

If a Client and a Freelancer enter into a Client Initiated Direct Contract, whether fixed-price or hourly service contracts, these Direct Contract Escrow Instructions (“**Escrow Instructions**”) apply. These Escrow Instructions govern Escrow Accounts for Client Initiated Direct Contracts. Marketplace Service Contracts are governed by the applicable [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. 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](#), elsewhere in the Terms of Service, or have the meanings given such terms on the Site. These Escrow Instructions only apply to Client Initiated Direct Contracts.

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

1. DIGITAL SIGNATURE

By clicking to accept a Client Initiated Direct Contract, whether fixed-price or hourly, Client and Freelancer are deemed to have executed these Escrow Instructions electronically, effective on the date Client clicks to accept the Direct Contract, 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.

2. ESCROW

2.1 Direct Contract Fixed-Price Contracts

Client agrees to deposit funds to the Direct Contract Escrow Account for the amount of any milestone(s) or the full amount of the Direct Contract if there is only one milestone for each active fixed-price Direct Contract when the Client approves the Freelancer’s submission of work. Any funds deposited by Client remain in the Direct Contract Escrow Account until they are released to the Freelancer Escrow Account or released to the Client. Payment Escrow will not release funds held in escrow except as described in these Escrow Instructions.

2.2 Direct Contract Hourly Contracts and Invoices

Client agrees to fund through the Direct Contract Escrow Account payments to Freelancer on a weekly basis for the amount of Freelancer’s applicable hours logged during the billing period (“**Direct Contract Hourly Contract Funds**”). Invoices for hours recorded by the Freelancer on Upwork will be generated each Monday, on the Monday that follows the end of the weekly billing cycle (such invoice, the “**Direct Contract Hourly Invoice**”).

It is the responsibility of the Client to review any Direct Contract Hourly Invoice before agreeing to fund the Direct Contract Escrow Account. Client will be deemed to have accepted the Freelancer Services and all hours invoiced by Freelancer during the invoice period upon funding. If the Client has deposited sufficient funds to the Direct Contract Escrow Account and a Release Condition is met, Payment Escrow will release the Direct Contract Hourly Contract Funds to Freelancer. Payment Escrow will not release funds held in escrow except as described in these Escrow Instructions.

3. RELEASE AND DELIVERY OF AMOUNTS IN ESCROW

Client and Freelancer irrevocably authorize and instruct Payment Escrow to release applicable portions of the Direct Contract Escrow Account (each portion, a **“Release”**) to their Freelancer Escrow Account or Client Escrow Account, as applicable, upon the occurrence of and in accordance with one or more Release Conditions provided below or as otherwise required by applicable law or the Terms of Service. If the funds are released to the Client Escrow Account, they will be automatically returned to the Client's Payment Method that was charged to fund escrow. The amount of the Release will be delivered to the applicable Escrow Account in accordance with Freelancer's or Client's instructions, as applicable, these Escrow Instructions, and the other Terms of Service.

3.1 RELEASE CONDITIONS

As used in these Escrow Instructions, **“Release Condition”** means any of the following:

1. For fixed-price Direct Contracts, Client affirmatively clicks to approve the milestone(s) or fixed-price Direct Contract work submitted by Freelancer for approval.
2. For fixed-price Direct Contracts, Client affirmatively clicks to accept the milestone(s) or fixed-price Direct Contract work performed, but not yet submitted by Freelancer for approval.
3. For fixed-price Direct Contracts, Client does not take any action for 14 days from the date Freelancer submits the milestone or fixed-price Contract work for approval, in which case Freelancer and Client agree that Payment Escrow is authorized and irrevocably instructed to immediately release to Freelancer the amount associated with the applicable milestone(s) in connection with such Release request.
4. For fixed-price Direct Contracts, Freelancer cancels the contract before a payment has been released to Freelancer, in which case the funds are to be returned to the Client.
5. For fixed-price Direct Contracts, Client cancels the contract before a payment has been released to Freelancer and Freelancer approves the request or takes no action within seven (7) days, in which case the funds are to be released to the Client.
6. For hourly Direct Contracts, Client has approved all or a portion of the Direct Contract Hourly Invoice submitted by Freelancer upon funding, which is deemed acceptance for purposes of this Release Condition.
7. Client and Freelancer have submitted joint written instructions for a Release.
8. Issuance of the final order of a court or arbitrator of competent jurisdiction from which appeal is not taken, in which case the funds will be released in accordance with such order.

9. We believe, in our sole discretion, that fraud, an illegal act, or a violation of Upwork's Terms of Service has been committed or is being committed or attempted, in which case Client and Freelancer irrevocably authorize and instruct Payment Escrow to take such actions as we deem appropriate in our 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.

4. INSTRUCTIONS IRREVOCABLE

On the occurrence of a Release Condition, Client and Freelancer are deemed to and hereby agree that the instruction to Payment Escrow and its wholly owned subsidiaries to release funds is irrevocable. Without limiting the foregoing, Client's instruction to Payment Escrow and its wholly owned subsidiaries to pay a Freelancer is irrevocable. Such instruction is Client's authorization to transfer funds to Freelancer 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 pay Freelancer, Payment Escrow will transfer funds to the Freelancer and that Upwork, Payment Escrow, and other Affiliates have no responsibility to and may not be able to recover such funds. Therefore, and in consideration of services described in this Agreement, Client agrees that once Payment Escrow or its subsidiary has charged Client's Payment Method, the charge is non-refundable.

5. MAKING OR RECEIVING A BONUS OR EXPENSE PAYMENT

Clients may also make a bonus, tip, expense, or other miscellaneous payment to Freelancer using the Site. To make such a payment to a Freelancer, Client must follow the instructions and links on the Site and provide the information requested. If Client clicks to pay such a payment to Freelancer, Client irrevocably instructs Payment Escrow to and Payment Escrow will release funds to Freelancer.

6. REFUNDS AND CANCELLATIONS

Client and Freelancer are encouraged to come to a mutual agreement if refunds or cancellations are necessary. Upwork will hold funds in the Direct Contract Escrow Account until a Release Condition, as defined in Section 3.1 is fulfilled. If there are no funds in escrow, Freelancer may issue a refund via the Upwork platform up to the full amount paid on the hourly Direct Contract or fixed-price Direct Contract.

7. EXCLUSIONS

Upwork's Dispute Assistance Program and Payment Protection Programs do not apply to Client Initiated Direct Contracts. Upwork, Payment Escrow, and Affiliates do not guarantee that Freelancer will be paid by Client. Upon occurrence of a Release Condition, as defined in Section 3.1, Payment Escrow can release only the amount of funds that have been deposited by Client to the Direct Contract Escrow Account. Upwork, Payment Escrow, and Affiliates are under no circumstances liable to Freelancer for payment for Client's failure to deposit funds to the Direct Contract Escrow Account to cover payment to Freelancer.

8. 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 email and for responding to notices sent by Upwork to the User's registered email address.

9. ABUSE

Upwork, in its sole discretion, reserves the right to suspend or terminate your Account immediately upon giving notice to you if Upwork believes you are in violation of the [Terms of Service](#).

10. APPOINTMENT OF PAYMENT ESCROW AS PAYMENTS AGENT OF THE FREELANCER

Each Freelancer hereby appoints Payment Escrow as its payment collection agent for the limited purpose of receiving, holding, and settling payments from Clients pursuant to this Agreement. Each Freelancer further agrees and understands that a payment received by Payment Escrow from a Client, on Freelancer's behalf, shall be considered the same as payment made directly to the Freelancer. Such payment shall be deemed to satisfy the Client's obligation to pay Freelancer, and the Freelancer will provide its services to the Client in the agreed-upon manner as if the Freelancer had received the payment directly from the Client. Each Freelancer understands that Payment Escrow's obligation to pay the Freelancer is subject to, and conditional upon, successful receipt of the associated payments from the Client. Freelancer further agrees that Payment Escrow is not required to settle such payment to Freelancer in the event that Client initiates a chargeback, ACH return, or otherwise disputes the payment. In the event that Payment Escrow does not make a payment to Freelancer as required by this Agreement, Freelancer will have recourse against only Payment Escrow and not against Client. In accepting appointment as the limited payment collection agent of the Freelancer, Payment Escrow assumes no liability for any acts or omissions of the Freelancer.

Each Client acknowledges and agrees that, notwithstanding the fact that Payment Escrow is not a party to the agreement between the Client and the Freelancer, Payment Escrow acts as each Freelancer's payment collection agent for the limited purpose of accepting payments from the Client on behalf of the Freelancer. Upon a Client's payment of the funds to Payment Escrow, the Client's payment obligation to the Freelancer for the agreed upon amount is extinguished, and Payment Escrow is responsible for remitting the funds successfully received by Payment Escrow to the Freelancer in the manner described in this Agreement. In the event that Payment Escrow does not remit any such amounts, the Freelancer will have recourse only against Payment Escrow and not the Client directly.

11. 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, except as explicitly provided in Section 10. 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.