after Elance deducts (i) the applicable Service Fee and Payment Processing Fee described in the [User Agreement](#) if the party is the Provider or (ii) the greater of 2.75% of the funds or \$10 if the party is the Client.

If both parties respond regarding a particular milestone during the Response Period, the milestone will be released to the Client after Elance deducts the greater of 2.75% of the funds or \$10. However, if the balance of the milestone is greater than \$100 and Provider submits a dispute notice on the Site within seven (7) days of Client's response, Elance will not release the milestone to the Client and the milestone will be kept in the Escrow Account pending the outcome of the dispute assistance process.

Successors and Assigns

These General Escrow Instructions are binding upon and inure to the benefit of the successors and assigns of Client, Provider, and Elance. However, Elance has no obligation in performing the Escrow Instructions, to recognize any successor or assign of Client or Provider unless Elance receives clear, authoritative, and conclusive written evidence of the change of such parties.

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

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>