



ASIC
Australian Securities &
Investments Commission

ASIC DIGITAL SERVICES ACCESS

TERMS AND CONDITIONS

Date: 29 November 2019

1. About the ASIC Digital Services

- 1.1. The ASIC Digital Services allows data to be sent to and from ASIC to submit transactions and request information searches of the ASIC Registers.
- 1.2. Access to, and use of, the ASIC Digital Services is subject to these terms and conditions.
- 1.3. Approved Digital Service Providers may also be subject to the ASIC terms and conditions for ASIC Registered Agents and Electronic Lodgement.

2. Application of Terms

- 2.1. These Terms apply from the date we publish this version.
- 2.2. We may update these Terms from time to time. We will notify you of updates by email, however it is your responsibility to undertake regular checks for updates to these Terms on our website (www.asic.gov.au).

3. Approved Digital Service Provider Requirements

- 3.1. At all times, an Approved DSP must have an Australian Business Number.
- 3.2. An Approved DSP must appoint a person to act as the Administrator on your behalf. The Administrator is responsible for approving and managing all requests to access the Digital Services and for receiving notifications from us by email.
- 3.3. You must provide ASIC with your DSP details and notify ASIC within 14 days if your DSP details change. Your DSP details are:

- (a) business address,
- (b) email address,
- (c) telephone during business hours,
- (d) name, direct telephone number and direct email address of your Administrator, and
- (e) name, direct telephone number and direct email address of an alternative contact person.

4. Access to the ASIC Digital Services

- 4.1. You must be an Approved DSP to access the ASIC Digital Services.
- 4.2. Approval as an Approved DSP gives you a limited, non-exclusive licence to access, implement and use the Digital Services to perform the permitted Transactions. ASIC reserves all other rights in respect of the Digital Services and you acknowledge, specifically and without limitation, that:
 - (a) we confer no proprietary rights or interest in the Digital Services through your registration or use,
 - (b) we may require you to supply samples of your user interface and any related products from time to time,
 - (c) your access and use of the Digital Services does not constitute an approval or endorsement by ASIC of your user interface, services or related products, and
 - (d) we may, in our discretion, provide a user interface for members of the public to access and use the Digital Services.
- 4.3. You may develop a system including hardware, software and communication links to access the Digital Services by a user interface for ASIC Customers in accordance with our Message Specifications published on our website or provided to you from time to time. You are responsible for obtaining, installing and maintaining the system and all costs associated with your access and use of the Digital Services.
- 4.4. You may outsource to a third party the development of a user interface to access the Digital Services. To do this:
 - (a) you must ensure the third-party developer is aware of, and complies with, these Terms,
 - (b) you are responsible for any third-party supported or hosted system including any equipment.
- 4.5. To commence access to the ASIC Digital Services, you must have:
 - (a) thoroughly tested your system within your own environment and with our Test Database, and

- (b) established that your system and user interface complies with all our Digital Services Requirements including implementation of the Message Specifications and any other technical specifications and other standards and requirements advised by us and adherence to ASIC's approved forms and notices.

4.6. You acknowledge that:

- (a) we will not provide any software or equipment required for you to send data to, and receive data from, ASIC to access the Digital Services,
- (b) we are not responsible for the quality or suitability of any system or user interface developed by you or a third party, and
- (c) we will not provide any technical support for your system or user interface.

5. Use of the Services

Keeping your system and user interface up to date

- 5.1. You must only make available a system and user interface that complies with our Digital Services Requirements to access and use the Digital Services.
- 5.2. It is your responsibility to undertake regular checks to ensure your system and user interface comply with our current Digital Services Requirements including any updates as a result of legislative amendments or ASIC's requirements that facilitate the administration of legislation.
- 5.3. If a new version of the Message Specifications is issued, you must update your system and user interface to comply with the current version within three months of the date of issue or such other time agreed between you and us.
- 5.4. If we notify you of proposed changes to an approved form or notice or any other technical requirement, you must update your system and user interface to comply with the proposed change within the time we reasonably require.

Authentication

- 5.5. You must ensure your system authenticates the ASIC Customer in accordance with our authentication requirements. Our authentication requirements:
 - (a) are set out in the Message Specifications, and
 - (b) may include username and password, Corporate key, ASIC key or AUSkey authentication.

Authorised use

- 5.6. You acknowledge and agree that we will rely on submitted Transactions unless we are notified that the Transactions are not authorised.
- 5.7. It is your responsibility to comply with all applicable security measures, including those set out in clause 7 below, to protect and maintain the security of your access to the Digital Services.

- 5.8. You must ensure you do not, you agree not to, and you agree to not enable others to, use your system, user interface, or access to the Digital Services to:
- (a) gain unauthorised access to any part of the ASIC Registers that is unrelated to your companies, businesses or specific ASIC Customers, or to any other non-public ASIC databases,
 - (b) copy (except where expressly permitted by ASIC), decompile, reverse engineer, disassemble, attempt to derive the source code or, decrypt or modify any software within the ASIC system,
 - (c) use any deep-link, web-content scraping, or other automatic device, program, algorithm or methodology to:
 - (i) access, acquire, copy or monitor any part of the ASIC website, the ASIC Registers, or their content without our prior written consent, or
 - (ii) in any way to reproduce or circumvent the navigational structure of the ASIC website, or
 - (iii) to obtain or attempt to obtain any materials, documents or information through means that are not intentionally made available by ASIC through the ASIC website, or
 - (d) use the Service to submit, post or transmit any offensive or objectional content.

Adverse impact

- 5.9. We will notify you if your access to and use of the Digital Services is causing an adverse impact on the ASIC system and we may direct you to immediately suspend the submission of Transactions or requests for a specified period of time.

Not harmful, malicious or destructive

- 5.10. You must ensure that your system to access and use the Digital Services does not contain any computer program, device or code that is harmful, destructive, disabling or which assists in or enables theft or unauthorised alteration of data and you must implement security measures to prevent the transfer of any such harmful, malicious or destructive program, virus or code into the ASIC system.

6. Service availability and upgrades

- 6.1. We intend the Digital Services to be available at all times, however we cannot, and we do not guarantee continuous and uninterrupted availability or accessibility. We will provide notice of unscheduled downtimes and scheduled maintenance on our website (www.asic.gov.au) and by email.
- 6.2. We may upgrade the functionality, capabilities and technology of the Digital Services at any time. We will endeavour to provide reasonable notice by email of any changes that we consider should be advised to Approved DSPs. In no event will we be obliged to provide notice exceeding 14 days.

6.3. You are responsible for undertaking regular checks for any upgrades on our website.

7. Security measures

7.1. You must ensure that access to the Digital Services is restricted to your authorised officers and employees and your authorised officers and employees are aware of and comply with these Terms.

7.2. You must implement security measures, including any security procedures or requirements notified by ASIC, to protect and maintain the security of your access to the Services including maintaining the security of all usernames, passwords, ASIC keys, and any other information relating to access, authentication and security of the Digital Services.

7.3. You must:

(a) take all reasonable steps to prevent and detect unlawful and unauthorised use of your access to the Digital Services and prevent unauthorised disclosure of information obtained through the Digital Services, and

(b) not use any other user's username, password, Corporate key, ASIC key or AUSkey authentication to access or use the Digital Services, except as a Notified Person under clause 11 below.

7.4. You must immediately notify us if you know or suspect that access or authentication security information has been compromised or any other kind of unlawful or unauthorised use or security breach has occurred.

7.5. You acknowledge and agree that we may monitor and log any access and use of the Digital Services.

7.6. You must provide us with any information we reasonably request in relation to your access and use of the Digital Services.

8. General Obligations

8.1. You must maintain accurate and complete logs and records of all transactions directly relating to your access to and use of the Digital Services.

8.2. You agree to report faults, failures or errors previously unreported in respect of the Digital Services to us.

8.3. You must not submit continuous and repetitive messages to check service availability, or otherwise probe, scan or test the vulnerability of the Digital Services.

8.4. You warrant that you will not make misleading or deceptive statements in relation to the Digital Services, ASIC Registers or any other services or information provided by ASIC.

8.5. You must not engage in conduct in the course of your activities, which is likely to diminish the public confidence in the ASIC Registers or ASIC Digital Services or bring the status of Approved DSPs into disrepute.

8.6. You must act in accordance with any reasonable directions given by ASIC.

9. Contacting ASIC

9.1. We will provide email support for Approved DSPs of the ASIC Digital Services during Business Hours.

9.2. We may use any information you have given to us to verify your identity.

9.3. You must not at any time provide false or misleading information about your identity when you deal with ASIC.

10. Marketing

10.1. You must ensure that any marketing or promotion of your system to access the Digital Services and your business is accurate, lawful and not prejudicial to the good reputation or the objectives of ASIC.

10.2. You must not send direct communications to offer, advertise or promote your services or products that access the Digital Services unless:

(a) your communications clearly set out your entity's name, ABN and contact details, and

(b) you remove the name and details of any recipient from your mailing list upon their request.

10.3. You must ensure that your business marketing and communication products and any related materials include content that clearly distinguishes you as a private service provider and independent of ASIC. The content must:

(a) clearly display your registered business name on each product,

(b) not contain any statements that infer or may suggest that ASIC endorses your services or products or that you are authorised by ASIC, and

(c) not include any ASIC logo, or any logos, colours and designs that are similar to or likely to be confused with any logos, colours or designs of ASIC.

10.4. Without limiting the foregoing, you must not in connection with your business name or any marketing materials use any words or expressions that:

(a) may confuse or mislead customers in any way about your business,

(b) suggest you are authorised or endorsed by a government body, or

(c) are substantially the same, or may be taken to have the same meaning, as any of the following expressions, if we reasonably believe your use of the expression may confuse or mislead customers:

(i) Registered Agent,

(ii) Business Name Registration,

- (iii) Business Name Renewal,
- (iv) Company Registration,
- (v) Company Review.

11. Customer interactions

- 11.1. You may provide a direct customer user interface to submit Transactions to the Services, or you may submit a Transaction on behalf of an ASIC Customer.
- 11.2. You may submit a Transaction on behalf of an ASIC Customer only if you:
- (a) are a Notified Person for the ASIC Customer,
 - (b) have informed the ASIC Customer about your Notified Person role,
 - (c) disclose your service fees prior to accepting payment for a Transaction and clearly distinguish your service fees from the statutory fees for any Transaction,
 - (d) have written authorisation to submit the Transaction as a Notified Person, which must include:
 - (i) authorisation to submit the Transaction on the ASIC Customer's behalf,
 - (ii) disclosure of your service fees to submit the Transaction, and
 - (iii) your entity details and details of how a customer may contact you.
 - (e) provide a copy of the written authorisation to the ASIC Customer.
- 11.3. You agree to provide to ASIC a copy of the written authorisation to submit a Transaction on an ASIC Customer's behalf and the contact details of the ASIC Customer that authorised the Transaction within 7 days of our request or such further time as we agree.
- 11.4. If ASIC sends you an ASIC key or Corporate key as a Notified Person, you must provide the key to the relevant ASIC Customer.
- 11.5. You must ensure that your services and products, including any customer help or guidance, comply with and keep up to date with legislative requirements and ASIC's requirements that facilitate the administration of legislation.
- 11.6. You must act honestly, fairly and in a timely manner in dealing with customer disputes.
- 11.7. If an ASIC Customer has raised a dispute with us about your services, we may direct you to contact the customer and keep us informed of your dealing with the dispute.

12. Use and disclosure of information

- 12.1. Information provided by you, or collected, stored, used and disclosed by us, may include personal information.
- 12.2. Our Privacy Policy (www.asic.gov.au/privacy) describes how we handle personal information, and individuals' rights to seek access to and correct personal information, and to complain about breaches of privacy by ASIC.
- 12.3. You must comply with the Australian Privacy Principles under the *Privacy Act 1998* (Cth) in your disclosure, collection, use and management of personal information in connection with the Services. Without limiting the foregoing:
 - (a) it is your responsibility to obtain the requisite consent from each individual before you submit any Transaction containing their personal information,
 - (b) you must comply with our Privacy Policy (including our Notifiable Data Breach requirements under the Privacy Act) in respect of any personal information that you obtain from us through the Digital Services, or collect or handle in connection with your use of the Digital Services,
 - (c) you must immediately notify ASIC if you become aware of a breach or possible breach of any of the obligations contained in the Australian Privacy Principles, and
 - (d) you must not disclose or use any personal information obtained through the Digital Services to any person or for any purpose unless the disclosure or use is permissible by law.

13. Confidentiality

- 13.1. You must not, without our prior written consent, disclose or use any Confidential Information received or obtained by you from ASIC unless, and except to the extent that:
 - (a) the Confidential Information is generally available to the public, or
 - (b) any disclosure or use by you is required by law.

14. Disclaimer

- 14.1. You acknowledge that the speed and characteristics of the Digital Services will vary at times and under varied circumstances and may not always function as described, and may be subject to faults, interruption or breakdown or be fully or partially unavailable.
- 14.2. While we endeavour to ensure that information provided through the Digital Services is accurate and error-free you acknowledge that we will not be responsible for any inaccuracy, omission, defect or error in the information. We will not be liable for any loss or damage, however arising, which may be caused by the use of the information.

14.3. You acknowledge that we will use reasonable endeavours to ensure that the information provided through the Digital Services is free from computer virus infections, spyware or any other malicious content.

15. Indemnity

15.1. You indemnify us from and against any losses or claims arising out of or as a consequence of any breach of any of these Terms by you or any of your officers, employees, agents or contractors; or your negligent, wrongful, or unlawful act or omission in relation to your access to and use of the Digital Services.

16. Suspension and cancellation

16.1. You may cancel your access to the Digital Services at any time by notifying us in writing.

16.2. You must notify us immediately if you become aware of any breach or possible breach of these Terms and advise us:

- (a) of all actions taken to remedy the breach, and
- (b) of any actions undertaken to avoid a reoccurrence.

16.3. We may, in our discretion and without limiting our rights under these Terms, immediately limit or suspend your access to the Digital Services for a period of time we determine where we know or reasonably believe:

- (a) you have failed to comply with a direction given under these Terms within the time required, or
- (b) you have breached these Terms and failed to remedy the breach within the time required after receiving notice from ASIC to remedy the breach, or
- (c) you have provided us with incomplete, inaccurate, false or misleading information, or
- (d) you are probing, scanning, testing, or otherwise submitting continuous and repetitive messages impacting the Digital Services.

16.4. To reconnect your access following suspension under clause 16.3(c), we may require you to notify us in writing the reasons for the repetitive messages and provide assurance that the problem has been resolved and will not reoccur.

16.5. We may, by giving you written notice, cancel your access to the Digital Services at any time where we know or reasonably believe:

- (a) you have breached any of these Terms, or
- (b) you have provided us with incomplete, inaccurate, false or misleading information, or
- (c) you have entered into an insolvency event, or

- (d) you cause significant adverse impacts to our systems and processes, or
 - (e) your access has become inactive, or
 - (f) you have failed to observe any other requirements provided for under these Terms.
- 16.6. We may cancel your access to the Digital Services at any time with or without notice if you, your officeholders or any of your authorised officers or employees:
- (a) are the subject of an unresolved complaint, inquiry or investigation into the conduct of your business activities, or
 - (b) are the subject of any disciplinary action relating to your occupation or profession, or
 - (c) are disqualified from managing corporations under the *Corporations Act 2001* (Cth).

17. Intellectual Property

- 17.1. You acknowledge that all materials, documentation or other information including any Intellectual Property Rights provided to you by, or accessed by you from, ASIC are the property of ASIC, and will at all times remain the property of ASIC.
- 17.2. Nothing in these Terms grants you any right to use or display any registered or unregistered trademarks or logo of ASIC, or any element of a registered ASIC trademark.
- 17.3. You must not use the word "ASIC" either on its own or in combination with other words and/or symbols:
- (a) in a domain name,
 - (b) in an email address,
 - (c) in a user name in any social media forum,
 - (d) as the name or description of any of your services or products if we direct you not to use the word "ASIC" in a service or product.

18. Severability and Waiver

- 18.1. If any term or part of a term of these Terms is held to be invalid or unenforceable, that term may be severed and the remaining terms or parts of the terms of these Terms continue in force.
- 18.2. Waiver of any term or condition of these Terms must be in writing and is effective only to the extent set out in any written waiver.

19. Notices

19.1. We may advise or notify you of any matter on or via our website, by telephone, SMS, email, or mail to any relevant address you have provided to us.

20. Governing law and jurisdiction

20.1. You agree your access and use of the ASIC Digital Services are governed by, and will be interpreted in accordance with, the laws in force in the State of Victoria. You agree to submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia for all matters relating to your access and use of the Digital Services.

21. Definitions

Term	Meaning
Administrator	The person appointed by you in accordance with these Terms
Approved Digital Service Provider or Approved DSP	<p>A person who has completed their application to access the ASIC Digital Services and has received security credentials including usernames, passwords, ASIC keys, and any other information required to access, authenticate and maintain the security of their access to the ASIC Digital Services, including:</p> <p>(a) any authorised officers and employees of the person; and</p> <p>(b) any other person permitted by ASIC to access the ASIC Digital Services</p>
ASIC, we, us or our	Australian Securities and Investments Commission
ASIC Customer	A business name holder, company, officeholder or finance professional
ASIC Digital Services or Digital Services	The automated inter-system data exchange services provided by ASIC to allow data to be sent to and from ASIC to carry out permitted Transactions and search the ASIC Registers
ASIC Key	A unique key issued by us to an ASIC Customer to be used to submit Transactions to us in relation to the ASIC Registers
ASIC Registers	<p>The registers maintained by ASIC in respect of companies, businesses and finance professionals pursuant to the following legislation:</p> <ul style="list-style-type: none"> • <i>Corporations Act 2001 (Cth)</i> • <i>Business Names Registration Act 2011 (Cth)</i> • <i>National Consumer Credit Protection Act 2009 (Cth)</i> • <i>Superannuation Industry (Supervision) Act 1993 (Cth)</i>
AUSkey	A key issued by the Registrar of the Australian Business Register that a business may use to access participating government online services
Confidential Information	Information that is by its nature confidential and an Approved DSP knows or ought to know is confidential

Term	Meaning
Digital Services Requirements	<p>The standards and requirements advised by ASIC for the purposes of submitting Transactions and requesting searches of the ASIC Registers through the ASIC Digital Services including:</p> <ul style="list-style-type: none"> (a) Message Specifications and any other technical specifications and other standards and requirements advised by ASIC, and (b) the prescribed or approved forms and notices pursuant to legislation
Insolvency event	<p>Any one or more of the following events or circumstances:</p> <ul style="list-style-type: none"> (a) Being in liquidation or provisional liquidation or under administration, (b) Having a controller or analogous person appointed to you or any of your property, (c) Failing to comply with a statutory demand, (d) Entering into a personal insolvency agreement, (e) Being bankrupt, (f) Being unable to pay your debts as and when they become due and payable or being otherwise insolvent.
Intellectual Property Rights	<p>All intellectual property rights, including the following rights:</p> <ul style="list-style-type: none"> (a) patents, designs, copyright, rights in circuit layouts, designs, trade marks (including goodwill in those marks) and domain names (b) any application or right to apply for registration of any of the rights referred to in paragraph (a) (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere <p>whether or not such rights are registered or capable of being registered</p>
Message Specifications	<p>The ASIC specifications and requirements which will enable access and interface to the ASIC Digital Services, as amended by ASIC from time to time.</p>
Notified Person	<p>A person that has been notified to ASIC to be a Registered Agent or an authorised lodger for an ASIC Customer</p>

Term	Meaning
Service Fees	Fees charged by you for any specific transactions you submit on behalf of an ASIC Customer under clause 11 of these Terms, excluding fees imposed by legislation
Terms	These terms and conditions including any update published by ASIC
Test Database	A replica of the ASIC system which operates outside ASIC's live or production environment for the purposes of testing the compatibility of your system with the ASIC system in relation to accessing the ASIC Digital Services
Transaction or Transactions	Submission and lodgement of documents or requests in respect of the ASIC Registers pursuant to legislative requirements or ASIC's requirements that facilitate the administration of legislation
You or your	An Approved DSP accessing the ASIC Digital Services and where your access is in a capacity as a representative of an organisation, means both you and that organisation