
M3 HOUSING LTD

Standard Terms and Conditions

M3 Housing Limited, a company incorporated and registered in England & Wales with company number 04966582 whose registered office is at Three Kings, 23 Commonsides East, Mitcham, Surrey CR4 2QA, (the "**Distributor**") is the appointed distributor and licensor of certain software applications, products and services set out in the Schedule(s) to this Agreement. You (the "**Customer**") wish to use the software, products and services in accordance with the terms set out in this Agreement and as may be otherwise agreed between the Distributor and the Customer from time to time. Each of the Distributor and the Customer is a "**Party**" and are together the "**Parties**".

1. INTERPRETATION

1.1 In this Agreement, the following words and phrases shall, unless the context otherwise requires, have the following meanings:

"Affiliate"	means and includes each and any subsidiary or holding company of the Customer and each and any subsidiary of a holding company of the Customer;
"Agreement"	means the Schedule and conditions of M3Housing Limited as set out on www.m3h.co.uk ; entered into between the Parties for the supply or licence of specified Products or Services as specified in Schedule 1 – Schedule of Rates Products, Schedule 2 – Diagnostic Software and Repairs Reporting Products, Schedule 3 – Development Software, to the Customer by the Distributor, the terms of which are those set out in this Agreement and in the relevant Schedule;
"Annual Fee"	means, the amount payable by the Customer on the relevant Effective Date and on each Renewal Date in respect of the provision or licence of Products or Services, (as specified in the relevant Schedule) for the year beginning on that date, and calculated in accordance with Clause 4.2;
"Business Day"	means any day which is not a Saturday, a Sunday or a public holiday in England;
"CPI"	means the monthly Consumer Prices Index as published by the Office for National Statistics and available at www.statistics.gov.uk ;
"Effective Date"	means, the date on which the Customer's offer to purchase Products and/or Services from the Distributor, made by way of an Order, is accepted by the Distributor in accordance with Clause 2.2;
"Event of Force Majeure"	means an event which falls within one or more of the following categories: a) riot; civil unrest; military action or terrorism; b) earthquake, storm, flood or other natural disaster; or c) deliberate sabotage of, or malicious damage to or destruction of premises, equipment or data (not attributable to the affected Party or any of its employees);

"Fees"	means the fee set out in the relevant section of this website or as otherwise agreed between the Distributor and the Customer, payable by the Customer to the Distributor in accordance with Clause 4, including the Initial Fee and the Annual Fee;
"Housing Unit"	means an individual housing unit managed by the Customer (including bedsit and hostel units) that is let under a separate tenancy or occupancy agreement, and including a unit in which the Customer does not hold a property interest but in respect of which the Customer provides commissioning and maintenance services or services involving the use and/or access by the Customer of the Products or the Services;
"Initial Fee"	means the initial amount payable by the Customer in respect of the licence or provision of Products or Services as specified in the relevant Schedule to this Agreement and calculated in accordance with Clause 4.2;
"Intellectual Property Rights"	means all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights, goodwill and rights in reputation (whether registered or unregistered) and all applications for the same, anywhere in the world;
"Modifications"	any change, amendment, modification or enhancement to, or upgrade or revision of, a Product which from time to time is generally offered to the Distributor's customers (whether on a gratuitous basis or for payment) in the course of its normal business;
"Order"	means an order form (electronic or otherwise), completed by the Customer and submitted to the Distributor setting out the details of the particular Products and/or Services ordered by the Customer in accordance with this Agreement;
"Product"	means the software (together with any Modifications thereto) and/or goods to be licensed or provided by the Distributor to the Customer under this Agreement as set out in the relevant Schedule, together with any associated documentation;
"Renewal Date"	means each anniversary of the date of an Agreement;
"Service Levels"	means, where relevant, the service levels to which a particular Service is to be provided, as set out in the relevant Schedule;
"Service"	means a service (which may include a Support Service) to be provided by the Distributor to the Customer under this Agreement as set out in the relevant Schedule, together with any associated documentation;
"Schedule(s)"	means, in relation to each Product and Service, the specific terms set out in Schedule 1 – Schedule of Rates

	Products, Schedule 2 – Diagnostic Tools and Repairs Reporting Products, Schedule 3 – Development Software, appended to this Agreement which shall apply to the licence or provision of that Product or Service by the Distributor to the Customer in accordance with Clause 2.3;
“Schedule 1 – Schedule of Rates Products”	means the Schedule which deals with the supply and licensing of hard copy and electronic schedules of rates, forms of contract, guidance documentation and provision of Support Services.
“Schedule 2 – Diagnostic Software and Repairs Reporting Products”	means the Schedule which deals with the supply and licensing of repairs diagnostic software, online and mobile repairs reporting, hard copy and electronic tenant repair guides and provision of Support Services.
“Schedule 3 – Development Software”	means the Schedule which deals with the supply and licensing of development appraisal software and provision of Support Services.
"Support Services"	means the support and maintenance services provided by the Distributor to the Customer in accordance with the Support Terms and as may be specified in the relevant Schedule;
"Support Terms"	means the support terms set out in the relevant Schedule which, unless otherwise stated, shall apply to the provision of Support Services;

1.2 The headings in this Agreement do not affect its interpretation. Save where the context otherwise requires, references to clauses are to clauses of this Agreement.

1.3 Unless the context requires otherwise:

1.3.1 references to the Distributor and the Customer include their permitted successors and assigns;

1.3.2 references to statutory provisions include those statutory provisions as amended or re-enacted; and

1.3.3 references to any gender include all genders.

1.4 In the case of conflict or ambiguity between any provision contained in the body of this Agreement, any provision contained in any Schedule, and any special provision, the following order of precedence shall apply:

1.4.1 any special provisions set out in an Order which have been expressly accepted by the Distributor;

1.4.2 provisions set out in the Schedules; and

1.4.3 the body of this Agreement.

2. ABOUT THE AGREEMENT

- 2.1 The Distributor agrees to license and provide Products and Services to the Customer as shall be set out in the relevant Schedule.
- 2.2 By completing and submitting an Order, the Customer is making an offer to purchase Products and/or Services which, only if accepted by the Distributor, will result in a binding Agreement between the Parties, effective as of the Effective Date. For the purposes of this Clause 2.2, an Order shall not be considered to have been accepted unless the Distributor has expressly confirmed its acceptance thereof in writing (which may include by an email sent by the Distributor to the Customer).
- 2.3 The provision of the Products and Services by the Distributor to the Customer under an Agreement shall be subject to this Agreement and the relevant Schedule.
- 2.4 Any Support Services to be provided by the Distributor to the Customer under an Order shall be subject to the Support Terms.
- 2.5 The Distributor may engage individuals or organisations on a sub-contract or consultancy basis, as the Distributor sees fit, to provide any of the Products or Services.

Performance of Services

- 2.6 The Distributor will use reasonable endeavours to meet any time scales or other performance objectives set for the delivery of the Products or performance of the Services, including any Service Levels set out in the Schedules.
- 2.7 If the Distributor performs any services at the Customer's request which are not specified in an Agreements, then, unless the Parties agree otherwise in writing, the provisions of this Agreement shall apply to those services so performed and if no fee is agreed in writing for these services the Distributor shall be paid on a time and materials basis at its prevailing rate of charges.
- 2.8 The performance of the Services is conditional upon the Customer's fulfilment of its obligations under this Agreement or as set out in the Agreement. The Customer shall provide the Distributor with all necessary information, data, documents, facilities, support, services and co-operation reasonably required by the Distributor for the proper performance of the Services and within sufficient time to enable the Distributor to perform those Services in accordance with the Agreement. The Customer acknowledges that any delay or failure by it to provide the same may result in the Distributor being unable to meet any agreed timetable or budget. The Customer shall be responsible for ensuring the accuracy and completeness of all documentation, information and materials provided to the Distributor and the Distributor shall be entitled to rely upon such material as being accurate and complete without seeking to verify or check it.
- 2.9 For the avoidance of doubt, the Distributor shall be under no obligation to supply any hardware, or any software or goods other than the Products, or any services other than the Services, to the Customer.

3. RENEWALS AND CHANGES IN UNITS OR USERS

- 3.1 Prior to each Renewal Date, the Customer shall inform the Distributor, as required by the relevant Schedule, of:

- 3.1.1 the number of Housing Units; and/or
- 3.1.2 the number of individual users whom the Customer wishes to authorise to use and/or access the Products or the Services; and/or
- 3.1.3 any other information reasonably requested by the Distributor.

3.2 If during any year beginning on the date or anniversary of the relevant Effective Date, either the number described in paragraph 3.1.1 or 3.1.2 increases beyond the number set out in the relevant Agreement for which the Customer has been granted a licence in respect of the Products or Services (including as a result of a merger, acquisition or other corporate change involving the Customer), the Customer shall promptly notify the Distributor of the extent of such increase.

4. FEES

- 4.1 The Customer agrees to pay to the Distributor all Fees due under this Agreement as set out in the relevant Agreement, including the Initial Fee and, where applicable, the Annual Fee. All sums are exclusive of VAT, which will be payable at the standard rate applicable at the date of the invoice for the Initial Fee and/or Annual fee, in addition to the Fees by the Customer.
- 4.2 The Initial Fee, and the Annual Fee, shall be calculated in accordance with the Distributor's rates in effect at the relevant Renewal Date, and such rates can be accessed at the URL <http://www.m3h.co.uk>.
- 4.3 In the event that either of the numbers referred to in Clause 3.1 has at any Renewal Date increased beyond the previous number notified by the Customer to the Distributor, the Distributor shall inform the Customer of the Annual Fee payable in respect of the year beginning on the relevant Renewal Date. Save as expressly agreed in writing, the terms of the original Agreement and this Agreement shall continue to apply.
- 4.4 In the event that any increase of the kind described in Clause 3.2 occurs, the Customer shall be liable to pay an increased Initial Fee and/or Annual Fee in accordance with the Distributor's rates in effect at the Renewal Date, and the Distributor shall inform the Customer of the revised Initial Fee and/or Annual Fee.
- 4.5 If the Customer fails to pay any amount payable by it under this Agreement, the Distributor shall (in addition to its other rights under this Agreement or the relevant Agreement) be entitled, but not obliged to charge the Customer interest on the overdue amount, payable by the Customer forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 3% per annum above the base rate for the time being of Barclays Bank Plc. Such interest shall accrue on a daily basis and be compounded quarterly. The Distributor reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

5. VARIATION OF FEES

- 5.1 Except as expressly permitted to increase the Initial Fee and/or Annual Fee under this Agreement, the Distributor may (subject to any provision to the contrary in any Schedule) vary its Fees not more than once in every successive period of 12 months during the term of the applicable Agreement by giving not less than 30 days' notice to the Customer.

5.2 Subject to any provision to the contrary in any Schedule, any of the Fees may be increased by the Distributor with prior notice to the Customer, but by no more than the greater of:

5.2.1 whichever is the greater of three percent per annum or the percentage increase in the September CPI as published by the Office of National Statistics in document Table 36 over the September CPI indices of the preceding year.

Updated information regarding Fees shall be posted on www.m3h.co.uk and shall be available in written form upon request.

6. DISTRIBUTOR'S WARRANTIES AND LIMITS OF LIABILITY

6.1 The Distributor makes no warranty as to the performance or results the Customer may obtain by using the Products or Services nor does the Distributor warrant that the Customer's use of the Products will be uninterrupted or error free.

6.2 The Distributor undertakes to use reasonable skill and care in the provision of the Services.

6.3 All other conditions, warranties or other terms which might have effect between the Parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded to the fullest extent permitted by law, including, without limitation, any implied conditions, warranties or other terms as to quality or fitness for purpose.

6.4 Except as expressly stated in Clause 6.5:

6.4.1 The Distributor shall have no liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, which fall within any one of the following categories:

- (a) special damage even though the Distributor was aware of the circumstances in which such special damage could arise;
- (b) loss of profits; anticipated savings (including in respect of overheads); business opportunity or goodwill; and
- (c) loss of data.

6.4.2 The total liability of the Distributor, whether in contract, tort or otherwise and whether in connection with this Agreement or any collateral contract, shall in no circumstances exceed the total sums payable and paid by the Customer during any 12 month period.

6.4.3 The Customer acknowledges and agrees that no representations were made prior to entering into this Agreement and that, in entering into this Agreement, it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Agreement. The Customer shall have no remedy in respect of any representation (whether written or oral) made to it upon which it relied in entering into this Agreement and the Distributor shall have no liability otherwise than pursuant to the express terms of this Agreement.

- 6.5 The exclusions in Clause 6.4 shall apply to the fullest extent permissible at law but the Distributor does not limit or exclude liability for death or personal injury caused by the negligence of the Distributor, its officers, employees, contractors or agents, for fraud, for breach of the obligations implied by s.12 Sale of Goods Act 1979 or s.2 Supply of Goods and Services Act 1982 or the Sale and Supply of Goods Act 1994 or for any other liability which may not be excluded by law.

7. INDEMNITY

The Customer agrees to indemnify and hold the Distributor, its employees, agents, Distributors and business partners, harmless against all and any claims, damages, losses, costs and expenses, including legal fees, arising out of the breach of this Agreement or a contract or any other liabilities arising out of the use of the Products or Services by the Customer or any other person whose access to them is attributable to the Customer or its employees, contractors, sub-contractors and consultants.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 The Customer acknowledges that no Intellectual Property Rights in the Products (including any Modifications) or any work or materials arising from the performance of the Services belong to the Customer, and the Customer shall have no rights in or to the Products or such work or materials other than the right to use them in accordance with the terms of this Agreement and any relevant contract.
- 8.2 Subject to the provisions of Clause 8.3, the Distributor will indemnify the Customer and keep the Customer indemnified from and against any and all claims made against the Customer alleging that the normal use of a Product or Products permitted under this Agreement infringes the Intellectual Property Rights of a third party (a "Claim"). Such indemnity will include all losses, costs and expenses incurred by the Customer as a consequence of a Claim.
- 8.3 Immediately upon becoming aware of a Claim which might give rise to any liability on the Distributor to indemnify the Customer under Clause 8.2 the Customer will:
- 8.3.1 give written notice of the Claim to the Distributor;
 - 8.3.2 make no settlement or compromise of the Claim without prior notice to the Distributor;
 - 8.3.3 allow the Distributor to assume the control and conduct of the defence and settlement of the Claim; and
 - 8.3.4 at its own expense give such reasonable assistance as may reasonably be required by the Distributor in the defence, settlement or compromise of the Claim.
- 8.4 In connection with the control and conduct of the defence and settlement of the Claim the Distributor will:
- 8.4.1 keep the Customer informed of relevant matters; and
 - 8.4.2 make no settlement or compromise of the Claim without prior notice to the Customer.
- 8.5 In the event that a barrister of at least seven years' call provides a written opinion that judgment in respect of the Claim is, on a balance of

probabilities, likely to be given against the Customer, the Distributor may at its own option and expense:

8.5.1 procure for the Customer the right to continue using the relevant Product(s) in the manner contemplated by this Agreement; or

8.5.2 replace or modify the relevant Product(s) so that they no longer infringe the rights of any third party (provided that any such replacement or modification of the Products will not materially affect the functionality of the Product(s)); or

8.5.3 in the event that neither of the options (a) and (b) above is available, terminate this Agreement.

8.6 The indemnity contained in Clause 8.2 will not extend to any Claim which arises as a result of:

8.6.1 any modifications to the Products made by any person other than the Distributor, its employees and agents or any other person where such modifications have not been authorised by the Distributor; or

8.6.2 use of the Products for a purpose not specified in this Agreement or otherwise contemplated by this Agreement.

9. **TERMINATION**

Term and Termination

9.1 This Agreement commences on the Effective Date of the first contract entered into hereunder and unless otherwise terminated in accordance with this Clause 9 shall continue for an initial period of 5 years, and from year to year thereafter.

9.2 The Distributor may terminate:

9.2.1 this Agreement and/or any contracts immediately by notice in writing to the Customer if the Customer's use of any Products or Services is in breach of any applicable law or regulation; or

9.2.2 this Agreement and/or any contracts immediately by notice in writing to the Customer if the Customer is in material breach of any of its obligations under this Agreement and, where that breach is capable of remedy, the Customer fails to remedy the breach within thirty (30) days of receiving notice specifying the breach.

9.3 Either Party may terminate this Agreement and/or any contract immediately by notice in writing to the other Party:

9.3.1 if any of the following events (or any event analogous to any of the following occurs in a jurisdiction other than England & Wales) occurs in respect of the other Party:

(a) a proposal is made for a voluntary arrangement within Part I of Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

(b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and

exclusively for the purpose of, a bona fide reconstruction or amalgamation);

- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to s.98 of Insolvency Act 1986;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (e) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
- (f) it is or becomes insolvent within the meaning of s.123 Insolvency Act 1986; or
- (g) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or

9.3.2 in the circumstances set out in Clause 10.3.

- 9.4 Subject to the other terms of the Agreement, either Party may terminate all or part of the Products and Services provided under this Agreement at any time on giving at least 30 calendar days' written notice to the other, such notice to be given prior to any Renewal Date, failure by the Customer to give notice to terminate by the Renewal Date, will render the Customer liable to pay all Annual Fees due up to the following year's Renewal Date.

Consequences of Termination

- 9.5 Termination of the Agreement or any contract shall be without prejudice to any other Agreements ongoing at the time of termination, and such Agreements shall continue in full force and effect and subject to the terms and conditions set out in the Agreement until expiry or termination.
- 9.6 Termination of the Agreement for any reason shall not affect any rights or obligations of either Party which have accrued prior to such termination.
- 9.7 Termination shall not relieve the Customer from its obligation to pay all outstanding Fees under the Agreement.
- 9.8 Upon termination of all or part of the Products and Services and no later than the former Renewal Date, the Customer shall (and shall ensure that all third parties associated with or in contract with the Customer or any of his consultants, contractors, service providers and subcontractors) delete any electronic copies of, and cease to use, all Products and any documentation provided by the Distributor (including any direct or indirect derivations of the same) and destroy any physical copies of the same including those held by agents of the third parties, except to the extent that the Customer requires copies of any documentation for the purposes of fulfilling any obligations which it is under in respect of the maintenance of records.
- 9.9 The Customer will be held liable following termination of all or part of the Products and Services for any continuing use by the Customer, and any third party associated with or in contract with the Customer or any of his consultants,

contractors, service providers and subcontractors) of any terminated Product and Service and any documentation provided by the Distributor (including any direct or indirect derivatives of the same) as such use will be in breach of the Intellectual Property Rights belonging to those organisations for whom the Distributor acts as agent.

10. **FORCE MAJEURE**

10.1 Subject to the remaining provisions of this Clause 10, either Party shall be released from its obligations (other than an obligation to pay money) under this Agreement or a contract to the extent that that Party is delayed, hindered or prevented from performing those obligations by an Event of Force Majeure and that such Event of Force Majeure was beyond that Party's reasonable control.

10.2 The Party claiming to be affected by an Event of Force Majeure will not be entitled to invoke the provisions of Clause 10.1 unless:

10.2.1 on becoming aware of any Event of Force Majeure which gives rise, or which is likely to give rise, to any failure or delay in the performance of its obligations under this Agreement or a contract (as appropriate), it notifies the other Party as soon as practicable, giving details of the Event of Force Majeure, the obligations on its part which are affected and its reasonable estimate of the period for which such failure or delay will continue; and

10.2.2 it provides written confirmation and reasonable evidence of such Event of Force Majeure within 10 Business Days of a request for the same; and

10.2.3 it takes all reasonable steps to overcome and mitigate the effects of such Event of Force Majeure.

10.3 If a Party is prevented from performing its obligations under this Agreement or a contract by an Event of Force Majeure which continues for more than 90 days then either Party shall be entitled to terminate this Agreement and/or the relevant contract (as appropriate) without liability to the other party forthwith on giving written notice of termination to the other party in accordance with Clause 9.3.2.

11. **CONFIDENTIALITY AND PUBLICITY**

11.1 Each Party agrees and undertakes that during the term of this Agreement and thereafter it will keep confidential, and will not use for its own purposes nor without the prior written consent of the other disclose to any third party, any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such Party from the other Party and which relates to the other Party or any of its Affiliates unless:

11.1.1 such information is public knowledge or already known to such Party at the time of disclosure or subsequently becomes public knowledge other than by breach of this Agreement or subsequently comes lawfully into the possession of such Party from a third party; or

11.1.2 such Party is under a legal or regulatory obligation to disclose such information.

11.2 The terms of this Agreement and each contract are confidential and may not be disclosed by the Customer without the prior written consent of the Distributor.

11.3 The provisions of this Clause 11 shall remain in full force and effect notwithstanding any termination of this Agreement.

12. **DATA PROCESSING**

12.1 To the extent that the Distributor gets access to any personal data from the Customer or in the exercise of its obligations under this Agreement (where personal data is defined in the Data Protection Act 1998), the Customer agrees that the Distributor acts as a data processor (as defined in the Data Protection Act 1998) for such personal data. The Customer authorises the Distributor to appoint sub-contractors as further data processors on the Customer's behalf provided that such further data processors are engaged on terms providing equivalent rights to the Customer against the further data processors and equivalent protections in relation to such personal data to those set out in this Agreement.

12.2 The Distributor shall process such personal data only in accordance with this Agreement and the Customer's instructions and shall ensure that the Distributor has taken steps to ensure the reliability of those of its employees who are used to process such personal data.

12.3 The Distributor warrants that it has appropriate operational and technological processes and procedures in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of such personal data.

12.4 The Customer may, upon reasonable notice and subject to Clause 11, audit the Distributor's processes to determine compliance with the foregoing provisions of this Clause 12.

13. **WAIVER**

No forbearance or delay by either Party in enforcing its rights will prejudice or restrict the rights of that Party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

14. **SEVERABILITY**

If any provision of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions will not be prejudiced.

15. **AMENDMENTS**

No amendment, waiver or variation of this Agreement shall be binding on the Parties unless it is set out in writing, expressed to amend this Agreement and agreed in writing by each of the Parties.

16. **THIRD PARTY RIGHTS**

No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement, whether under the contracts (Rights of Third Parties) Act 1999 or otherwise.

17. NOTICES

17.1 Notices shall be in writing, and shall be sent to the other Party marked for the attention of the person at the address set out for such Party in this Agreement. Notices may be sent by first-class mail, e-mail or facsimile transmission provided that facsimile transmissions are confirmed within 24 hours by first-class mailed confirmation of a copy. Correctly:

17.1.1 addressed notices sent by first-class mail shall be deemed to have been received 72 hours after posting (and, in the case of the Distributor, a notice shall be correctly addressed if it is addressed to [M3 Housing Ltd, Three Kings, 23 Commonsides East, Mitcham, Surrey CR4 2QA);

17.1.2 emailed notices shall be deemed to have been received at the time that the email enters the information system of the intended recipient provided that no error message indicating failure to deliver has been received by the sender and provided further that within 24 hours of transmission a hard copy of the email is sent by post to the intended recipient;

17.1.3 information system of the intended recipient provided that no error message indicating failure to deliver has been received by the sender and provided further that within 24 hours of transmission a hard copy of the email is sent by post to the intended recipient;

17.1.4 directed facsimile transmissions shall be deemed to have been received instantaneously on transmission provided that they are confirmed as set out above,

provided in either case that the day of deemed receipt is a Business Day and, if it is not, then the day of deemed receipt shall be the next Business Day thereafter.

18. ASSIGNMENT

18.1 Except, and subject to, as expressly provided for in this Agreement or a contract, the Customer shall have no right to:

18.1.1 sub-license or to assign the benefit or burden of any licence or other right to use the Products or receive the Services in whole or in part without the prior written consent of the Distributor, such consent not to be unreasonably withheld; or

18.1.2 allow the Products to become the subject of any charge, lien or encumbrance, without the prior written consent of the Distributor.

18.2 The Distributor may sub-license, assign, charge or otherwise transfer any of its rights or obligations under this Agreement or under a contract, provided it gives written notice to the Customer of such any sub-licence, assignment, charge or other transfer.

19. ENTIRE AGREEMENT

This Agreement, the documents referred to herein, and any contracts entered into between the Parties, contain the whole agreement between the Parties relating to the matters dealt with therein and supersede all prior agreements, arrangements and understandings between the Parties relating to that subject matter.

20. **GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with English law and each Party hereby submits to the non-exclusive jurisdiction of the English courts.

SCHEDULE 1 – SCHEDULE OF RATE PRODUCTS

1. Subject to paragraph 2, in this Schedule, capitalised words and phrases have the meanings given in the Agreement.
2. Notwithstanding anything to the contrary in the Agreement, where used in this Schedule the following words and phrases shall have the following meanings:

“Contractor”	means an organisation that is contracted to provide services to the Customer, which may include works or consultancy services
“Data”	means any of the information comprising the Product which may include a combination of invitation to tender, price framework, kpi framework, contract conditions, preambles, a schedule of rates with short, medium and long descriptions, and a performance/technical specification
“Electronic Format”	means in a form that can be held on a computer or electronic storage media;
“Hard Copy”	means a printed copy;
“Product Name”	means the name that appears on the title page of the Product;
“NHMF”	means the National Housing Maintenance Forum whose Committee is elected by Customers of the M3NHF Schedule of Rates and whose meetings are serviced by M3 Housing;
“Product”	means the Product or Products that are listed in this Schedule as ordered by the Customer.

Grant

3. Subject to, and in consideration of the payment of the Initial Fee and the Annual Fee, the Distributor grants the Customer a non-exclusive, non-transferable licence to use the Product in accordance with the terms of the Agreement and this Schedule.

Use

4. Use of the Product shall be restricted to use by the Customer for the purpose of operation of a repairs, periodic inspection, servicing, maintenance, property reinvestment and improvement contract as determined by the Product documentation.
5. The use of the Product or any of the associated documentation either in whole or in part for the provision of services to other organisations (except as provided under clause 17 of this Schedule) or for any purpose not covered by clause 4 of this Schedule is specifically excluded, except where prior written permission has been obtained from the Distributor.

Distributor’s obligations

6. The Distributor will supply the Product to the Customer in both Hard Copy and Electronic Format

Customer’s obligations

7. The Customer may make sufficient copies of the Data in hard copy and PDF protected format to enable documents to be prepared for tender and operational purposes provided that:
 - 7.1 the Product Name shall appear on all covers and the headers or footers to each page as in the original Hard Copy or Electronic Format, whenever the document is reproduced or amended;
 - 7.2 no Data shall be extracted or copied from the Hard Copy or Electronic Form without being accompanied by the Product Name; and
 - 7.3 any contract using the Product requires the Contractor to treat all data derived from the Product as confidential and to use it only for the purposes of the Agreement.
8. The Customer is permitted to make changes to the Data and to the contract documentation to suit their requirements, but must then declare all changes to the standard schedule and standard prices to each Contractor when tendering, so that the Contractors are fully aware of the extent to which it differs from the standard Product.
9. The Customer may pass Hard Copies of the Data to potential Contractors exclusively for use for tender purposes on condition that the potential Contractor's return or destroy all copies when the tender process is completed.
10. The Customer may not pass unprotected copies of the Data in Electronic Format to potential Contractors for tender purposes without the written permission of the Distributor, and may purchase a Service from the Distributor to assist them in making the Data available to potential Contractors in Electronic Format.
11. The Customer is required to provide all Data required for the purpose of his potential Contractors tendering or pricing for his works. The Distributor will not be responsible for providing the Customer's potential Contractors with copies of the standard Product on behalf of the Customer.
12. The Customer may not pass copies of the Data to Contractors or any other appointed third party except where:
 - 12.1 they have appointed the Contractor or other appointed third party to carry out works or provide services within the terms of this Schedule;
 - 12.2 they take responsibility for ensuring the Data is used exclusively for work carried out for the Customer within the terms of this Schedule; and
 - 12.3 they take responsibility for ensuring the Contractor (and his subcontractors, staff and operative) or other appointed third party returns or destroys all copies of the Data and removes it from their computers when this work ceases or the supply of the Product and/or Service is terminated under Clause 9 of the Agreement.
13. The Customer may not pass Data in Electronic Form to a Contractor except where the Contractor has provided the Customer with a copy of the authorisation provided to that Contractor by the Distributor permitting them to obtain the Data in Electronic Form, and where the Customer has noted the sub-licence number.
14. The Customer shall ensure that the Data is held secure and that security measures are in place to prevent unauthorised copying of the Data in Electronic Form and shall assist the Distributor or their agents in identifying the source of any unauthorised copies.

15. The Customer will be responsible for the provision of all hardware and software and the provision of any Data transfer programs that may be required.
16. The Customer shall designate a single point of contact with regard to any queries that may arise over the Data provided.
17. At the Renewal Date, the Customer is required to inform the Distributor, as to which Contractors and other appointed third parties, he has been provided Data to under the terms of Clause 12 of this Schedule.

Fees

18. The Customer acknowledges that the Initial Fee and Annual Fee may be varied in accordance with the terms of the Agreement.
19. Certain Fees are charged according to the number of Housing Units as defined in the Agreement which shall be deemed to include any units owned by any other organisation that does not employ their own maintenance staff from their own offices for which the Customer provides commissioning and maintenance services or a repairs ordering, performance or cost monitoring service.

Changes

20. The Distributor reserves the right to make changes to the Product when it considers it reasonable to do so.

Support Services

21. Subject to, and in consideration of, the payment of the Annual Fee the Distributor shall, during the year to which that Annual Fee relates, provide the following Support Services:
 - 21.1 a helpdesk facility to respond to queries specifically relating to Products from the Customer made by telephone and email, usually within two Business Days;
 - 21.2 For certain designated Products, servicing a user committee (named the National Housing Maintenance Forum) elected at a meeting open to all Customers of those designated Products;
 - 21.3 providing a fund controlled by the NHMF to pay for further development of certain designated Products, and for the dissemination of good practice in housing maintenance;
 - 21.4 providing a fund to pay for further development of all other Products and any related or associated documentation
 - 21.5 making available from time to time to the Customer, as determined by the Distributor, updates to the Data to enhance existing features and adjust prices to match changed market conditions, as agreed with the NHMF in respect of certain designated products, and as issued by the Intellectual Property Right holders in respect of all remaining products listed in this Schedule.

PRODUCTS AND SERVICES APPLICABLE TO SCHEDULE 1

Product	ISBN Reference	NHMF Designated Product
M3NHF Schedule: Responsive Maintenance and Void Property Works	978-1-908409-00-3	Yes
M3NHF Schedule: Planned Maintenance and Property Reinvestment Works	978-1-908409-03-4	Yes
M3NHF Schedule of Rates: Repairs Ordering Schedule (ROS)	978-1-908409-01-0	Yes
M3NHF Schedule: Voids Ordering Schedule	978-1-908409-02-7	
M3NHF Schedule: Gas Appliance Servicing and Maintenance	978-1-908409-04-1	
M3NHF Schedule: Solid Fuel Appliance Servicing and Maintenance	978-1-908409-05-8	
M3NHF Schedule: Communal Mechanical and Electrical Works	978-1-908409-06-5	
M3NHF Schedule: Cyclical Redecoration and Pre-Decoration Repairs	978-1-908409-07-2	
M3NHF Schedule: Disabled Adaptation Works	978-1-908409-08-9	
M3NHF Schedule: Fire Safety Works	978-1-908409-09-6	
M3NHF Schedule: Retrofit Works	978-1-908409-10-2	
M3NHF Schedule: Fire Alarm Maintenance	978-1-908409-11-9	
M3NHF Schedule: Lift Maintenance	978-1-908409-12-6	
M3NHF Schedule: Controlled Door Entry Maintenance	978-1-908409-13-3	
M3NHF Schedule: Warden/OAP Alarm Maintenance	978-1-908409-14-0	
M3NHF Schedule: CCTV Maintenance	978-1-908409-15-7	
M3NHF Schedule: Communal TV Maintenance	978-1-908409-16-4	
M3NHF Schedule: Landscaping and Estate Services	978-1-908409-17-1	
M3NHF Schedule: Building Cleaning and Estate Services	978-1-908409-18-8	
M3NHF Schedule: Tree Works	978-1-908409-19-5	
M3NHF Schedule: Asbestos Works	978-1-908409-20-1	
M3NHF Schedule: Water Hygiene	978-1-908409-21-8	
M3NHF Schedule: Estate Services	978-1-908409-22-5	
M3 Schedule of Rates: Facilities Management	978-1-908409-23-2	
NHMF Guidance: Fire Safety	978-1-908409-24-9	
NHMF Guidance: Retrofit	978-1-908409-25-6	
NHF Form of Contract 2011: (Responsive Maintenance)	978-1-908409-26-3	
NHF Form of Contract 2011: (Planned Works)	978-1-908409-38-6	
NHF Form of Contract 2011: (Gas and Heating)	978-1-908409-37-9	
NHF Form of Contract 2011: (Communal Mechanical and Electrical)	978-1-908409-39-3	
NHF Form of Contract 2011: (Estate Services)	978-1-908409-40-9	
M3NHF Schedule: Responsive Maintenance and Void Property Works - A5 Books	978-1-908409-27-0	
M3NHF Schedule: Responsive Maintenance and Void Property Works - Guidance Notes	978-1-908409-29-4	
M3NHF Schedule: Responsive Maintenance and Void Property Works - Labour and Material Analysis and Standard Minute Values	978-1-908409-35-5	

Product	ISBN Reference	NHMF Designated Product
M3NHF Schedule: Planned Maintenance and Property Reinvestment Works - Labour and Material Analysis and Standard Minute Values	978-1-908409-36-2	
M3NHF Schedule: Electrical Maintenance and Upgrading	978-1-908409-50-8	
NHF Form of Contract 2011 (PPP/PPV Version) (Rev 3:20 15)	978-1-908409-41-6	
M3NHF Schedule: Responsive Maintenance and Void Property Works PPP/PPV Documentation	978-1-908409-42-3	
M3 Minor Works Contract.	978-1-908409-43-0	

SCHEDULE 2 – DIAGNOSTIC SOFTWARE AND REPAIRS REPORTING PRODUCTS

1. Subject to paragraph 1.1, in this Schedule, capitalised words and phrases have the meanings given in the Agreement.
2. Notwithstanding anything to the contrary in the Agreement, where used in this Schedule the following words and phrases shall have the following meanings:

"Acceptance Testing Period"	Means two months or any other period of time agreed between the Parties from date of supply of the Product during which the Customer can test that the Product meets their requirements;
"Acceptable Use Policy"	means the Acceptable Use policy set out at this end of these Standard Terms;
"Available"	means that the M3Housecall, M3Housecare, M3Central Service is able to be accessed over the internet at the Website;
"Concurrent Users"	means users of the M3Locator Plus and M3Central Software who are authorised by the Customer to use the Software at the same time as other such users, whether it be at the Customer's premises or accessed remotely;
"M3Central Service"	Means the M3Central service provided by the Distributer on the Website for access by Customers and Users;
"M3Housecall Service"	means the M3Housecall service provided by the Distributor on the Website for access by the Customer and Users;
"M3Housecare Service"	means the M3Housecare application service provided by the Distributor on the Website for access by the Customer and Users;
"Licence Schedule"	means the Licence Schedule attached to this Schedule which specifies the number of Concurrent Users who will use the Software;
"M3 Schedule of Rates"	means the schedule, amended from time to time, which details the works required and proposed costs for repair jobs in respect of corporate and non-residential dwellings and is available at www.m3h.co.uk ;
"M3NHF Schedule of Rates"	means the schedule, amended from time to time, which details the works required and proposed costs for repair jobs in respect of residential dwellings and is available at www.m3h.co.uk ;
"Software"	means any version of the M3Locator Plus and/or M3 Central software supplied by the Distributor to the Customer
"M3Repair Handbooks"	means a handbook that can be printed and distributed to (or viewed on the Customer's website by) residents to describe the repair service they can expect and assist them in reporting a repair accurately

"Unavailable"	<p>means a period when the M3Housecall ,M3Housecare and/or M3Central Service is not Available, but excluding all periods:</p> <p>a) of scheduled maintenance of the M3Housecall , M3Housecare Service and/or,M3Central</p> <p>b) during which any third party services and/or equipment necessary for provision of the M3Housecall, M3Housecare and/or M3 Central Service are not fully operational or functional,</p> <p>c) about which the Customer is given prior notification that the M3Housecall M3Housecare and/or M3 Central Service will be unavailable or operating with limited functionality, and/or</p> <p>d) during which the M3Housecall M3Housecare and/or M3Central Service has been suspended by the Distributor in accordance with the Agreement;</p>
"User"	<p>means an individual who uses the M3Housecall or M3Central Service to request repair services from the Customer; or</p> <p>means an individual who uses the M3Housecare Service to edit a M3Repair Handbook for use by a Customer;</p>
"Website"	<p>means the website having the domain name of m3central.net, www.housecall.co.uk or www.m3h.co.uk/housecare and any other website being operated by or on behalf of the Distributor in addition to or in substitution for or as an alternative to such website.</p>

Grant

3. Subject to, and in consideration of the payment of the Initial Fee and Annual Fee the Distributor grants the Customer a non-exclusive, non-transferable licence to use the Software, which may be accessed by the number of Concurrent Users specified in the Licence Schedule, in accordance with this Schedule and the terms and provisions of the Agreement.
4. Subject to, and in consideration of the payment of the Initial Fee and Annual Fee the Distributor grants the Customer a non-exclusive, non-transferable licence to use the M3Housecall and /or M3Housecare Service, in accordance with this Schedule and the terms and provisions of the Agreement.

Use

5. For the purposes of paragraph 1, "use" of the Software shall be restricted to use in object code form only, by the Customer for the purposes and in the manner specified herein, and the Customer acknowledges that additional fees may be payable for any additional use or change of use approved by the Distributor.
6. For the purposes of paragraph 1, "use" of the M3Housecall Service shall be restricted to use by the Customer and Users by way of access to the Website for the purposes and in the manner specified herein.
7. For the purposes of paragraph 1, "use" of the M3Housecare Service shall be restricted to use by the Customer and Users by way of access to the Website for the purposes and in the manner specified herein to create M3Repair Handbooks for use exclusively

by residents of properties owned or managed by the Customer, either in printed form or accessed via the Customer's website.

8. The Customer shall have no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify or make error corrections to the Software in whole or in part except as may be specified in the relevant Agreement or to the extent permitted by Statute.

Authorised Users of Software

9. The Software may be installed only on computers and servers owned by the Customer or used by it in the normal course of its business, and may not be installed on the systems of any other entity or organisation (including Affiliates of the Customer) except as provided in this Schedule or otherwise with the written consent of the Distributor.
10. Except as otherwise provided for in a Agreement, the Software may be used and accessed only by:
 - 10.1 employees of the Customer; and
 - 10.2 contractors and other third parties providing services to the Customer (including by local and remote access), provided that they access and use the Software only via the Customer's servers and computers described in paragraph 9
 - 10.3 Subject to paragraph 10.2, the Software may not be used by the Customer to provide services to any third parties.

Additional Client Licences for Software

11. The Customer shall inform the Distributor in the event that the Customer wishes to use the Software to provide services to third parties (including to clients), and shall provide such information as the Distributor requests in relation to that intended use. The Distributor shall notify the Customer whether such use is permitted and, if so, whether any additional annual fee shall be payable for such use. Unless the Customer withdraws its intention to proceed, the Distributor shall grant the Customer the appropriate additional client licence specifying the additional permitted use of the Software, and the Customer shall become liable to pay the relevant annual fee (prorated to represent the remaining period until the next Renewal Date) immediately and, thereafter, as part of the Annual Fee in accordance with the Agreement. The Customer shall thereafter provide such information to the Distributor regarding the Customer's use of the Software as the Distributor may from time to time reasonably require (including information regarding the numbers of third parties to whom the Customer is providing Services using the Software), in accordance with Clause 3 of the Agreement. All other terms of this Schedule and the Agreement shall continue to apply.

Backup copies of Software

12. The Customer may make up to two back-up copies of the Software where this is reasonably necessary for the lawful use of the Software. The Customer will record the number and location of all copies of the Software and take all reasonable steps to ensure the security of all copies of the Software and to prevent unauthorised copying.

13. The M3Housecall M3Housecare Service and/or M3Central

- 13.1 Under the M3Housecall, M3Housecare and/or M3Central Service, the Distributor shall:
 - 13.1.1 make the Website available to assist and advise Users to identify the repair they wish to request;

- 13.1.2 make the Website available to assist Users to edit M3Repair Handbooks in their corporate style and to reflect their policies in supplying a repairs and maintenance service to residents;
- 13.1.3 use its reasonable endeavours to make the Website available on a 24-hour-a-day basis (excluding scheduled downtime for maintenance);
- 13.1.4 on the Customer's behalf in respect of the M3Housecall and/or M3Central Service, use its reasonable endeavours to process and deliver repair requests to the email address or other method stipulated by the Customer;
- 13.1.5 monitor, maintain and update the M3Housecall and/ M3 Central Service and
- 13.1.6 provide updates and telephone and email support for Customers relating to their use of the Website.

13.2 The Customer acknowledges and agrees that the Distributor is not responsible for external communication systems when sending reports detailing repair requests received via the Website.

13.3 The Distributor shall provide reasonable support for the Customer's use of the M3Housecall, M3Housecare and/or M3Central Service, and at its discretion use Customer suggestions where appropriate to improve the Service.

13.4 The Distributor accepts no responsibility for any data which is lost or corrupted due to user error, transmission failure or for any other reason.

13.5 Access to and downloading of any data from the M3Housecall, M3Housecare and/or M3Central Service is at the risk of the Customer and the Customer shall carry out all necessary virus checks in respect thereof. The Distributor makes no warranty that the Website and/or any material accessed via it is free from viruses or anything else that has contaminating or destructive properties including where such viruses or other programmes result in loss of or corruption to the Customer's data or other property.

14. **Customer's obligations**

14.1 The Customer agrees to indemnify the Distributor for any claims arising out of the use of the M3Housecall, M3Housecare and/or M3Central Service by the Customer or Users which results in the transmission or display of any material which is offensive, defamatory, illegal or which infringes intellectual property rights.

14.2 The Customer acknowledges that it is solely responsible for its use of the M3Housecall, M3Housecare and/or M3Central Service and any content which is uploaded to the Website.

14.3 The Customer agrees, and undertakes to ensure that each User shall agree, to use the M3Housecare Service in accordance with the Acceptable Use Policy.

14.4 The Customer shall provide all facilities and information necessary for the configuring, set-up and successful implementation of the M3Housecall, M3Housecare and/or M3Central Service

- 14.5 The Customer shall provide any other administrative information requested by the Distributor from time to time to keep the Customer's account up to date, including in accordance with Clause 4 of the Agreement.

15. **Termination of Service**

- 15.1 In addition to its rights under the Agreement, the Distributor may terminate or suspend access to the M3Housecall, M3Housecare and/or M3Central Service (including access by individual named users) and terminate the Agreement in the event of a serious or repeated breach of the Agreement.

- 15.2 In addition to its rights under the Agreement, the Customer may terminate the M3Housecall, M3Housecare and/or M3Central Service as follows (save that in either case no Fees shall be refunded to the Customer):

15.2.1 at one month's notice at any time;

15.2.2 at one week's notice at the expiry of any anniversary of the Effective Date.

16. **Service Levels**

- 16.1 The Distributor shall have no responsibility or liability for failure to provide the M3Housecall, M3Housecare and/or M3Central Service due to circumstances beyond its control. These may include problems with external communication systems, the Customer's mail servers or links or other setup problems on the Customer's side.

- 16.2 The Distributor shall ensure that the M3Housecall, M3Housecare and/or M3Central Service is Available for 97.75% of the time on a three month rolling basis, which shall be calculated using the following formula:

$$\text{Availability} = ((T - U) \div T) \times 100$$

where:

T = Number of hours in the three month period; and

U = Number of hours in the three month period that the M3Housecall, M3Housecare and/or M3Central Service is Unavailable.

- 16.3 Subject to the provisions of clause 16.4, if the M3Housecall, M3Housecare and/or M3Central Service is Unavailable for an aggregate period exceeding 48 hours per three month period, the Customer shall be entitled to pro-rata rebate of the Annual Fee by way of a service credit redeemable against the payment of the Annual fee for the following year, which shall be calculated using the following formula:

$$\text{Pro rata service credits} = (U \div T) \times 100$$

where:

T = Number of hours in the three month period; and

U = Number of hours in the three month period that the M3Housecall, M3Housecare and/or M3Central Service is Unavailable.

- 16.4 In any period of 12 months, the maximum aggregate amount of service credits issued shall not exceed 20% of the Annual Fee.

17. Changes

The Distributor reserves the right to make changes to the M3Housecall, M3Housecare and/or M3Central Service when it considers it reasonable to do so. Any such changes shall be notified to the Customer in writing at least 21 days before being implemented.

18. Support Services

- 18.1 Subject to, and in consideration of, the payment of the Annual Fee the Distributor shall, during the year to which that Annual Fee relates, provide the following Support Services to the Customer:
- 18.2 The availability of a helpdesk facility to respond to queries made by telephone and email, usually within two Business Days.
- 18.3 Respond to bug reports within two Business Days, such response to include one or more of the following, at the Distributor's sole discretion:
- 18.3.1 a fix for the bug;
 - 18.3.2 a workaround to enable the Customer to continue using the feature for which a bug has been reported, or
 - 18.3.3 a timetable for resolution.
- 18.4 Making available regular updates to the Software to remedy bugs or to enhance existing features. It shall be the Customer's responsibility to install such updates.
- 18.5 Making available upgraded versions of the Software that may include enhancements to the performance or features of the Software and enabling use of the Software with updated versions of the M3NHF Schedule of Rates and the M3 Schedule of Rates.
- 18.6 Making updates to the Website to remedy bugs or to enhance existing features.
- 18.7 Making available upgraded versions of the Website that may include enhancements to the performance or features of the Website.

19. Fees

- 19.1 The Distributor may charge an Initial Fee and an Annual Fee for the licence to use the Software and/or the M3Housecall and /or M3Housecare Service and receipt of the Support Services
- 19.2 The Initial Fee for Software shall cover the set-up charges incurred in configuring the Software to the Customer's requirements.
- 19.3 The Initial Fee shall cover the set-up charges incurred in configuring the M3Housecall and/or M3Housecare Service to the Customer's requirements.
- 19.4 The Customer acknowledges that the Annual Fee may be varied in accordance with the terms of the Agreement.
- 19.5 The Initial Fee and Annual Fee are set out on www.m3h.co.uk.
- 19.6 If the Customer fails to make payment of any Fees when due then, without prejudice to any other right or remedy the Distributor may have, the Distributor shall be entitled to suspend the Service (including the licence to

use to Software and/or the M3Housecall and/or M3Housecare Service) with notice until such payment is made in full.

- 19.7 The Fees are charged according to the number of Housing Units as defined in the Agreement which shall be deemed to include any units owned by any other organisation that does not employ their own maintenance staff from their own offices for which the Customer provides commissioning and maintenance services or a repairs ordering service

20. Acceptance

- 20.1 If the Customer terminates this Agreement during the Acceptance Testing Period the Distributor will refund the Initial Fee and the Annual Fee in full. The Customer will remain liable for the charges for all services that have been delivered including charges for any configuration or tailoring of the Product that has been partially carried out or completed by the Distributor.

- 20.2 The Acceptance Testing Period will be deemed to have ended when the time agreed between the parties has expired or when training is delivered to the majority of the Licensed Users, whichever occurs first.

21. Acceptable Use Policy

- 21.1 The Distributor has an Acceptable Use Policy which sets out the conditions which apply to the Customer's use of the M3Housecare Service provided by the Distributor at the Website and the Customer agree to be bound by the provisions set out below.

- 21.2 The Customer agrees that the Distributor may prohibit your access to the M3Housecare Service in the event of a serious or repeated violation of the Acceptable Use Policy.

- 21.3 The Customer is only permitted to access the Website and use the M3Housecare Service if the Customer has been authorised to do so, and has been provided with the log-in details, by the Distributor or an authorised officer of the Customer.

- 21.4 The Customer shall not disclose the log-in details that have been provided to the Customer to any third party unless expressly authorised to do so by the, nor shall the Customer attempt to gain unauthorised access to the M3Housecare Service (or any part thereof) including by attempting to circumvent any authentication system.

- 21.5 The Customer shall not use the M3Housecare Service or the Website content for any improper or illegal purposes or do anything which disrupts any computer networks or systems connected to, supporting or hosting the Website.

- 21.6 The Customer shall not interfere or attempt to interfere with the proper and uninterrupted operation of the M3Housecare Service, including by the introduction of viruses, worms, Trojan horses and denial of service attacks or similar.

- 21.7 Where the Customer is permitted to post material on the Website, the Customer may only do so for a purpose connected to the proper use of the M3Housecare Service.

PRODUCTS AND SERVICES APPLICABLE TO SCHEDULE 2

Product	ISBN Reference	NHMF Designated Product
M3Locator Plus Diagnostic Software		
M3 Central Diagnostics		
M3 Central Reporting		
M3 Central Surveyor		
M3Housecall		Yes
M3Housecare		
M3Repair Handbooks		
M3Tailored M3Repair Handbooks		

SCHEDULE 3 – DEVELOPMENT SOFTWARE

1. Subject to paragraph 1.1, in this Schedule, capitalised words and phrases have the meanings given in the Agreement.

1.1 Notwithstanding anything to the contrary in the Agreement, where used in this Schedule the following words and phrases shall have the following meanings:

“Acceptance Testing Period”	Means two months from the Effective Date or any other period of time agreed between the Parties during which the Customer can test that the Product meets their requirements;
“Homes and Community Agency”	means the government agency or its successor that funds new affordable homes and regulates housing associations in England and shall be deemed for the purposes of this Agreement to include equivalent bodies in Scotland and Wales;
“Licence Schedule”	means the schedule attached to this Schedule which allows the Customer to specify the number of Licensed Users who can use the Software;
“Licensed User”	means a person identified by the Software as permitted to enter data or any number of additional people permitted by the Software to access the data without altering it. For the avoidance of doubt: <ul style="list-style-type: none"> i) a Licensed User may access the Software from more than one computer provided they do not do so concurrently; and ii) the name and access permissions of the Licensed User may be changed provided that the number of Licensed Users does not at any time exceed the number for which licenses have been granted;
“M3Pamwin User Group”	means a meeting to which all Customers of the M3Pamwin Plus system and M3Pamwin Plus Lite have been invited to be represented to discuss the development of the Product and related services;
“Quotation”	means a written statement from the Distributor of the Initial Fee and Annual Fee to be paid for M3Pamwin Plus and related services;
“Service Level Agreement”	means an agreement approved and amended from time to time by agreement between the Distributor and the M3Pamwin User Group governing the extent and standards to which a support service should be provided by the Distributor (a copy of the latest Service Level Agreement is attached hereto as Annex A); and
“Software”	means the M3Pamwin Plus software.

Grant

2. Subject to, and in consideration of the payment of the Initial Fee and the Annual Fee, the Distributor grants the Customer a non-exclusive, non-transferable licence to use the Software in accordance with this Schedule and the terms and provisions of the Agreement.

2.1 This licence shall enable the number of Licensed Users specified on the Licence Schedule to access the Software.

Use

3. The Software shall constitute a Product for the purposes of the Agreement.
4. For the purposes of paragraph 2, "use" of the Software shall be restricted to use in object code form only, by the Customer for the purposes and in the manner specified herein, and the Customer acknowledges that additional fees may be payable for any additional use or change of use approved by the Distributor.
5. The Customer shall have no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify or make error corrections to the Software in whole or in part in this Agreement or to the extent permitted by Statute.

Authorised Users

6. The Software may be installed only on computers and servers owned by the Customer or used by it in the normal course of its business, and may not be installed on the systems of any other entity or organisation (including Affiliates of the Customer) except as provided in this Schedule or otherwise with the written consent of the Distributor.
7. The Customer shall ensure that only Licensed Users have access to the Software and shall take all reasonable precautions to keep the Software usernames and passwords safe and confidential.
8. Upon receiving a written request from the Distributor, the Customer shall provide the Distributor with an up-to-date list of all Licensed Users of the Software.
9. The Software may be used and accessed only by Licensed Users who are:
 - 9.1 employees of the Customer; or
 - 9.2 contractors and other third parties providing services to the Customer (including by local and remote access), provided that they access and use the Software only via the Customer's servers and computers described in paragraph 6.
 - 9.3 Subject to paragraph 10, the Software may not be used by the Customer to provide services to any third parties, except with the prior written permission of the Distributor.
10. The Customer may use the Software to provide services to third parties (including clients) for whom they are making bids for funding to the Housing and Communities Agency or any other grant or loan funding body. All other terms of this Schedule and the Agreement shall continue to apply.

User Access

11. The Customer shall have sole responsibility for setting and managing the Licensed User's access privileges to the Software using the functionality therein.

- 11.1 The Customer shall have sole responsibility for setting and providing the Licensed Users with passwords to access the Software and thereafter shall be solely responsible for managing the use of the passwords. The Distributor shall have no responsibility for the use or loss of these passwords.

Support Services

12. Subject to, and in consideration of, the payment of the Annual Fee the Distributor shall, during the year to which that Annual Fee relates, provide Support Services to the Customer under the terms of a Service Level Agreement, which includes:
- 12.1 The availability of a helpdesk facility to respond to queries made by telephone and email, usually within one Business Day.
- 12.2 Response to bug reports prioritised according to defined criteria for judging their impact within two Business Days, such response to include one or more of the following, at the Distributor's sole discretion:
- 12.2.1 a fix for the bug;
- 12.2.2 a workaround to enable the Customer to continue using the feature for which a bug has been reported, or
- 12.2.3 a timetable for resolution.
- 12.3 Making available regular updates to the Software to remedy bugs or to enhance existing features, though it shall be the Customer's responsibility to install such updates.
- 12.4 Making available upgraded versions of the Software that may include enhancements to the performance or features of the Software and enabling use of the Software to prepare bids for grant funding under the Homes and Communities Agency's or any other bodies grant funding procedures. It shall be the Customer's responsibility to install such upgrades.

Fees

13. The Distributor will charge an Initial Fee to purchase the Software and an Annual Fee for the licence to use the Software and receipt of the Support Services
- 13.1 The Customer acknowledges that the Annual Fee may be varied in accordance with the terms of the Agreement.
- 13.2 The Initial Fee and Annual Fee are set out in a Quotation and are determined in relation to the number of Licensed Users.
- 13.3 The Distributor will charge standard rates for the Initial Fee and Annual Fee and will notify the Customer of any changes to the standard rates which will remain confidential between Customers and the Distributor and will not be published.
- 13.4 Annual Fees will be increased in accordance with the Agreement except where any additional increase has been approved by a majority of Customers represented at a meeting of the M3Pamwin User Group to which all Customers have been invited with at least 21 days notification and have been given the opportunity to vote by proxy.
- 13.5 If the Customer fails to make payment of any Fees when due then, without prejudice to any other right or remedy the Distributor may have, the Distributor shall be entitled to suspend the Service (including the licence to

use the Software) by notice to the Customer until such payment is made in full.

Acceptance

- 14. If the Customer terminates this agreement during the Acceptance Testing Period the Distributor will refund the Initial Fee and the Annual Fee in full. The Customer will remain liable for the charges for all services that have been delivered including charges for any configuration or tailoring of the Product that has been partially carried out or completed by the Distributor.
- 15. The Acceptance Testing Period will be deemed to have ended when the time agreed between the parties has expired or when training is delivered to the majority of the Licensed Users, whichever occurs first.

PRODUCTS AND SERVICES APPLICABLE TO SCHEDULE 3

Product	ISBN Reference
M3Pamwin Plus	
M3Pamwin Qlikview	
M3Pamwin Lite	
M3RD 20	

LICENSED USERS

Number of Licensed Users: []