



LINK-UP SUPPLIER - PATRON STANDARD TERMS AND CONDITIONS



The terms and conditions set out below apply to the SUPPLIER PATRON's access to and use of the RAIL PORTAL and the LINK-UP DATABASE and the data contained therein. The SUPPLIER PATRON will be deemed to have accepted these terms at the time when the SUPPLIER PATRON submits its payment to ACHILLES. However, a contract between ACHILLES and the SUPPLIER PATRON will not be formed unless and until ACHILLES sends to the SUPPLIER PATRON an email confirming acceptance of the SUPPLIER PATRON's application. These terms and conditions will apply to the exclusion of any other terms and conditions, including without limitation any purchase order or confirmation of order provided by the SUPPLIER PATRON.

1. Definitions

ACHILLES means Achilles Information Limited.

CONFIDENTIAL INFORMATION means all information or data of whatever nature (whether provided orally, visually, in writing or in any other medium or by any other method) relating to either PARTY, their business, products or affairs or the identity, business, products or affairs of their customers or suppliers which is directly or indirectly disclosed to or made available to either PARTY or to which either PARTY has access in connection with or for the purposes of the provision of the services under these terms and conditions. For the avoidance of doubt the SUPPLIER information and records contained within the SYSTEMS will be treated as CONFIDENTIAL INFORMATION.

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

LINK-UP AUDIT means an annual audit, undertaken by or on behalf of ACHILLES, of SUPPLIERS of products/services that are identified as auditable within the LINK-UP scheme documentation, as selected by each SUPPLIER as a part of their LINK-UP registration. The audit results and reports are shared amongst SUBSCRIBERS (subject to their agreed access limitations) to reduce the auditing burden within the rail industry.

LINK-UP DATABASE means the database of SUPPLIER and other information operated by ACHILLES on behalf of SUBSCRIBERS in the rail or other industries.

PARTIES to these terms and conditions means ACHILLES and the SUPPLIER PATRON. A PARTY to these terms and conditions means either ACHILLES or the SUPPLIER PATRON.

RAIL PORTAL means the website operated by ACHILLES and located at www.rail.achilles.com through which SUBSCRIBERS access the LINK-UP DATABASE and the LINK-UP AUDIT reports (subject to their agreed access limitations), in addition to other industry information and services.

SUBSCRIBER means one or more of the companies holding a Buyer contract or a Supplier-Patron contract for access to the LINK-UP DATABASE.

SUPPLIER means a supplier, contractor or a service provider who is registered on the LINK-UP DATABASE.

SUPPLIER PATRON means a SUPPLIER organisation which has chosen to purchase the SUPPLIER PATRON additional functionality and access permissions over and above their SUPPLIER registration.

SYSTEMS means, collectively, the RAIL PORTAL and the LINK-UP DATABASE including their associated documentation.

2. General Terms

In consideration of the fees paid by the SUPPLIER PATRON, ACHILLES will grant to the SUPPLIER PATRON a time limited, non-exclusive, non-transferrable right to access and use the SYSTEMS subject to these terms and conditions. ACHILLES will enable the SUPPLIER PATRON's online access to the SYSTEMS within 5 (five) Business Days following the valid receipt of the SUPPLIER PATRON's payment. The implementation will consist of (a) provision of one or more security passwords to allow access to the SYSTEMS using the SUPPLIER PATRON's own Internet connection, and (b) provision of material to the SUPPLIER PATRON enabling it to advise SUPPLIERS of the arrangements for joining LINK-UP. Access to the LINK-UP DATABASE and the RAIL PORTAL as a SUPPLIER PATRON is contingent on the SUPPLIER PATRON also maintaining a valid and up to date registration as a SUPPLIER, and ACHILLES may remove the SUPPLIER PATRON's access rights to the LINK-UP DATABASE and the RAIL PORTAL should its SUPPLIER registration lapse or be terminated for any reason.

The SUPPLIER PATRON will be given SUBSCRIBER access to the RAIL PORTAL and the LINK-UP DATABASE, but will NOT be entitled to or gain access to the following services and functionality:

- SUPPLIER's Supplier Profile Questionnaires
- Configurable search functionality
- Supplier Tracking functionality
- League tables and scores facility
- Full Link-up Audit reports (Executive Summary reports only)
- No representation or right to participate in the Link-up Governance process.
- No dedicated account manager.

ACHILLES and the SUPPLIER PATRON will 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 web-site hosting the SYSTEMS.



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Notwithstanding anything else in these terms and conditions ACHILLES will 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 will include any Act of God, war, trade dispute, fire, flood, drought, tempest or any other abnormal weather conditions.

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 will not in any way be affected or impaired. These terms and conditions will continue in effect until amended by ACHILLES by written notice.

3. Permitted Use

During use of the SYSTEMS the SUPPLIER PATRON agrees to:

- Comply with ACHILLES reasonable requirements and directions as to use of the information provided;
- Use the information provided in accordance with applicable law, including data privacy laws and communication regulations;
- Not interfere with the proper functionality of the web site hosting the SYSTEMS; and
- Ensure that no virus or other harmful element is uploaded onto the database.

The SUPPLIER PATRON may use the SYSTEMS for processing its own data for its own internal procurement and supplier risk management purposes only. The SUPPLIER PATRON may not (nor may they permit any third party to) use or attempt to use the SYSTEMS or any of the output of the SYSTEMS other than in accordance with these terms and conditions, or to provide a data processing or other services to any third party by way of trade or otherwise.

The SUPPLIER PATRON may not, nor permit others to:

- decompile, reverse-engineer or disassemble the SYSTEMS or any part thereof (unless with ACHILLES' prior written consent);
- translate or adapt the SYSTEMS for any purpose nor arrange or create derivative works based on the SYSTEMS other than in accordance with these terms and conditions, or without ACHILLES' express written consent in each case;
- make or permit others to make any copies of the SYSTEMS without Achilles' prior written consent, and will effect and maintain adequate security measures to safeguard the SYSTEMS from unauthorised access, use or copying; or
- unless otherwise agreed in writing or in accordance with these terms and conditions, make for any purpose (including, without limitation for error correction), any alterations, modifications, additions or enhancements to the SYSTEMS except as specifically described in these terms and conditions, nor permit the whole or any part of the SYSTEMS to be combined with or become incorporated in any other programme without ACHILLES' prior written consent.

The SUPPLIER PATRON agrees to maintain (and will procure the same undertaking from its Users) the confidentiality of any access passwords or log-on details provided to it or to its Users to enable their access to the SYSTEMS, whether such password and log-on details are provided by ACHILLES or by another User within the SUPPLIER PATRON's organisation. The SUPPLIER PATRON agrees to limit distribution of any such access details solely to individuals in the SUPPLIER PATRON's organisation who require access to the SYSTEMS for the purposes outlined in this clause 3. In addition the SUPPLIER PATRON agrees to notify ACHILLES immediately if it knows or suspects any misuse of, or breach of confidentiality relating to any such access details.

If use of the SYSTEM is authorised outside the United Kingdom by ACHILLES, the SUPPLIER PATRON will be responsible at its own expense for complying with all applicable export and import laws and regulations.

4. Indemnities

Achilles will not be liable for any false, misleading, inaccurate or incomplete information that is provided by SUPPLIERS. Achilles has no responsibility for the SUPPLIER PATRON's use of the SYSTEMS or the information and data contained therein after any such information and/or data has been made available to the SUPPLIER PATRON.

In undertaking and making available the results of a LINK-UP AUDIT, ACHILLES provides verification to SUBSCRIBERS (subject to their agreed access limitations) as to whether or not a SUPPLIER has provided evidence of having effective management systems and controls in place in respect of the relevant auditable categories. ACHILLES makes no warranties, either to the SUPPLIER PATRON or to any other SUBSCRIBERS, that a SUPPLIER that has passed a LINK-UP AUDIT will always act in accordance with any management systems and controls which were in evidence at the time of the LINK-UP AUDIT.

The SUPPLIER PATRON will 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 SUPPLIER PATRON'S breach of any representations, warranties or obligations set forth under these terms and conditions.

ACHILLES will indemnify the SUPPLIER PATRON for any loss suffered by the SUPPLIER PATRON as a result of ACHILLES' failure to comply with any applicable laws or regulations in providing the LINK-UP DATABASE, and against all and any liability, losses, damages, awards, claims, costs and expenses that they may sustain or incur arising from ACHILLES' breach of any representations, warranties or obligations set forth under these terms and conditions, subject to the limit stated below.

ACHILLES' aggregate liability to the SUPPLIER PATRON in respect of all claims (whether in contract or tort) will not exceed the value of the annual fees paid by the SUPPLIER PATRON. ACHILLES will not in any circumstance be liable for indirect, incidental or consequential loss or damage or loss of profits, revenue, business, interest, anticipated savings, or any business interruption. Nothing in these terms and conditions will serve to limit the liability of either PARTY 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.



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5. Fees and Payment

Both SUPPLIERS and SUBSCRIBERS will contribute towards the administration cost of operating the LINK-UP DATABASE. For SUPPLIER PATRONS an annual non-refundable fee is payable in advance. Such fee is payable by the methods set out on the ACHILLES website from time to time. The SUPPLIER PATRON acknowledges and agrees that if paying online:

- payment will be processed on ACHILLES' behalf by ACHILLES' payment processing sub-contractor (the "Payment Processor") from time to time (currently CyberSource Limited (a UK registered company));
- the Payment Processor may process any personal data provided by the SUPPLIER PATRON for the purpose of processing payment of the fee;
- receipt by the SUPPLIER PATRON of any email notification that the SUPPLIER PATRON's payment is being or has been processed does not constitute acceptance by ACHILLES that it will enable the SUPPLIER PATRON'S access to the SYSTEMS and/or that there exists a contract. If ACHILLES decides, for whatever reason, to decline the SUPPLIER's application, then any amounts paid by the SUPPLIER PATRON will be repaid without delay; and
- payment of the fee may be made to ACHILLES or any of its affiliates and receipt by any such entity will constitute valid performance by the SUPPLIER PATRON of its obligation to pay such fee.

6. Ownership Rights

The copyright and all INTELLECTUAL PROPERTY rights whatsoever in the SYSTEMS, SUPPLIER records and data, all computer programs, user manuals, ACHILLES sponsored web sites, Questionnaires, Product Code Brochures, Audit Reports and other documentation in connection with the LINK-UP DATABASE will remain vested in and be the property of ACHILLES or its licensors as applicable. Nothing in these terms and conditions will have the effect of transferring any of the forgoing ownership rights to the SUPPLIER PATRON.

7. Confidentiality

Both PARTIES agree to:

- preserve the secrecy of all CONFIDENTIAL INFORMATION and not disclose any part of it to any other person (other than its own officers, employees or agents) without the other Party's prior written permission;
- keep such information secure and protected against theft, damage, loss or unauthorised access;
- not use such information for any purpose except as contemplated by this Agreement;
- not copy, reproduce, decompile or reduce to writing or permit the same of any part of the CONFIDENTIAL INFORMATION except as may be reasonably necessary for the purposes of the Services and that any copies, reproductions or reductions to writing so made will be the property of the other Party; and
- ensure that these obligations are observed by their employees, officers, agents and contractors and strictly limit the number of persons to which they disclose the CONFIDENTIAL INFORMATION or any part thereof to those persons as the other Party approves in writing from time to time and as are necessary to enable such Party to perform its obligations strictly in accordance with this Agreement.

This clause will continue in force for five years after the expiry, of these terms and conditions for any reason, but the obligations imposed by this clause 7 will not apply to information which:

- at the time it is received is in the public domain;
- subsequently comes into public domain through no fault of the recipient;
- is lawfully received by the recipient from a third party on an unrestricted basis;
- is already known to the recipient prior to disclosure;
- is required by law to be disclosed; or
- is independently developed by either PARTY without reliance upon or use of CONFIDENTIAL INFORMATION.

8. Term and Termination

The contract will continue for the period to which the fees paid by the SUPPLIER pursuant to clause 5 relates and will terminate automatically at the end of such period.

Without prejudice to any of ACHILLES' other rights or remedies, ACHILLES may remove the SUPPLIER PATRON'S access to the SYSTEMS (either temporarily or permanently) and terminate the contract in the event of any actual or suspected breach by the SUPPLIER PATRON of these terms and conditions, or any insolvency or other event occurring in respect of the SUPPLIER PATRON as a consequence of debt.

9. Law and Jurisdiction

These terms and conditions will be governed by the law of England and Wales, and the PARTIES will be subject to the exclusive jurisdiction of the English Courts.