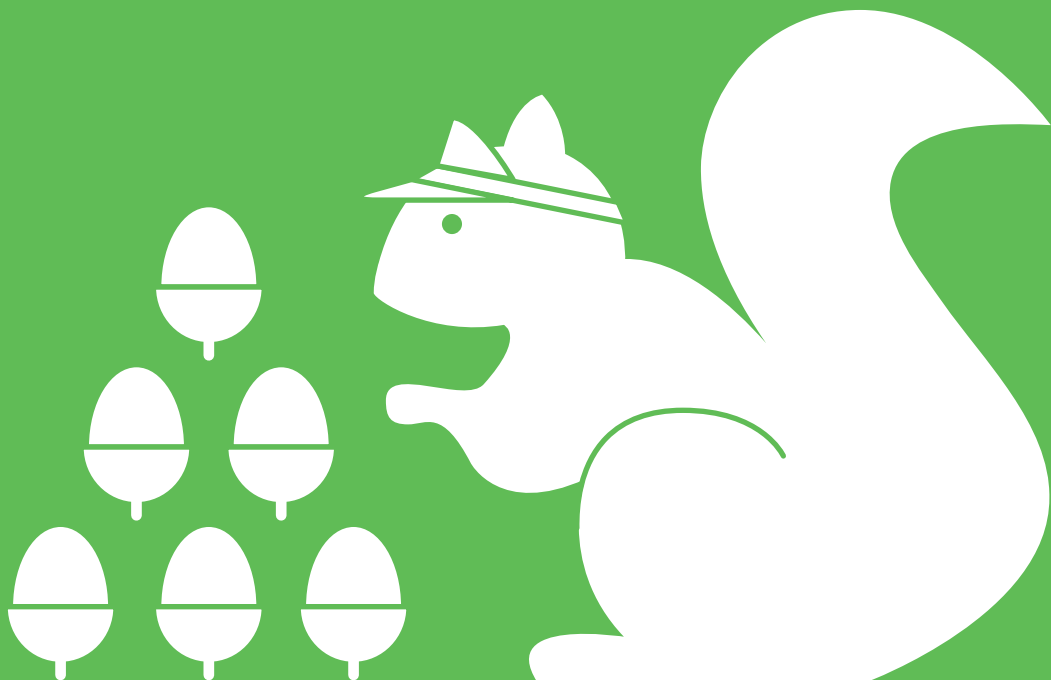

Elemental Escrow Agent

A professional and FCA regulated escrow agent service that can be tailored to your needs to help add value to your transaction.



Elemental

Keeping it simple

What is an Escrow Agent?

An escrow agent is an independent third party designated to hold funds, documents or other assets (the “Escrow Assets”) on behalf of one or more other parties. The Escrow Assets will be held subject to certain release conditions. Once the release conditions have been met, the Escrow Agent shall deliver the Escrow Assets in accordance with pre-agreed instructions.

Legal title to the assets will normally be held by the Escrow Agent (whether or not as a trust arrangement), with the beneficial title being held subject to the terms of the appointment.

Our expertise

Elemental is a leading professional firm; a member of the UK Government's Advisory Network and is trusted by HM Treasury for the provision of corporate services.

Elemental also works with most of the UK magic circle law firms, a range of leading banks and financial institutions, including the European Investment Bank and Cr dit Agricole.

Why Elemental?

Regulation

Elemental CoSec Limited is regulated by the Financial Conduct Authority (FCA) for the provision of Escrow Agent services, so you can remain confident that the services will be fully compliant and your funds protected. Elemental is also regulated by HM Revenue & Customs for the purposes of the Money Laundering Regulations 2009.

Segregated and Secure Funds

Elemental complies with the FCA's safeguarding requirements and your funds will be held within a designated client account with Barclays Bank plc. Once this account is set up, no other funds will be held in this account and your funds will be segregated and protected in the event of any unforeseen circumstances. You can be provided with copy bank statements and regular updates as required.

Knowledge

Our service is provided by experienced lawyers and professionals with extensive experience of handling corporate transactions. They can apply this knowledge to ensure that the escrow service is fully tailored to your needs.

Speed

It is not uncommon for an escrow account to be set up fairly late in the transaction and we will be on hand to ensure that it does not delay your transaction.

Flexibility

We have standard escrow agreements that can be used in their entirety or as a starting point for a more tailored option. We are also always open to tailoring the arrangements to your specific needs or starting from an agreement produced by your lawyers.

Independent

We are truly independent of any bank, law firm, accountancy firm or other financial institution. We are therefore free of conflicts of interest and able to act independently of the parties.

Uses for an Escrow Account

We pride ourselves in our flexible approach and we are always open to considering bespoke arrangements. However, below are some of the more common uses for an Escrow Account:

M&A Escrow (see page 4)

The Escrow Account will be used to hold retained funds, generally relating to warranties or indemnities granted by the seller(s).

Project Accounts (see page 5)

Project accounts hold the fees to be paid to the key suppliers on a long term contract (often a construction contract). The fees are then paid out upon achievement of certain specific conditions or milestones.

Payment Accounts

For clients without a UK bank account, the escrow account can be used to fulfil certain specific payment obligations, such as payroll, receipt and payment of dividends etc.

Completion Accounts

Generally a short term arrangement where completion funds are held subject to delivery of the main subject matter of the contract.

Third Party Access and Approval of Transfers

If desired, Elemental can provide for direct online access to Barclays.net to the client or a nominated third party (such as a law firm or accountants).

Such access can be purely informational in nature, or it can be for approval/ submission of payments, such that payments through Barclays.net can only be made with the approval of such third party, thereby providing an extra layer of security and protection.

Advantages of M&A Escrow

Academic research¹ has shown the following key benefits from using a warranty/indemnity escrow:

50% reduction in due diligence costs

Use of an escrow arrangement can reduce the time spent on due diligence by an average of 50% and the benefits are most likely to be seen when there is significant asymmetry in the knowledge of the buyer and the seller regarding the target.

Increased value to the buyer

Not all of the benefit from the escrow account is passed to the sellers and the share price reaction of public companies acquiring private companies using an escrow arrangement is more positive than those not using one.

6 % increase in proceeds received by the Seller(s)

Even after controlling for potential claims on the escrow account, sellers typically receive a 6% increase in proceeds when an escrow account is used.

¹ The use of escrow contracts in acquisition agreements, 14 June 2014, Sanjai Bhagat, Sandy Klasa and Lubomir P. Litov

Advantages of a Project Account

In its Guide to Fair Payment Practices, the Office of Government Commerce (“OGC”) estimated that public sector client could save up to 2.5% on construction costs by introducing better payment practices. One of the OGC’s main recommendations was to introduce project bank accounts, where practical and cost effective.

Some of the potential benefits of using a project account

- Added protection of funds in the event potential insolvency of the contractor/customer;
- Use of a project account helps to prevent the contractor/customer unfairly withholding sums due, for example if they are in financial difficulty;
- A properly run project account can help to reduce administration and delays;
- Certainty over cash flow can help to reduce supplier fees; and
- Certainty that funds only released upon satisfaction of agreed conditions.

Frequently Asked Questions

How is Elemental regulated?	Elemental CoSec Limited is regulated by the FCA under the Payment Services Regulations 2009 for the provision of escrow services
How long does it take to set up an escrow account?	Subject to the provision of all necessary KYC documents and agreement of terms, appointment as an escrow agent can normally be handled in 2-3 working days
How much will it cost?	The fees are dependent on a variety of factors including (i) the purpose of the escrow account; (ii) the value of the escrow assets; (iii) the likely duration of the escrow account and (iv) the number of transactions on the escrow account. Specific quotes can be provided upon request.
What KYC requirements do you have?	Elemental needs to undertake thorough KYC checks on all appointors, which will likely involve the following: <ul style="list-style-type: none">● Evidence of the identity of all appointors;● Evidence of the ultimate beneficial owners of all corporate appointors (holding 25% or more); and● Evidence of the source of the funds and the purpose of the escrow arrangement.
How will the escrow funds be held?	By default the escrow funds will be held in a designated client account with Barclays Bank plc. Upon request, the funds can be placed in fixed term/notice accounts or held in specific investments. Please discuss with your primary contact at Elemental if this is of interest.
What currencies can Elemental hold escrow funds in?	Elemental can hold escrow funds in any major currency, including GBP, Eur and USD.
Can Elemental hold assets other than cash?	Yes, Elemental can hold a variety of assets under Escrow. Please contact your primary contact at Elemental for more information on this.
If there is a dispute, how do the funds get released?	The starting point under most Escrow appointments, is that funds are released upon receipt of a signed Release Notice from the appointors. However, specific arrangements can be put in place to deal with a dispute. These will be negotiated and agreed between the parties. Ultimately, this may require the obtaining of a court order or arbitration decision.
Can I have electronic access to the account?	If desired, electronic access can be provided to your escrow account through Barclays.net. This access will generally be read only, but limited approval status can also be granted in some circumstances.

Elemental CoSec Limited
27 Old Gloucester Street
London WC1N 3AX

+44 (0)203 286 6229
info@elementalcosec.com
elementalcosec.com
Company No. 07707780

Private & Confidential.
© Copyright Elemental CoSec Limited.
All rights reserved.

Elemental
Keeping it simple