

\*Upwork is committed to helping users experiencing hardships as a result of COVID-19. To that end, Upwork may extend or accommodate requests for extension of deadlines imposed by Section 6 of these Fixed-Price Escrow Instructions and related to disputes subject to the Dispute Assistance Program.\*

If a Client and a Freelancer (defined below) enter into a Fixed-Price Contract on the Upwork site, these Fixed Price Service Contract Escrow Instructions (“Escrow Instructions”) apply. These Escrow Instructions govern Fixed-Price Escrow Accounts. If you have a Fixed-Price Contract and wish to make or receive a miscellaneous or bonus payment, those activities are governed by the [Hourly, Bonus, and Expense Payment Agreement with Escrow Instructions](#). Fixed Price Direct Contracts are not governed by these Escrow Instructions and are instead governed by these [Fixed Price Direct Contract Escrow Instructions](#).

To the extent permitted by applicable law, we may modify these Escrow Instructions without prior notice to you, and any revisions to these Escrow Instructions will take effect when posted on the Site unless otherwise stated. The version of these Escrow Instructions in effect on the date any Fixed-Price Contract is entered into apply to that contract. Please check the Site often for updates.

These Escrow Instructions hereby incorporate by reference the [Terms of Service](#) (“Terms of Service”). Capitalized terms not defined in these Escrow Instructions are defined in the [User Agreement](#) or elsewhere in the Terms of Service, or have the meanings given such terms on the Site. For purposes of these Escrow Instructions, the term “Freelancer” means a User with a Freelancer and/or Agency account.

Escrow services are provided by Upwork Escrow Inc. (“Upwork Escrow”) pursuant to Internet Escrow Agent license no. 9635086, issued by the California Department of Financial Protection and Innovation.

## 1. DIGITAL SIGNATURE AND COMMUNICATIONS

By clicking to fund Escrow (a “Funding Approval”) or to accept a Fixed-Price Contract, Client and Freelancer are deemed to have executed these Escrow Instructions electronically, effective on the date Freelancer clicks to accept the engagement, pursuant to California Civil Code Section 1633.8 and the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001, *et seq.*, as may be amended from time to time (the “E-Sign Act”). Doing so constitutes an acknowledgement that Client and Freelancer agree to conduct the transaction electronically, and are able to electronically receive, download, and print these Escrow Instructions. All references to the Escrow in these Escrow Instructions will include the initial Funding Approval and any additional Funding Approval for a Fixed-Price Contract.

Client and Freelancer agree that any written communications required herein may be provided electronically, including by email or support ticket, if applicable. Any communication sent to Upwork via U.S. mail or similar service will be deemed timely if received by Upwork by the applicable deadline.

## 2. ACCEPTANCE OF ESCROW INSTRUCTIONS

Once a Client and Freelancer have agreed to a Service Contract, and the Client and Freelancer have selected “Agree” on the send offer, accept offer, or pages relating to the Service Contract to accept the Terms of Service (including these Escrow Instructions), these Escrow Instructions constitute a binding agreement between Client, Freelancer, and Upwork Escrow (collectively, the “Parties”). Client and Freelancer must execute (by digital signature or by a method mutually agreed upon by both parties), and

Upwork Escrow must agree to, any supplemental instruction or addition, deletion or alteration thereto in writing (collectively the “Supplemental Escrow Instruction”). Upwork Escrow reserves the right to reject any Supplemental Escrow Instruction.

### 3. DEPOSIT OF FUNDS INTO ESCROW

By sending a contract offer to Freelancer or accepting a contract offer from Freelancer, Client agrees to deposit funds for the amount of the first Milestone (as defined on the Site), or, if there are no Milestones, the full amount of the Service Contract. Additional Milestones may be funded on the same contract by Client by selecting the button to add an additional Milestone or to activate the next Milestone on the Site. Funds deposited by Client remain in the Client Escrow Account until they are released to the Freelancer Escrow Account or released to Client Escrow Account. Upwork Escrow will release funds held in escrow pursuant to Section 4 of these Escrow Instructions (Release and Delivery of Amounts in Escrow).

### 4. RELEASE AND DELIVERY OF AMOUNTS IN ESCROW

Client and Freelancer irrevocably authorize and instruct Upwork Escrow to release applicable portions of the Fixed-Price Escrow Account (each portion, a “Release”) to the Freelancer Escrow Account or Client Escrow Account, as applicable, based on the instructions described in this Section 4 (each such instruction, a “Release Condition”), or as otherwise required by applicable law or expressly permitted by the Terms of Service. The amount of each Release will be delivered to the applicable Escrow Account in accordance with Freelancer’s or Client’s instructions, these Escrow Instructions, and the other Terms of Service. All funds released pursuant to these Escrow Instructions are subject to applicable fees as described in the [Fee and ACH Authorization Agreement](#).

## 4.1 RELEASE OF FUNDS TO FREELANCER

Freelancer and Client authorize and instruct Upwork Escrow to immediately release funds to the Freelancer Escrow Account on the occurrence of any of the following Release Conditions, such authorization and instruction to be irrevocable except as expressly provided in these Escrow Instructions:

1. Client affirmatively selects the option to release funds for a Milestone or Service Contract to Freelancer.
2. Client does not take any action for 14 calendar days from the date of Freelancer’s Release request, in which case Freelancer and Client agree that Upwork Escrow is authorized and instructed to immediately release to Freelancer the amount associated with the applicable Milestone in connection with such Release request.
3. Client and Freelancer have jointly submitted Supplemental Escrow Instructions in writing and signed by both Client and Freelancer to Upwork Escrow at [legalnotices@upwork.com](mailto:legalnotices@upwork.com) requesting a Release to Freelancer Escrow Account, and Upwork Escrow has agreed to the Supplemental Escrow Instructions.
4. Client has declined Arbitration or failed to make its Arbitration Payment (defined below) pursuant to the Dispute Assistance Program, and Freelancer has agreed to Arbitration and submitted its Arbitration Payment.
5. Client has failed timely to respond to a Notice of Dispute (defined below) or otherwise failed to comply with the Dispute Assistance Program, as required by the Escrow Disputes Team.

6. Submittal of a final award of an arbitrator appointed pursuant to the Dispute Assistance Program in favor of Freelancer or to the extent the award is in favor of Freelancer.
7. Issuance of an order by a court, arbitrator, or other judicial body of apparent competent jurisdiction in favor of Freelancer, in whole or in part, to the extent required by the order.
8. A condition to release funds to Freelancer described elsewhere in these Escrow Instructions applies.

## 4.2 RELEASE OF FUNDS TO CLIENT

Freelancer and Client authorize and instruct Upwork Escrow to immediately release funds to the Client Escrow Account on the occurrence of any of the following Release Conditions, such authorization and instruction to be irrevocable except as expressly provided in these Escrow Instructions:

1. Freelancer cancels the Service Contract or accepts Client's request to cancel the Service Contract (as described in Section 4.4), and funds for a Milestone or the Service Contract are held in Escrow.
2. Client and Freelancer have jointly submitted Supplemental Escrow Instructions in writing and signed by both Client and Freelancer to Upwork Escrow at [legalnotices@upwork.com](mailto:legalnotices@upwork.com) requesting a Release to the Client Escrow Account, and Upwork Escrow has agreed to the Supplemental Escrow Instructions.
3. Client and Freelancer agree to close the Service Contract without release of funds to the Freelancer Escrow Account.
4. Freelancer has declined Arbitration or failed to make its Arbitration Payment pursuant to the Dispute Assistance Program.
5. Freelancer has failed to timely respond to a request for a refund submitted through the platform, Notice of Dispute, or otherwise failed to comply with the Dispute Assistance Program, as required by the Escrow Disputes Team.
6. Submittal of a final award of an arbitrator appointed pursuant to the Dispute Assistance Program in favor of Client or to the extent the award is in favor of Client.
7. Issuance of an order of a court, arbitrator, or other judicial body of apparent competent jurisdiction in favor of Client, in whole or in part, to the extent required by the order.
8. A condition to release funds to Client described elsewhere in these Escrow Instructions applies.
9. For Service Contracts entered through Project Catalog, Client has failed to respond to a request for project requirements within 48 hours, at which point any funds in escrow will be released to Client and the contract will be closed.

## 4.3 DORMANT ENGAGEMENTS

To be fair to Clients and Freelancers, Upwork has a procedure for Fixed-Price Contracts that appear to be Dormant Engagements (as defined below). For purposes of determining dormant status, "activity" means a change to the Service Contract, including Milestone updates or requests, Fixed-Price Escrow Funding,

Fixed-Price Escrow Release, Fixed-Price Escrow Refunds, Funding requests, Release requests, requests to close the Fixed-Price Contract, or actions under the Dispute Assistance Program.

A “Dormant Engagement” is a Fixed-Price Contract that has a Fixed-Price Escrow Account with a balance but has had no activity for 90 consecutive calendar days after the last Milestone date contained in the Service Contract terms (“Dormant Date”). Dormant Engagements are subject to the following rules:

1. Upwork will notify Client when the Fixed-Price Contract becomes Dormant.
2. If the Client does not take any action within 7 calendar days after the Dormant Date and notification, Upwork will notify Freelancer that the Fixed-Price Contract is Dormant (“Freelancer Notice of Dormant Engagement”).
3. If Freelancer submits a Release request within 7 calendar days after the Freelancer Notice of Dormant Engagement and Client does not take any action for 14 calendar days from the date of the Release request, Freelancer and Client authorize and irrevocably instruct Upwork Escrow to immediately release to Freelancer the amount related to the Milestone with the Release request.
4. If neither Freelancer nor Client take any action for 7 calendar days after the Freelancer Notice of Dormant Engagement, Freelancer and Client authorize and irrevocably instruct Upwork Escrow to immediately release escrow funds to the Client Escrow Account.

#### 4.4 REFUNDS AND CANCELLATIONS

Client and Freelancer are encouraged to come to a mutual agreement if refunds or cancellations are necessary. If there are no funds in Escrow, Client and Freelancer have the ability to cancel the Service Contract by clicking to close the Service Contract. If funds are held in Escrow, refunds and cancellations must be initiated by Client or Freelancer by following the steps in this Section.

##### 4.4.1 REFUNDS AND CANCELLATIONS BY FREELANCER

If Freelancer wants to cancel a Service Contract with funds held in Escrow, Freelancer must select “End Contract” on the Upwork platform. When Freelancer ends the Service Contract on the Upwork platform, Freelancer and Client agree that Upwork Escrow is authorized and irrevocably instructed to immediately release to the Client Escrow Account all funds held in Escrow on the Service Contract at that time.

Freelancer may issue a refund to Client up to the amount paid on a Service Contract in the past 180 days by selecting “Give a Refund” on the Upwork platform. Freelancer may not issue a refund in an amount greater than the combined amount of funds held in Freelancer Escrow Account, funds for transactions pending to be placed in the Freelancer Escrow Account, and funds for submitted Milestones. By selecting the option to give a refund, Freelancer agrees that Upwork Escrow is authorized and irrevocably instructed to immediately release to the Client Escrow Account all Escrow funds currently held in the Freelancer Escrow Account and such funds as may be placed into the Freelancer Escrow Account once the funds are available, until the entire refund is provided to Client.

##### 4.4.2 CANCELLATIONS BY CLIENT

If Client wants to cancel a Service Contract with funds held in Escrow, Client must select “End Contract” on

the Upwork platform. Freelancer must select the option to either approve or dispute Client's cancellation within 7 calendar days. If Freelancer approves the cancellation, Freelancer and Client agree that Upwork Escrow is authorized and irrevocably instructed to immediately release to the Client Escrow Account all funds held in Escrow on the Service Contract at that time. If Freelancer is using the Site on a mobile device and does not have the ability to select the option to approve or dispute the cancellation on the mobile website or application, Freelancer must dispute Client's cancellation via support ticket within 7 calendar days. If Freelancer takes no action within 7 calendar days from the date notification of the cancellation is sent to Freelancer by Upwork, Freelancer and Client agree that Upwork Escrow is authorized and irrevocably instructed to immediately release to the Client Escrow Account all funds held in Escrow on the Service Contract at that time. If Freelancer disputes the cancellation, Freelancer and Client will be offered Upwork Dispute Assistance (as described in Section 6).

## 4.5 VIOLATION OF UPWORK TERMS OF SERVICE OR LAW

Freelancer and Client acknowledge and agree that if, in Upwork Escrow's sole discretion, Upwork Escrow believes that fraud, illegal activity, or a violation of the Terms of Service has been committed or is being committed or attempted, then Client and Freelancer irrevocably authorize and instruct Upwork Escrow to take such actions as deemed appropriate, in Upwork Escrow's sole discretion and in accordance with applicable law, in order to prevent or remedy such acts, including without limitation, to return the funds associated with such acts to their source of payment, as further described in Section 6.3 of the User Agreement. This Section 4.5 allows Upwork Escrow—as permitted by law but otherwise in its sole discretion—to return funds to Client's Payment Method, continue to hold funds in Escrow, release funds to the Freelancer Escrow Account, or to turn funds over to third parties such as law enforcement.

## 5. INSTRUCTIONS IRREVOCABLE

Client and Freelancer are deemed to and hereby agree that the instruction to Upwork Escrow and its wholly owned subsidiaries to release funds is irrevocable, except as explicitly provided in these Escrow Instructions. Without limiting the foregoing, Client's instruction to Upwork Escrow and its wholly owned subsidiaries to release payment to Freelancer is irrevocable. Such instruction is Client's authorization to transfer funds to the Freelancer Escrow Account from the Client Escrow Account or authorization to charge Client's Payment Method. Such instruction is also Client's representation that Client has received, inspected, and accepted the subject work or expense. Client acknowledges and agrees that upon receipt of Client's instruction to release payment to the Freelancer Escrow Account, Upwork Escrow will transfer funds to the Freelancer Escrow Account and that Upwork, Upwork Escrow, and other Affiliates have no responsibility to and may not be able to recover such funds. Therefore, and in consideration of the services described in these Escrow Instructions and the Terms of Service, Client agrees that once Upwork Escrow or its subsidiaries or Affiliates have charged Client's Payment Method, the charge is non-refundable. Client and Freelancer further agree that the only manner in which an instruction to Upwork Escrow is revocable is if Client and Freelancer have jointly submitted Supplemental Escrow Instructions in writing and signed by both Client and Freelancer to Upwork Escrow at [legalnotices@upwork.com](mailto:legalnotices@upwork.com) requesting that Upwork Escrow take specific action with respect to the funds in its possession, and Upwork Escrow has agreed to the Supplemental Escrow Instructions.

## 6. DISPUTE ASSISTANCE PROGRAM

If Client and Freelancer fail to come to a mutual resolution by way of the Refund and Cancellation process as stated in Section 4.4, Upwork provides the dispute assistance program administered by Upwork and described in this Section 6 (the “Dispute Assistance Program”) as a mechanism to resolve the dispute. If the funds in dispute are held in Escrow, the Dispute Assistance Program will proceed as described in Section 6.1. If the funds in dispute have been released, the Dispute Assistance Program will proceed as described in Section 6.2. The Dispute Assistance Program is not available for disputes filed or initiated past the Dispute Assistance deadlines, as set forth in Sections 6.1 and 6.2, as applicable. The Dispute Assistance Program is offered as a form of non-binding assistance to facilitate communication and potential resolution of disputes between clients and freelancers. The Dispute Assistance Program as administered by Upwork in this Section 6 does not evaluate the quality or functionality of work and cannot render binding judgment or determination as to the parties’ respective rights to the disputed funds. Fixed-Price Contracts with Enterprise Clients or Upwork Business Clients (defined in the [Fee and ACH Authorization Agreement](#)) are not subject to Sections 6 and 7, regarding Upwork’s Dispute Assistance Program and Arbitration, respectively.

## 6.1 DISPUTE OF FUNDS IN ESCROW

This Section applies to disputes filed by Clients or Freelancers over funds that are held in Escrow as of the date the dispute is filed (“Escrow Dispute”). The scope of the Escrow Dispute may cover the entirety of the Fixed-Price Contract and all Milestones previously funded, approved, and released. In the event of an Escrow Dispute, funds in Escrow will remain in Escrow while the Dispute Assistance Program or Arbitration, as applicable, is being administered. The Dispute Assistance Program for an Escrow Dispute will be administered as set forth below:

1. Escrow Dispute Assistance Deadline: Escrow Disputes must be initiated before the funds in Escrow have been released in order to be eligible for the Dispute Assistance Program under this Section. Disputes over funds that have been released from Escrow may be eligible for the Dispute Assistance Program, as described more fully below in Section 6.2.
2. Filing A Dispute
  - a. Freelancers & Agencies: Freelancers and Agencies may initiate an Escrow Dispute when a Client ends the project with an escrow balance or a Client fails to release a Milestone payment, despite any purported delivery of work. More information on how to file a dispute on active or ended contracts can be found [here](#).
  - b. Clients: Clients may initiate an Escrow Dispute by requesting an Escrow refund on the platform or by releasing a partial milestone payment. If the Freelancer or Agency disputes the Escrow refund or offers a partial Escrow refund that is subsequently rejected by the Client, the case will be referred to the Dispute Assistance Program. More information on how to file a dispute on active or ended contracts can be found [here](#).
3. Notice of Escrow Dispute: Once a dispute has been filed, the Escrow dispute team that administers the Disputes Assistance Program (“Escrow Disputes Team”) will notify Client and Freelancer in writing of the Escrow dispute via ticket and request information and supporting documentation from the parties (“Notice of Escrow Dispute”).

4. **Lack of Participation:** Client and Freelancer must respond to the Notice of Escrow Dispute within 5 calendar days. If one party does not timely respond to the Notice of Escrow Dispute, Client and Freelancer agree that the lack of timely response acts as an irrevocable authorization and instruction to Upwork Escrow to release the funds in Escrow from the non-responding party to the responding party.
5. **Non-Binding Assistance:** After both Client and Freelancer respond to the Notice of Escrow Dispute, the Escrow Disputes Team will review the documentation submitted and any information available on the Site that pertains to the dispute. The Escrow Disputes Team will facilitate communication between the parties and help assess whether mutual resolution is possible. The Escrow Disputes Team does not evaluate the quality or functionality of work and cannot render binding judgment or determination as to the parties' respective rights to the disputed funds.
6. **Resolution of Escrow Dispute:** If the Escrow Disputes Team is able to facilitate a resolution between Client and Freelancer, and if Client and Freelancer agree in writing to the resolution, Client and Freelancer agree that Upwork Escrow is authorized and irrevocably instructed to immediately release Escrow funds in accordance with the agreed-upon resolution. This will result in a closure of the Escrow dispute ticket.
7. **No Resolution:** If no resolution of the Escrow dispute has been reached within 21 calendar days of the Notice of Escrow Dispute, or if the Escrow Disputes Team determines in its sole discretion that no resolution between the parties is possible through the Dispute Assistance Program, the Escrow Disputes Team will issue a "Notice of Non-Resolution" and the Escrow dispute will be referred to Arbitration, as set forth in Section 7 below.

## 6.2 DISPUTE OF FUNDS RELEASED

This Section applies to disputes filed by Clients or Freelancers over funds that have been released from Escrow as of the date the dispute is filed ("Dispute Mediation"). The scope of the Dispute Mediation may cover any portion of or the entirety of the Fixed Price Contract and any Milestone previously funded, approved, and released. The Dispute Assistance Program for Dispute Mediation will be administered as set forth below:

1. **Dispute Mediation Deadline:** Dispute Mediation must be initiated within 30 calendar days of the date that funds in Escrow have been released to the Freelancer in order to be eligible for the Dispute Assistance Program under this Section 6.2. Any dispute over funds that have been released from Escrow more than 30 days prior to the date the dispute is filed is no longer eligible for submission to the Dispute Assistance Program.
2. **Initiating Dispute Mediation:**
  - a. **Requesting a Refund:** Clients may initiate Dispute Mediation for disputes over funds that have been released from Escrow by requesting a refund on the platform. If the Freelancer rejects the request for a refund, grants a partial refund that is subsequently rejected by the Client, or takes no action, the dispute will be referred to the Dispute Assistance Program. More information on how to file a dispute on active or ended contracts can be found [here](#).

- b. **Contacting Support:** In addition to the above method, any User may contact Upwork Support for assistance initiating Dispute Mediation.
3. **Notice of Dispute Mediation:** Once a dispute has been initiated, the Upwork Dispute Mediation team (“Dispute Mediation Team”) will notify Client and Freelancer of the Dispute Mediation in writing and request information and supporting documentation from the parties (“Notice of Dispute Mediation”). Client and Freelancer must respond to the Notice of Dispute Mediation within 5 calendar days. Failure to respond to the Notice of Dispute Mediation within 5 calendar days will result in the suspension of the non-participating party’s User account, as defined in Section 1.4 of the User Agreement, which may impact the non-participating party’s ability to withdraw funds.
4. **Non-Binding Assistance:** Once both Client and Freelancer respond to the Notice of Dispute Mediation, the Dispute Mediation Team will review the documentation submitted and any information available on the Site that pertains to the dispute. The Dispute Mediation Team will facilitate communication between the parties and help assess whether mutual resolution is possible. The Dispute Mediation Team does not evaluate the quality or functionality of work and cannot render binding judgment or determination as to the parties’ respective rights to the disputed funds.
5. **Resolution of Dispute Mediation:** If the Dispute Mediation Team is able to facilitate a resolution between Client and Freelancer, and if Client and Freelancer agree in writing to the resolution, the Dispute Mediation Team will send the applicable party instructions on transferring payment, if any, to an Escrow Account. By agreeing in writing to the resolution, Client and Freelancer agree that Upwork Escrow is authorized and irrevocably instructed to immediately release Escrow funds in accordance with the agreed-upon resolution. This will result in the closure of the Dispute Mediation ticket.
6. **No Resolution:** If no resolution of the dispute has been reached within 21 calendar days of the Notice of Dispute Mediation, or if the Dispute Mediation Team determines in its sole discretion that no resolution between the parties is possible through the Dispute Assistance Program, the Dispute Mediation Team will issue a “Notice of Non-Resolution,” and the dispute will be referred to Arbitration, as set forth in Section 7 below.

## 7. ARBITRATION

After a “Notice of Non-Resolution” is issued from the Upwork Dispute Assistance Program, Freelancer and Client each has the right to demand Arbitration of a Fixed-Price Contract if the Fixed-Price Escrow associated with the Fixed-Price Contract has been funded at least once. The demand for Arbitration must be communicated to the Escrow Disputes Team or Dispute Mediation Team, as applicable, within 7 calendar days of the date of the Notice of Non-Resolution. In any Arbitration, each of you and the other User is a “Dispute Party,” and collectively you are the “Dispute Parties.”

Any Arbitration under this Section 7 will be conducted by a neutral third-party Arbitration service, the [American Arbitration Association](#) (the “AAA”), unless Upwork chooses another Arbitration service. The Arbitration rules and fees are set out in Appendix A to these Escrow Instructions.

## 7.1 ARBITRATION INITIATION PROCEDURE

1. Notice of Arbitration Demand: Client and Freelancer have 7 calendar days after receiving the Notice of Non-Resolution to notify Upwork via a dispute ticket of their intent to initiate Arbitration. The Upwork Dispute Team will then provide a “Notice of Arbitration Demand” to both Client and Freelancer and provide the Dispute Parties with information on how to submit Client’s or Freelancer’s applicable portion of the costs of Arbitration (the “Arbitration Payment”). To proceed with Arbitration, Client and Freelancer must each make the Arbitration Payment within 5 calendar days of the Notice of Arbitration Demand.
2. Upwork Escrow Disputes:
  - a. Rejection of Arbitration or non-participation by both parties: If both Dispute Parties decline to take the matter to Arbitration or do not make the Arbitration Payment within 5 calendar days of the Notice of Arbitration Demand, Client and Freelancer agree that Upwork Escrow is authorized and irrevocably instructed to immediately release the funds in Escrow, if any, to the Client’s primary payment method on file. This will close the Escrow Dispute ticket. To the extent the parties wish to take legal action to enforce their contractual rights, Upwork may provide contact information on file for Client or Freelancer, consistent with Upwork’s [Privacy Policy](#).
  - b. Rejection of Arbitration or non-participation by one party: If one party elects to take the matter to Arbitration and has submitted the Arbitration Payment (“Participating Party”), and the other party rejects Arbitration, fails to submit the Arbitration Payment or does not respond within 5 calendar days of the Notice of Arbitration Demand (“Non-Participating Party”), Freelancer and Client agree that Upwork Escrow is authorized and irrevocably instructed to immediately release the funds in Escrow, if any, to the Participating Party. This will close the Escrow Dispute ticket. To the extent the parties wish to take legal action to enforce their contractual rights, Upwork may provide contact information on file for Client or Freelancer, consistent with Upwork’s [Privacy Policy](#).
3. Upwork Dispute Mediation
  - a. Rejection of Arbitration or non-participation by both parties: If both Dispute Parties decline to take the matter to Arbitration or do not respond to Upwork’s Notice of Arbitration Demand within 5 calendar days, the Dispute Mediation ticket will be closed. To the extent the parties wish to take legal action to enforce their contractual rights, Upwork may provide contact information on file of Client or Freelancer, consistent with Upwork’s [Privacy Policy](#).
  - b. Rejection of Arbitration or non-participation by one party: If one party elects to take the matter to Arbitration and has submitted the Arbitration Payment, and the other party rejects Arbitration, fails to submit the Arbitration Payment or does not respond within 5 calendar days of the Notice of Arbitration Demand, Upwork will suspend the Non-Participating Party’s User account, as defined in Section 1.4 of the User Agreement, which may impact the Non-Participating Party’s ability to withdraw funds.

4. Arbitration Instructions: If both parties timely submit the Arbitration Payment, Upwork will instruct the parties on the process for initiating the Arbitration with the Arbitration service provider. After the parties have initiated the Arbitration, Upwork will provide the arbitrator with relevant documentation, including information collected in the Escrow Dispute or Dispute Mediation process and contents of the Contract Room. The scope of Arbitration may cover the entirety of the Fixed-Price Contract and all Milestones previously funded, approved, and released.

## 7.2 AUTHORIZATION TO COLLECT ARBITRATION FEES

When you electronically authorize payment of the invoice for the Arbitration Payment as emailed to you by Upwork, you irrevocably authorize and instruct (i) Upwork Escrow or its Affiliates, as your agent, to charge your Payment Method for the amount of the payment for credit to your Escrow Account; and (ii) Upwork Escrow, as escrow agent, to immediately release that amount from your Escrow Account and pay it to Upwork. If Upwork Escrow or its Affiliates cannot collect sufficient funds to fulfill the Escrow release instructions for any reason, Upwork Escrow has no obligation with respect to making the payment to Upwork on your behalf, and you will be considered as not having paid the Arbitration Payment as required by this Section 7.2.

### 7.3 LIMITATIONS PERIOD FOR ARBITRATIONS

If both Client and Freelancer fail to demand Arbitration within 7 calendar days of the Notice of Non-Resolution, fail to timely submit the Arbitration Payments, or fail to respond to the Notice of Arbitration Demand within 5 calendar days, then the dispute is no longer eligible for Arbitration under this process, and Client and Freelancer will be deemed to have irrevocably authorized and instructed Upwork Escrow to, and Upwork Escrow will, release all funds in the Fixed-Price Escrow Account to the Client's Escrow Account.

### 7.4 ARBITRATION AWARD

Client and Freelancer agree that the arbitrator is authorized to decide the Escrow Dispute or Dispute Mediation within its discretion. You agree that the arbitrator's award is final, that it may be entered in and enforced by any court of competent jurisdiction, and that if the arbitrator delivers notice of any award to Upwork, then Upwork and Upwork Escrow have the right to treat such notice as conclusive and act in reliance thereon.

## 8. SERVICE FEES FOR ESCROW FUNDS RELEASED FOLLOWING DISPUTE ASSISTANCE

All Escrow funds released under the Dispute Assistance Program are subject to the normal Service Fees associated with Escrow Accounts, as detailed in the User Agreement and these Escrow Instructions.

## 9. NOTICES

All notices to a User required by these Escrow Instructions will be made via email sent by Upwork to the User's registered email address. Users are solely responsible for maintaining a current, active email address registered with Upwork, for checking their registered email address and for responding to notices sent by Upwork to the User's registered email address.

## 10. COOPERATION WITH THE DISPUTE ASSISTANCE PROGRAM

All claims, disputes or other disagreements between you and another User that are covered by the Dispute Assistance Program must be resolved in accordance with the terms in the Dispute Assistance Program. All claims filed or brought contrary to the Dispute Assistance Program will be considered improperly filed, unless otherwise required by law, and Upwork will have the right to take any other action, including suspension or termination of your User Account, as defined in Section 1.4 of the User Agreement, which may impact your ability to withdraw funds, and any other legal action as Upwork deems appropriate in its sole discretion.

## 11. ABUSE

Upwork, in its sole discretion, reserves the right to suspend or terminate your User Account, as defined in Section 1.4 of the User Agreement, immediately upon giving notice to you if Upwork believes you may be abusing the Dispute Assistance Program or as otherwise permitted by the [Terms of Service](#), which may impact your ability to withdraw funds. However, any disputes for any Fixed-Price Contracts that existed prior to termination will be subject to the Terms of Service.

## 12. NO RESPONSIBILITY FOR SERVICES OR PAYMENTS

Upwork and Affiliates merely provide a platform for Internet payment services. Upwork and Affiliates do not have any responsibility or control over the Freelancer Services that Client purchases. Nothing in this Agreement deems or will be interpreted to deem Upwork or any Affiliate as Client's or Freelancer's agent with respect to any Freelancer Services, or expand or modify any warranty, liability or indemnity stated in the Terms of Service. For example, Upwork does not guarantee the performance, functionality, quality, or timeliness of Freelancer Services or that a Client can or will make payments.

### APPENDIX A

#### RULES AND FEES FOR ARBITRATIONS CONDUCTED BY THE AMERICAN ARBITRATION ASSOCIATION

This Appendix A summarizes certain pertinent contractual terms that the American Arbitration Association (the "AAA") has agreed to in providing arbitration services to Clients and Freelancers who choose the AAA as their arbitrator under the Fixed-Price Escrow Instructions. The AAA is solely a third-party arbitration service provider. Upwork and its Affiliates have no direct or indirect affiliate, partnership, joint venture, ownership or control relationship with or interest in the AAA. Upwork and its Affiliates assume no responsibility or liability for the services of the AAA.

### Appointment of the Arbitrator

All Arbitrations by the AAA are conducted by a single arbitrator.

The AAA will provide the parties the opportunity to participate in arbitrator selection through a strike-and-rank process of pre-qualified arbitrators.

1. Each party will be provided with an identical list of five potential arbitrators and may have up to 3 calendar days to strike two potential arbitrators and rank the remaining in order of

preference. If any party does not return the list within 5 calendar days, all persons named therein will be deemed acceptable.

2. From among the arbitrators approved on both lists and in accordance with the designated order of mutual preference, the AAA will invite the arbitrator to serve. If for any reason the appointment cannot be made according to this procedure, the AAA will have the power to make the appointment without submission of additional lists.
3. Any arbitrator will be impartial and independent, will perform his or her duties with diligence and in good faith, and will be subject to disqualification for any grounds provided by applicable law.
4. Neither Upwork nor any party or party representative will communicate ex parte with an arbitrator or candidate for arbitrator concerning the Arbitration. Notwithstanding the above, Upwork and an arbitrator may communicate ex parte solely for the purpose of enabling the arbitrator to access and use the Site, and the Contract Room, and the information contained therein, associated with the Fixed-Price Contract in dispute.

#### RULES OF THE PROCEEDINGS

1. The amount at issue in any claims or counterclaims relating to a Fixed-Price Contract will be limited to the sum still held in Escrow and the sum previously released from Escrow for the Fixed-Price Contract.
2. The Arbitration Plaintiff may submit a statement of the case (“Initial Statement”), not to exceed 1,500 words, within 3 business days of being notified that the case has been filed with the AAA. The Arbitration Plaintiff will post the Initial Statement to the Contract Room.
3. The Arbitration Respondent may submit a response (“Response Statement”), not to exceed 1,500 words, within 3 business days of receiving the Initial Statement. The Arbitration Respondent will post the Response Statement to the Contract Room.
4. Either party may elect to use its dispute notice form or dispute response (as applicable) in lieu of creating a separate Initial Statement or Response Statement for the Arbitration. No party may submit new or different claims after the case has been initiated.
5. All proceedings will be “on documents” and the evidence admissible will consist solely and exclusively of Contract Room contents at the time the Dispute was submitted to the Upwork dispute resolution process. Any communication taking place outside the Contract Room must have been posted to the Contract Room within 24 hours of the original transmission of that communication in order to be admissible. Once Arbitration is initiated, the arbitrator can make an award based solely on the Contract Room contents and material submitted to initiate the Arbitration. The failure of one party or the other to respond to an arbitrator request or otherwise continue to participate in the Arbitration will not prevent the arbitrator from making an award.
6. The language of the Arbitration will be English.
7. At the arbitrator’s sole discretion, the arbitrator may permit or require the submission of additional written statements from the parties (“Additional Arguments”). The arbitrator is not required to permit Additional Arguments. If the arbitrator permits Additional Arguments, the

arbitrator will establish the schedule and rules for the submission of such Additional Arguments, including any limits on the length of such Additional Arguments.

8. The Arbitration will conclude within 30 calendar days from the date of submission to the AAA, and the arbitrator may grant an extension for good cause not to exceed 14 calendar days.
9. Communications by either party to the arbitrator will be shared with all parties.
10. All awards will be final, non-appealable and enforceable by any court of competent jurisdiction.
11. Neither the AAA nor any arbitrator in a proceeding under these rules and procedures is a necessary or proper party in judicial proceedings relating to the Arbitration. The parties to an Arbitration under these rules and procedures will be deemed to have consented that neither the AAA nor any arbitrator will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any Arbitration under these rules and procedures.

## The Award

The AAA will provide Upwork and the parties with a written award promptly upon the conclusion of the Arbitration, and in no event later than 14 calendar days after conclusion of the Arbitration. At the arbitrator's sole discretion, the arbitrator may provide, but is not required to provide, written reasons for the Award to the parties.

## Fees

The fee for Arbitrations by the AAA is \$875, regardless of the amount at issue.

Each of the Dispute Parties and Upwork will share the cost equally (\$291 each).

Client and Freelancer will solely bear and pay any other costs each incurs related to the Arbitration.