The terms and conditions set out below apply to the **Supplier's** participation in the **Community** to share your **Supplier** information submitted in the **Questionnaire** with all **Subscribers**. The **Supplier** will be deemed to have accepted these terms at the time when the **Supplier** submits its payment to **Achilles**. However, a contract between **Achilles** and the **Supplier** will not be formed unless and until **Achilles** sends to the **Supplier** an email confirming acceptance of the **Supplier's** application. These terms and conditions shall apply to the exclusion of any other terms and conditions, including without limitation any purchase order or confirmation of order provided by the **Supplier**.

1.   Definitions

Achilles means Achilles Information Limited

Community means Construction Africa being the common database of supplier information operated by **Achilles** in the data centre construction sector and other associated industries.

Intellectual Property 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 trade marks, registered and unregistered designs, trade secrets and confidential information.

Party means either **Achilles** or the **Supplier** (and "**Parties**" will be construed accordingly).

PricewaterhouseCooper or PwC refers to member firms of the global network of separate and independent PricewaterhouseCooper firms.

Private Data Questions means questions in the **Questionnaire** which are designed only to be shared with one particular **Subscriber**, such as internal qualification and buyer specific questions.

Questionnaire means the specific online questionnaire through which **Achilles** collects the **Supplier's** information for the purpose of subsequently making it available to **Subscribers** through the **Community.**

Supplier means a supplier, contractor or a service provider who wishes to register, or is already registered on the **Community**

Subscriber means the companies registered as users of the **Community.**

2.   General Terms

The **Supplier** binds itself to answer the questions in the **Questionnaires** as accurately and completely as possible such that the completed **Questionnaire** reflects the general status of, and the specific goods and or services offered by, the **Supplier** at the time of completion of the **Questionnaire**. The **Supplier** is responsible for reviewing and maintaining the accuracy of the data information entered in the **Questionnaire**. Certain functionality within the **Community** may generate email or other forms of electronic messaging to be sent to the **Supplier**. The **Parties** recognise that such forms of communication are not infallible, and it is the **Supplier's** responsibility to ensure any contact details provided to **Achilles** are correct, and to make check regular checks to view any communications which may be held on the **Community**.

Achilles may request **Supplier** to update or confirm the information **Supplier** has entered into the **Questionnaires** if it believes there may be errors or inconsistencies. Once confirmed by the **Supplier**, **Achilles** will publish the entire information provided by the **Supplier** through the online **Questionnaires** out to the **Subscribers** (or a single **Subscriber** in the case of **Private Data Questions**), by loading the completed **Questionnaire** responses into the relevant **Community** databases where it may be searched by **Subscribers**. **Achilles** will provide **Supplier** with email confirmation once **Supplier's** information has been loaded onto the **Community** search databases. **Achilles** may use the information provided by **Supplier** to analyse and to improve the services it offers to customers, and may make selected non-sensitive elements of **Supplier's** information available to **Subscribers** of other similar communities operated by **Achilles** or its affiliates.

The **Supplier** agrees to:

i.   Comply with **Achilles** reasonable requirements and directions as to use of the **Questionnaire**;

ii. Use the **Questionnaire** in accordance with applicable law, including data privacy laws and communication regulations;

iii. Not knowingly interfere with the proper functionality of the web site hosting the **Questionnaire** or the **Community**;

The Supplier agrees not to use the **Questionnaire** to knowingly load, post or distribute any information that:

i.   infringes the Intellectual Property rights of any other person or entity;

ii. is harmful, inaccurate, misleading, fraudulent, defamatory, obscene, offensive or otherwise illegal.

Achilles and the **Supplier** shall use their reasonable endeavors 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 **Questionnaire**.

The **Supplier** further agrees to maintain the confidentiality of the unique questionnaire log on, required by the **Supplier** to gain access to the **Questionnaire**, issued by Achilles in the **Community** introductory letter or email. The **Supplier** agrees to limit distribution of this log on to individuals in the **Supplier's** organisation who require access to this log on for the purpose of completing the **Questionnaire**. In addition the **Supplier** will notify **Achilles** immediately if it knows or suspects any misuse of, or breach of confidentiality relating to this log on.

Neither **Party** shall offer, give or agree to give to any person employed by or on behalf of the other **Party** any gift or consideration of any kind as an inducement or reward for any act in relation to the provision of the **Community**. Any breach of this condition by the **Supplier** (or by anyone employed by or acting on its behalf) in relation to the **Community** will entitle **Achilles** to terminate this agreement with immediate effect. Under such circumstances **Achilles** will not refund any fees received from the **Supplier**.

Notwithstanding anything else in these terms and conditions and with the exception of the obligation of the **Supplier** to pay the fee, neither **Party** shall be liable for any failure in performing any of its obligations under these conditions if such failure is caused by circumstances beyond its reasonable control, which shall 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 terms and 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 by **Achilles** by written notice. These terms and conditions may be provided with translations into other languages, and if a contradiction should occur between such translations then the terms of the English version will take precedence.

Achilles and the **Supplier** confirm any contract entered in to between **Achilles** and the Supplier shall be between those parties only and that unless expressly agreed otherwise herein, no third party shall have any rights under the Contracts (Right of Third Parties) Act 1999 to enforce any term of such contract. Furthermore no third party may be held liable by and owes no duty of care, responsibility or liability to the **Supplier**. The **Supplier** agrees that it will not bring any claim or proceedings of any nature (whether in contract, tort, breach of statutory duty or otherwise and including, but not limited to, a claim for negligence) in any way in respect of or in connection with this contract against any such third party.

3. Indemnities

The **Supplier** 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's** breach of any representations, warranties or obligations set forth under these terms and conditions.

Achilles will indemnify the **Supplier** for any loss suffered by the **Supplier** as a result of **Achilles'** failure to comply with any applicable laws or regulations in providing the **Community**, 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.

Nothing in these terms and conditions will serve to limit or exclude the liability of either **Party** in respect of any matter which cannot be limited or excluded by law. For all other matters **Achilles'** aggregate liability to the **Supplier** in respect of all claims (whether in contract or tort) will not exceed the value of the preceding 12 months fees paid by the **Supplier**. **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, use of any open source software or any business interruption.

The web site hosting the **Questionnaire** may provide links to other internet sites. **Achilles** is not responsible for the availability or content of such other sites. The **Supplier's** accessing of any of these sites is entirely at the risk of the **Supplier**.

4. Fees and Payment

Both **Suppliers** and **Subscribers** contribute towards the administration costs of operating the **Community**. An annual non-refundable fee is payable by the **Supplier** for subscribing to the **Community**, the amount of which is specified in the **Supplier's** application. If, in accordance with the applicable legislation of the country of the **Supplier**, services rendered by **Achilles** under this agreement are subject to tax withheld from the service fees and to be remitted by the **Supplier** to the respective tax authorities, the fees for services should be increased by the **Supplier** by the respective amount so that, after withholding of these taxes from the fee amount, **Achilles** is paid the amount of fees equal to the amount which **Achilles** would receive if there were no such withholding. Such fee is payable by the methods set out on the **Achilles** website from time to time. The **Supplier** 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** for the purpose of processing payment of the fee;

- receipt by the **Supplier** of any email notification that the **Supplier's** payment is being or has been processed does not constitute acceptance by **Achilles** that it will include the **Supplier's** information in the **Community** 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** 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 shall constitute valid performance by the **Supplier** of its obligation to pay such fee.

5. Ownership Rights

The copyright and all **Intellectual Property** rights whatsoever in the **Community** database, all computer programs, user manuals, **Achilles** sponsored web sites, questionnaires and other documentation in connection with the **Community** will remain vested in and be the property of **Achilles**. Any **Intellectual Property** in the information and other material entered by the **Supplier** onto the **Questionnaire** shall, at all times, remain vested in the **Supplier**.

6. Confidentiality

Notwithstanding **Achilles'** duty send high risk responses to the **Questionnaire** to **PwC** for analysis on behalf of a specific **Subscriber** and to publish the **Supplier's Questionnaire** responses to **Subscribers, Achilles** and the **Supplier** 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, subcontractors or agents, without the prior written consent of the other **Party**.

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

This provision 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;

v. information developed by one Party independent of the other; or

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 **Community.**

Supplier is aware that its information is designed to be shared with the **Subscribers** and participating in the **Community** and completing the **Questionnaires** may require the **Supplier** to provide certain limited personal information on individuals such as names, job titles and contact details. The **Supplier** confirms that it is permitted to provide any such details to **Achilles** for the purposes of its participation in the **Community**. **Achilles** or the **Subscribers** can transfer the Supplier's information into or out of the European Union for the purposes of operational handling or backup purposes, including to other **Achilles** subsidiary or affiliated companies.

7. Term and Termination

The contract shall continue for the period to which the fees paid by the **Supplier** pursuant to clause 4 relates and shall terminate automatically at the end of such period.

Without prejudice to any of **Achilles'** other rights or remedies, **Achilles** may remove the **Supplier's** details (either temporarily or permanently) from the **Community** and terminate the contract in the event of any actual or suspected breach by the **Supplier** of these terms and conditions, or any insolvency or other event occurring in respect of the **Supplier** as a consequence of debt.

8.   Law and Jurisdiction

These terms and conditions shall be governed by the laws of England and Wale and the **Parties** shall be subject to the exclusive jurisdiction of the English courts.