

Terms of Use

Crossfire Integration Service Terms of Use

These Terms of Use are intended to explain our obligations as a service provider and Your obligations as a customer. Please read them carefully.

Crossfire Integration Service ('CIS') is owned and managed by Sandfield Associates Limited ('SAL')

These Terms are binding on any use of the Service and apply to You from the time that SAL provides You with access to the Service.

SAL reserves the right to change these terms at any time, effective upon the posting of updated terms on the website. SAL will endeavour to communicate changes to You. It is Your obligation to ensure that You have read, understood and agree to the most recent terms available on the Website.

By registering to use the Service you acknowledge that You have read and understood these Terms and have the authority to act on behalf of any person for whom You are using the Service. You are deemed to have agreed to these Terms on behalf of any entity for whom you use the Service.

1. DICTIONARY

- "Agreement" means these Terms of Use.
- "Access Fee" means the monthly fee (excluding any taxes) payable by You
- "Confidential Information" means any information, data and materials (in any medium) which is identified by the provider as, or would reasonably be expected to be, proprietary, confidential or of a commercially sensitive nature.
- "Data" means any data inputted by You or with Your authority into the Website.
- "Intellectual Property Rights" means all intellectual property including all rights arising from the law of copyright, registered and unregistered trade marks, designs, circuit layout designs and rights in relation to circuit layouts, and know-how owned by the relevant party.
- "Service" means the EDI services made available (as may be

changed or updated from time to time by SAL) via the Website.

- "Website" means the Internet site at the domain www.crossfireedi.com
- "Invited User" means any person or entity, other than the Subscriber, that uses the Service with the authorization of the Subscriber from time to time.
- "Subscriber" means the person who registers to use the Service, and, where the context permits, includes any entity on whose behalf that person registers to use the Service.
- "You" means the Subscriber, and where the context permits, an Invited User. "Your" has a corresponding meaning.

2. USE OF EDI SERVICE

SAL grants You the right to use the Service. This right is non-exclusive, non-transferable, and limited by and subject to this Agreement.

3. YOUR OBLIGATIONS

1 Payment obligations:

An invoice for the Access Fee will be issued each month starting one month from the date You started using the service. All invoices will include the Access Fee for the preceding period one month of use. SAL will continue invoicing You monthly until this Agreement is terminated in accordance with clause 8.

All SAL invoices will be sent to You, or to a Billing Contact whose details are provided by You, by email. You must pay or arrange payment of all amounts specified in any invoice by the due date for payment and are payable within 10 days of the invoice date. You are responsible for payment of all taxes and duties in addition to the Access Fee.

2 General obligations:

You must only use the Service for Your own lawful internal business purposes, in accordance with these Terms and any notice sent by SAL or condition posted on the Website. You may use the Service on behalf of others or in order to provide services to others but if You do so you must ensure that You are authorized to do so and that all persons for whom or to whom services are provided comply with and accept all terms of this Agreement that apply to You.

3 Access conditions:

As a condition of these Terms, when using the Services, You must:

Not attempt to undermine the security or integrity of SAL's computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks;

Not use, or misuse, the Services in any way which may impair the functionality of the Services or other systems used to deliver the Services or impair the ability of any other user to use the Services;

Not transmit any: files that may damage any other person's

computing devices or software, content that may be offensive, or material or Data in violation of any law (including Data or other material protected by copyright or trade secrets which You do not have the right to use); and

Not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Services except as is strictly necessary to use either of them for normal operation.

4 Usage Limitations:

Use of the Service may be subject to limitations, including but not limited to EDI volumes. Any such limitations will be advised.

5 Indemnity.

You indemnify SAL against: all claims, costs, damage and loss arising from Your breach of any of these Terms or any obligation You may have to SAL, including (but not limited to) any costs relating to the recovery of any Access Fees that are due but have not been paid by You.

4. CONFIDENTIALITY AND PRIVACY

1 Confidentiality:

Unless the relevant party has the prior written consent of the other or unless required to do so by law:

- a Each party will preserve the confidentiality of all Confidential Information of the other obtained in connection with these Terms of use. Neither party will, without the prior written consent of the other, disclose or make any Confidential Information available to any person, or use the

same for its own benefit, other than as contemplated by these Terms.

- b Each party's obligations under this clause will survive termination of these Terms.
- c The provisions of clauses 4.1.a and 4.1.2 shall not apply to any information which:
 - i is or becomes public knowledge other than by a breach of this clause;
 - ii is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - iii is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or
 - iv is independently developed without access to the Confidential Information.

2 Privacy:

SAL maintains a privacy policy that sets out the parties' obligations in respect of personal information. You should read that policy at <https://www.crossfireedi.com/about/privacy-policy> and you will be taken to have accepted that policy when you accept these terms.

5. INTELLECTUAL PROPERTY

1 General:

Title to, and all Intellectual Property Rights in the Services, the Website and any documentation relating to the Services remain the property of SAL.

2 Ownership of Data:

Title to, and all Intellectual Property Rights in, the Data remain Your property. However, Your access to the Data is contingent on full payment of the SAL Access Fee when due. You grant SAL the right to use, copy, transmit, store, and back-up Your information and Data for the purposes of enabling You to use the Services and for any other purpose related to provision of services to You.

3 Backup of Data:

You must maintain copies of all Data inputted and into the Service and received from the Service. SAL adheres to its best practice policies and procedures to prevent data loss, but does not make any guarantees that there will be no loss of Data. SAL expressly excludes liability for any loss of Data no matter how caused.

4 Third-party applications and your Data.

If You enable third-party applications for use in conjunction with the Services, You acknowledge that SAL may allow the providers of those third-party applications to access Your Data as required for the interoperation of such third-party applications with the Services. SAL shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by third-party application providers.

6. WARRANTIES AND ACKNOWLEDGEMENTS

1 Authority

You warrant that where You have registered to use the Service on behalf of another person, You have the authority to agree to these Terms on behalf of that person and agree that by registering to use the Service You bind the person on whose behalf You act to the performance of any and all obligations that You become subject to by virtue of these Terms, without limiting Your own personal obligations under these Terms.

1 Acknowledgement

You acknowledge that:

- 1 You are authorized to use the Services and to access the information and Data that You input into CIS, including any information or Data input into CIS by any person you have authorized to use the Service. You are also authorized to access the processed information and Data that is made available to You through Your use of the Services (whether that information and Data is Your own or that of anyone else).

2 SAL has no responsibility to any person other than You and nothing in this Agreement confers, or purports to confer, a benefit on any person other than You. If You use the Services or access the Website on behalf of or for the benefit of anyone other than yourself (whether a body corporate or otherwise) you agree that:

- i You are responsible for ensuring that You have the right to do so;
- ii You are responsible for authorizing any person who is given access to information or Data, and you agree that SAL has no obligation to provide any person access to such information or Data without Your authorization and may refer any requests for information to You to address; and
- iii You will indemnify SAL against any claims or loss relating to:
 - i SAL's refusal to provide any person access to Your information or Data in accordance with these Terms,
 - ii SAL's making available information or Data to any person with Your authorization.

3 The provision of, access to, and use of, the Services is on

an "as is " basis and at Your own risk.

- 4 SAL does not warrant that the use of the Service will be uninterrupted or error free. Among other things, the operation and availability of the systems used for accessing the Service, including public telephone services, computer networks and the Internet, can be unpredictable and may from time to time interfere with or prevent access to the Services. SAL is not in any way responsible for any such interference or prevention of Your access or use of the Services.
- 5 It is Your sole responsibility to determine that the Services meet the needs of Your business and are suitable for the purposes for which they are used. You remain solely responsible for complying with all applicable laws.

1 No warranties

SAL gives no warranty about the Services. Without limiting the foregoing, SAL does not warrant that the Services will meet Your requirements or that it will be suitable for any particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

1 Consumer guarantees

You warrant and represent that You are acquiring the right to access and use the Services for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees

or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of the Services, or these Terms.

7. LIMITATION OF LIABILITY

- 1 To the maximum extent permitted by law, SAL excludes all liability and responsibility to You (or any other person) in contract, tort (including negligence), or otherwise, for any loss (including loss of information, Data, profits and savings) or damage resulting, directly or indirectly, from any use of, or reliance on, the Service.
- 2 If You suffer loss or damage as a result of SAL's negligence or failure to comply with these Terms, any claim by You against SAL arising from SAL's negligence or failure will be limited in respect of any one incident, or series of connected incidents, to the Access Fees paid by You in the previous 12 months.
- 3 If You are not satisfied with the Service, Your sole and exclusive remedy is to terminate these Terms in accordance with Clause 8.

8. TERMINATION

- 1 No-fault termination:
These Terms will continue for the period covered by the Access

Fee paid or payable under clause 3.1. At the end of each billing period these Terms will automatically continue for another period of the same duration as that period, provided You continue to pay the prescribed Access Fee when due, unless either party terminates these Terms by giving notice to the other party at least 30 days before the end of the relevant payment period. If You terminate these Terms You shall be liable to pay all relevant Access Fees on a pro-rata basis for each day of the then current period up to and including the day of termination of these Terms.

2 Breach:

If You:

- a. breach any of these Terms (including, without limitation, by non-payment of any Access Fees) and do not remedy the breach within 14 days after receiving notice of the breach if the breach is capable of being remedied;
- b. breach any of these Terms and the breach is not capable of being remedied (which includes (without limitation) any breach of clause 3.4 or any payment of Access Fees that are more than 30 days overdue); or
- c. You or Your business become insolvent or Your business goes into liquidation or has a receiver or manager appointed of any of its assets or if You become insolvent, or make any arrangement with Your creditors, or become subject to any similar insolvency event in any jurisdiction,

SAL may take any or all of the following actions, at its sole discretion:

- d. Terminate this Agreement and Your use of the Services;
- e. Suspend for any definite or indefinite period of time, Your use of the Services and the Website;
- f. Suspend or terminate access to all or any Data.
- g. Take either of the actions in sub-clauses (d), (e) and (f) of this clause 8(2) in respect of any or all other persons whom You have authorized to have access to Your information or Data.

3 Accrued Rights:

Termination of these Terms is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this Agreement You will:

- 1 remain liable for any accrued charges and amounts which become due for payment before or after termination; and

- 2 immediately cease to use the Services and the Website.

4 Expiry or termination:

Clauses 3.1, 4, 5, 6, 7, 8 and 10 survive the expiry or termination of these Terms.

9. HELP DESK

1 Technical Problems:

In the case of technical problems You must make all reasonable efforts to investigate and diagnose problems before contacting SAL. If You still need technical help, please check the support provided online by SAL on the Website or failing that email us at crossfiresupport@sandfield.co.nz.

2 Service availability:

Whilst SAL intends that the Services should be available 24 hours a day, seven days a week, it is possible that on occasions the Services may be unavailable to permit maintenance or other development activity to take place. If for any reason SAL has to interrupt the Services for longer periods than SAL would normally expect, SAL will use reasonable endeavours to publish in advance details of such activity to You.

10. GENERAL

1 Entire agreement:

These Terms, together with the SAL Privacy Policy and the terms of any other notices or instructions given to You under these Terms of Use, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between You and SAL relating to the Services and the other matters dealt with in these Terms.

2 Waiver:

If either party waives any breach of these Terms, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.

3 Delays:

Neither party will be liable for any delay or failure in performance of its obligations under these Terms if the delay or failure is due to any cause outside its reasonable control. This clause does not apply to any obligation to pay money.

4 No Assignment:

You may not assign or transfer any rights to any other person without SAL's prior written consent.

Governing law and jurisdiction:

This Agreement will be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

Severability:

If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, the Agreement shall remain otherwise in full

force apart from such provisions which shall be deemed deleted.

Notices:

Any notice given under these Terms by either party to the other must be in writing by email and will be deemed to have been given on transmission. Notices to SAL must be sent to crossfiresupport@sandfield.co.nz or to any other email address notified by email to You by SAL. Notices to You will be sent to the email address which You provided when setting up Your access to the Service.

Rights of Third Parties:

A person who is not a party to these Terms has no right to benefit under or to enforce any term of these Terms.

APPENDIX

Monthly Uptime Percentage, Exception Factors, Claims and Service Credits

Part 1: Monthly Uptime Percentage

99.9%

Part 2: Exception Factors

If one or more of these factors apply, Service Credits will not apply (and no Claim can be made):

a. Scheduled Downtime;

- b. any of the Service Exclusions (see below);
- c. a factor outside of Sandfield's control, including without limitation the factor described in clause 5.7 of this Agreement.

Service Exclusions

- 1 factors outside Sandfield's reasonable control (for example, a network or device failure external to Sandfield's data centers, including at Customer's site or between Customer's site and Sandfield's data center);
- 2 issues resulting from Customer's use of hardware, software, or services not provided by Sandfield as part of the Services (for example, third-party software or services);
- 3 issues resulting from use of the Service in a manner inconsistent with the features and functionality of the Service (for example, attempts to perform operations that are not supported) or inconsistent with Sandfield's published documentation or guidance;
- 4 issues resulting from faulty input, instructions, or arguments (for example, requests to access files that do not exist);
- 5 issues caused by Customer's use of the Service after Sandfield advised Customer to modify its use of the Service, if Customer

did not modify its use as advised;

- 6 issues resulting from Customer's attempts to perform operations that exceed prescribed quotas or that resulted from Sandfield's throttling of suspected abusive behaviour;
- 7 issues attributable to acts by persons gaining unauthorised access to the Service by means of Customer's passwords or equipment or otherwise resulting from Customer's failure to follow appropriate security practices;
- 8 Within the Test or QA environments.
- 9 Where the CIS Environment is hosted by Customer.

Part 3: Claims

- 1 In order for Sandfield to consider a Claim, Customer must submit the Claim to Customer Support (email: support@crossfireedi.com) within thirty days of the Incident that is the subject of the Claim occurs. Customer must provide to Customer Support all information necessary for Sandfield to validate the Claim, including but not limited to detailed descriptions of the Incident, the time and duration of the Incident, the affected resources or operations, and any attempts made by Customer to resolve the Incident.

- 2 Sandfield will use all information reasonably available to it to validate the Claim and to determine whether any Service Credits are due.
- 3 Where applicable, In the event that more than one Service Level for a particular Service is not met because of the same Incident, Customer must choose only one Service Level under which a Claim may be made based on the Incident.
- 4 Service Credits apply only to fees paid for the particular Service, Service Resource, or Service tier for which a Service Level has not been met. In cases where Service Levels apply to individual Service Resources or to separate Service tiers, Service Credits apply only to fees paid for the affected Service Resource or Service tier, as applicable.

Part 4: Service Credits

The amount and method of calculation of Service Credits is described below.

- a. Service Credits are Customer's sole and exclusive remedy for any failure by Sandfield to meet the Monthly Uptime Percentage.
- b. The Service Credits awarded in any billing month for a particular Service will not, under any circumstance, exceed Customer's monthly service fees that Service or Service Resource, as applicable, in the billing month.
- c. For Services purchased as part of a suite, the Service Credit will be based on the pro-rata portion of the cost of the Service, as determined by Sandfield in its reasonable discretion. In cases where Customer has purchased Services from a reseller, the Service Credit will be

based on the amount paid to the reseller.

- 1 “Environment Minutes” is the total number of minutes that a given CIS Service Environment has been deployed during a billing month.
- 2 “Downtime” is the total accumulated minutes during which the Service is unavailable during a month, excluding Scheduled Downtime. The Service is considered unavailable for a minute when there is more than a ten percent error rate during that minute. Error rate is calculated based on results from ping tests, TCP port tests, and system tests. Intermittent downtime for a period of less than five minutes will not be counted.
- 3 "Scheduled Downtime" means those times where Sandfield notifies the Customer of one or more periods of downtime at least 36 hours prior to the commencement of such downtime (typically such downtime will be performed during off-peak hours).
- 4 “Maximum Available Minutes” is the sum of all Environment Minutes across all CIS Service Environments deployed for Customer in a given CIS subscription during a billing month.
- 5 “Actual Monthly Uptime Percentage” for the CIS Services is calculated as the Maximum Available Minutes less Downtime, divided by Maximum Available Minutes in a billing month for a given CIS subscription. The following Service Credits are

applicable to Customer’s use of the CIS Services.

Actual Monthly Uptime Percentage	Service Credit
<99.9%	10%
<99%	25%
<95%	50%