



## BUILDINGCONFIDENCE ACCREDITATION SERVICE TERMS AND CONDITIONS

The terms and conditions set out below apply to the CONTRACTOR'S participation in the BuildingConfidence Accreditation Service (the "SERVICE" as defined below). The CONTRACTOR will be deemed to have accepted these terms at the time when it submits its payment to ACHILLES for registration on the SERVICE.

### 1. Definitions

**ACHILLES** means Achilles Information Limited.

**ACCREDITATION** means meeting the stated requirements for accreditation set by the SUBSCRIBERS, as provided to the CONTRACTOR in the SERVICE documentation.

**AUDIT** means an audit of the CONTRACTOR'S health, safety and environmental management systems with the intention of making the results of the AUDIT (the "AUDIT REPORTS") available to SUBSCRIBERS through the ONLINE SYSTEM. The AUDIT (and any re-audit) will be carried out at the CONTRACTOR'S nominated SITE.

**AUDITOR** means an auditor who is assigned by ACHILLES to conduct an AUDIT.

**CONTRACTOR** shall mean a contractor, supplier or a service provider who wishes to register, or is already registered on the SERVICE.

**INTELLECTUAL PROPERTY** means all intellectual property rights including copyright (in any software, web-sites, operational manuals, documentation and reports), neighbouring rights and all rights in relation to inventions (including any program, system, procedure, process, formula or method of production), patents, registered and unregistered trade marks, registered and unregistered designs, trade secrets and confidential information.

**ONLINE SYSTEM** means the online system located at [www.achilles.com](http://www.achilles.com) through which the CONTRACTOR may access and complete the PQQ and through which the completed PQQ and AUDIT REPORTS are published to SUBSCRIBERS.

**PARTY** means either ACHILLES or the CONTRACTOR, and PARTIES shall be construed accordingly.

**PQQ** means the prequalification questionnaire to be completed by the CONTRACTOR.

**SERVICE** means the contractor accreditation system operated by Achilles on behalf of the SUBSCRIBERS, through which CONTRACTORS complete the PQQ and undergo an AUDIT. CONTRACTORS will not achieve "ACCREDITATION" status until both a completed PQQ and an AUDIT REPORT meeting the ACCREDITATION requirements are published on the ONLINE SYSTEM.

**SITE** means the location where the AUDIT will be conducted, which is anticipated to be at the CONTRACTOR'S main offices or other premises.

**SUBSCRIBERS** means the organisations which subscribe to the SERVICE to gain access to the CONTRACTOR'S (and other contractors') completed PQQs and AUDIT REPORTS.

### 2. PQQ

Within 5 working days of receipt of the CONTRACTOR'S payment, ACHILLES will provide the CONTRACTOR with unique logon details to access and complete the PQQ. Within four weeks from submission of the completed PQQ, ACHILLES will either confirm to the CONTRACTOR in writing (or by email) that the CONTRACTOR'S pre-qualification information has been published onto the ONLINE SYSTEM, or provide notification of any amendments that may be required before the CONTRACTOR'S information can be published onto the ONLINE SYSTEM. ACHILLES may also make selected non-sensitive elements of the CONTRACTOR'S information available to subscribers of other similar SERVICES operated by ACHILLES or its affiliates. ACHILLES will provide to the SUBSCRIBERS the entire information provided by the CONTRACTOR through the PQQ, by loading the information received from the CONTRACTOR into the ONLINE SYSTEM.

The CONTRACTOR binds itself to answer the questions in the PQQ as accurately and completely as possible such that the completed PQQ reflects the general status of, and the specific goods and or services offered by, the CONTRACTOR at the time of completion of the PQQ. The CONTRACTOR is responsible for reviewing the accuracy of the data information entered on the PQQ and for updating the PQQ if required.

### 3. Audit

#### 3.1. Booking the audit date

An AUDITOR will be allocated to and make contact with the CONTRACTOR within 5 working days of receipt of payment. The date of the AUDIT will be agreed with the CONTRACTOR by the AUDITOR and must be within eight weeks of receipt of payment. In the event that the AUDITOR and CONTRACTOR are unable to agree a date within eight weeks for whatever reason, ACHILLES reserves the right to allocate an AUDIT date on the CONTRACTOR'S behalf. In either case the date of the AUDIT will be sent by email to the CONTRACTOR and will constitute confirmation of the booked AUDIT date. If the AUDIT is not completed within 12 months of ACHILLES' receipt of the CONTRACTOR'S payment, the CONTRACTOR will automatically forfeit the AUDIT fee.

#### 3.2. Post-audit completion

On completion of the AUDIT the AUDITOR may give the CONTRACTOR an indication of the results of the AUDIT. If any minor non-conformances can be rectified by the CONTRACTOR and proof of this can be provided to the AUDITOR within five working days following the AUDIT, the AUDITOR may take account of this within the final AUDIT REPORT. Achilles will endeavour to publish the completed AUDIT REPORT on the ONLINE SYSTEM within four weeks of the date of the AUDIT. ACHILLES will confirm to the CONTRACTOR by email when this has been done.

The results of an AUDIT will remain valid for a period of 12 months from the date of the

AUDIT. The results of an AUDIT are only valid if the subscription is current and not expired. ACHILLES will contact the CONTRACTOR at least six weeks prior to the expiry of the AUDIT REPORT to schedule a new AUDIT. On the day after the expiry of a period of validity the status of the AUDIT REPORT will be marked as "Expired" on the ONLINE SYSTEM unless the CONTRACTOR has undergone a subsequent AUDIT.

#### 3.3. Re-audit

If an AUDIT shows that the CONTRACTOR has not met the ACCREDITATION requirements, there may be an applicable re-audit fee payable by the CONTRACTOR which will be charged for at ACHILLES' advertised rates.

#### 3.4. Limitations

In undertaking the AUDIT and making the AUDIT REPORTS available to SUBSCRIBERS, ACHILLES provides verification to SUBSCRIBERS as to whether or not a CONTRACTOR has provided evidence of having effective management systems and controls in place in respect of the areas specifically covered in the AUDIT REPORTS. ACHILLES makes no warranties, either to the CONTRACTOR or to SUBSCRIBERS, that a CONTRACTOR will always act in accordance with any management systems and controls which were in evidence at the time of the AUDIT.

#### 3.5. Obligations

The CONTRACTOR binds itself to answer the questions and to provide any relevant supporting materials or documents requested in the course of an AUDIT as accurately and completely as possible such that the completed AUDIT REPORT accurately reflects the status of the management systems and controls put in place by the CONTRACTOR at the time of completion of the AUDIT.

Where the SITE is a location that is not under the direct control of the CONTRACTOR, or not in a public place, then the CONTRACTOR shall obtain written permission from the party who does have direct control of the SITE for the AUDITOR to enter that site for the explicit purpose of carrying out the AUDIT, and forward a copy of that permission to the AUDITOR at least two days in advance of the agreed date of the AUDIT.

#### 3.6. Cancellation & Rescheduling

If the CONTRACTOR cancels or reschedules an AUDIT within 28 days of the confirmed AUDIT date, a cancellation or rescheduling fee will be applicable as per the cancellation and rescheduling policy advertised by ACHILLES, a copy of which is available on request and can be viewed at [www.achilles.com](http://www.achilles.com).

### 4. General Terms

The CONTRACTOR shall not offer, give or agree to give to the AUDITOR or any person employed by or on behalf of ACHILLES any gift or consideration of any kind as an inducement or reward for any act in relation to the performance of the AUDIT or the CONTRACTOR'S participation in the SERVICE. Any breach of this condition by the CONTRACTOR (or by anyone employed by or acting on their behalf) in relation to the AUDIT or the SERVICE will entitle ACHILLES to terminate this agreement with immediate effect. Under such circumstances ACHILLES will not refund any fees received from the CONTRACTOR.

During use of the PQQ and the ONLINE SYSTEM the CONTRACTOR agrees to:

- Comply with ACHILLES reasonable requirements and directions as to use of the PQQ and the ONLINE SYSTEM;
- Use the PQQ and the ONLINE SYSTEM in accordance with applicable law, including data privacy laws and communication regulations;
- Not interfere with the proper functionality of the website hosting the PQQ and the ONLINE SYSTEM.

The CONTRACTOR agrees not to use the PQQ or the ONLINE SYSTEM to knowingly load, post or distribute any information that:

- infringes the INTELLECTUAL PROPERTY rights of any other person or entity; or
- is harmful, inaccurate, misleading, fraudulent, defamatory, obscene, offensive or otherwise illegal.

ACHILLES and the CONTRACTOR shall use their reasonable endeavours to ensure that computer software viruses that may damage hardware, software or communication systems are not knowingly created or introduced to the website hosting the PQQ and the ONLINE SYSTEM.

Notwithstanding anything else in these terms and conditions ACHILLES shall not be liable for any failure in performing any of its obligations under these conditions if such failure is caused by circumstances beyond the control of ACHILLES, which shall include any Act of God, war, trade dispute, fire, flood, drought, tempest or any other abnormal weather conditions. In all cases ACHILLES liability is limited to the value of the standard information material required for registration on the SERVICE.

If at any time any one of the provisions of these conditions becomes invalid, illegal or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired. These terms and conditions shall continue in effect until amended or terminated by ACHILLES by written notice.

## 5. Equifax Financial Information

The CONTRACTOR hereby accepts that ACHILLES have the right to obtain the CONTRACTOR'S last three years worth of statutory audited accounts (or equivalent) directly from Equifax plc ("Equifax"), and to display these accounts in the ONLINE SYSTEM alongside the additional information submitted by the CONTRACTOR in the PQQ. ACHILLES shall thereafter automatically update the CONTRACTOR'S accounts in accordance with updates sent to ACHILLES by Equifax. In the case that ACHILLES does not or cannot obtain the CONTRACTOR'S accounts from Equifax then the CONTRACTOR must complete and submit their accounts through the PQQ, and it is therefore the CONTRACTOR'S responsibility to ensure such accounts are accurate and up-to-date.

ACHILLES shall make available, through the PQQ, where available, the CONTRACTOR'S accounts as provided to ACHILLES by Equifax. ACHILLES shall notify the CONTRACTOR when Equifax have provided accounts to ACHILLES. The CONTRACTOR is solely responsible for ensuring that the accounts provided to ACHILLES by Equifax are correct. ACHILLES shall endeavour to rectify any incorrect accounts within a reasonable period where the fault is with ACHILLES; where the fault is with Equifax then the CONTRACTOR must liaise with Equifax directly to rectify any incorrect accounts. ACHILLES shall advise the CONTRACTOR how to contact Equifax if this is the case.

ACHILLES accepts no liability whatsoever for the accuracy of accounts provided by Equifax or any arising consequential loss that may be incurred. In addition, the CONTRACTOR accepts the disclaimer issued by Equifax as defined in Schedule A.

## 6. Indemnities

ACHILLES shall indemnify the CONTRACTOR for any loss suffered by the CONTRACTOR as a result of ACHILLES' failure to comply with any applicable laws or regulations in providing the SERVICE, subject to the limit stated below.

The CONTRACTOR shall indemnify and keep indemnified ACHILLES, its officers, employees and agents against all and any liability, losses, damages, awards, claims, costs and expenses that they may sustain or incur arising from the CONTRACTOR'S breach of any representations, warranties or obligations set forth under these terms and conditions, subject to the limit stated below.

Each PARTY'S aggregate liability to the other in respect of all claims (whether in contract or tort) shall not exceed the value of the fees paid by the CONTRACTOR under this agreement. The PARTIES will not in any circumstances be liable for indirect, incidental or consequential loss or damage or loss of profits, loss of revenue or loss of anticipated savings. Such agreed limitations on the liability of either PARTY will not apply in respect of death or personal injury arising from the negligence of either PARTY, its employees, sub-contractors or agents, or in respect of any claims based on fraud.

The website hosting the PQQ and the ONLINE SYSTEM may provide links to other Internet sites. ACHILLES is not responsible for the availability or content of such other sites. The CONTRACTOR'S accessing of any of these sites is entirely at the risk of the CONTRACTOR.

## 7. Subscription Fee

Both CONTRACTORS and the SUBSCRIBERS contribute towards the administration costs of operating the SERVICE. For registration on to the SERVICE an annual non-refundable fee is payable by the CONTRACTOR based on the prevailing rates as advertised by ACHILLES. Under-payments (e.g. where VAT has not been included) will not be accepted and will be returned.

## 8. Subscriber Audits

One or more of the SUBSCRIBERS is entitled, at its own discretion and cost, to audit the CONTRACTOR for verification of information which is placed at ACHILLES' disposal for updating the ONLINE SYSTEM. The SUBSCRIBERS have committed themselves to give reasonable notice to the CONTRACTOR and ACHILLES in writing for an intended audit. If such an audit is refused by the CONTRACTOR, or in the event material failures or inaccuracies are detected, ACHILLES may decide to expel the CONTRACTOR from the SERVICE with immediate effect.

## 9. Ownership Rights

The copyright and all intellectual property rights whatsoever of all computer programs, user manuals, ACHILLES sponsored websites, PQQs, product coding schema, AUDIT protocols and other documentation in connection with the SERVICE will remain vested in and be the property of ACHILLES. The intellectual property in the information and other material entered by the CONTRACTOR onto the PQQ shall, at all times, remain vested in the CONTRACTOR.

## 10. Confidentiality

The CONTRACTOR agrees to maintain the confidentiality of the unique logon details required by the CONTRACTOR to gain access to the ONLINE SYSTEM, which are issued by ACHILLES in the SERVICE introductory letter or email. The CONTRACTOR agrees to limit distribution of the logon details only to individuals in the CONTRACTOR'S organisation who require access to the ONLINE SYSTEM for the purpose of completing or reviewing the PQQ or the AUDIT REPORT. The CONTRACTOR will notify ACHILLES immediately if it knows or suspects any misuse of, or breach of confidentiality relating to the logon details.

The CONTRACTOR further agrees to maintain the confidentiality of the PQQ and the AUDIT REPORT issued by ACHILLES. The CONTRACTOR agrees to limit distribution of

the PQQ and the AUDIT REPORT to individuals in the CONTRACTOR'S organisation who require access to them for the purpose of participating in the SERVICE. The CONTRACTOR will notify ACHILLES immediately if it knows or suspects any misuse of, or breach of confidentiality relating to the PQQ or the AUDIT REPORT.

ACHILLES shall use all reasonable endeavours to protect and safeguard the information provided by the CONTRACTOR from loss, theft, destruction, third party intervention, "hacking" and the like from accidental disclosure and shall ensure all employees do likewise.

ACHILLES and the CONTRACTOR agree to keep in confidence for a minimum period of five years from the termination of these terms and conditions any information obtained under these terms and conditions and will not divulge the same to any third party, other than its own officers, employees or agents, without the prior written consent of the other PARTY.

Unless the information provided by the CONTRACTOR be lost or destroyed due to a breach of ACHILLES' obligations of confidence, the CONTRACTOR'S exclusive remedy for a breach of these terms and conditions will be the reconstruction of the CONTRACTOR'S information by ACHILLES within a reasonable time, and shall not include any loss of profits, loss of business or any consequential losses howsoever arising, always provided the CONTRACTOR furnishes the information required or it is available on storage media in ACHILLES possession.

These Confidentiality provisions shall not apply to:

- i. any information in the public domain other than in breach of these terms and conditions;
- ii. information that is either trivial or obvious or already in the possession of the receiving PARTY before its receipt from the disclosing PARTY;
- iii. information received from a third party (other than a SUBSCRIBER) who is free to disclose the same;
- iv. disclosure of information which is required by law or a regulatory body provided always that if such order or requirement arises, the PARTY proposing to disclose shall give to the other PARTY prompt written notice thereof;
- v. information developed by one PARTY independent of the other;
- vi. information disclosed to professional advisers, auditors, bankers or financiers provided a confidentiality undertaking is in force with at least the same terms as this clause.

ACHILLES agrees to ensure that each SUBSCRIBER undertakes similar terms of confidentiality before being allowed to access the ONLINE SYSTEM.

## 11. Law and Jurisdiction

These terms and conditions shall be governed by English law and the parties shall be subject to the exclusive jurisdiction of the English courts.

## Schedule A - Equifax Plc Disclaimer

Where indicated, Equifax Plc ("**Equifax**") is the source of the financial information displayed in the ONLINE SYSTEM or the PQQ ("**Financial Information**"). As a condition of Equifax allowing Achilles Information Limited to provide the Financial Information to you, Equifax Plc requires you to agree to the following terms and conditions.

- Most of the Financial Information is provided to Equifax by others and as such Equifax does not control the Financial Information's accuracy or completeness. The volume and nature of the information on Equifax's databases makes it impractical for Equifax to check it. Because of this, Equifax will only be liable to you for any loss or damage caused by its negligence or wilful default and Equifax shall not in any other circumstances be liable for any inaccuracies, faults, or omissions in the Financial Information.
- You must not rely upon the Financial Information as the only factor or source of information in making any decision. Further advice and information from appropriate experts and professionals should be obtained before making any decision.
- Equifax shall not in any circumstances (whether for breach of contract, negligence or any other tort, under statute or otherwise at all) be liable for any indirect or consequential loss or damage at all, or any loss of business, capital, profit, reputation or goodwill.
- Nothing in these terms shall limit or exclude Equifax's liability for death or personal injury arising from its negligence.
- Equifax's entire liability in respect of all causes of action arising by reason of or in connection with these terms (whether for breach of contract, negligence or any other tort, under statute or otherwise at all) shall be limited to the amount you paid Achilles Information Limited for the Financial Information (excluding VAT).
- If you want to make a claim against Equifax in relation to the Financial Information, you must give Equifax written notice of the claim within 3 months of becoming aware of the circumstances giving rise to the claim or, if earlier, 3 months from the time you ought reasonably to have become aware of such circumstances. If you do not, Equifax shall not be liable for the claim.