

PPE PURCHASING AGENCY AGREEMENT

PLEASE READ THE FOLLOWING WARNINGS BEFORE AGREEING TO THIS AGREEMENT:

1. This is an agency agreement – that means you are appointing us, 2buy2.com Limited (2buy2) to buy the items ordered (and services associated with those items, such as inspection and delivery), on your behalf. This is not the same as ordering the items from 2buy2 or from one of 2buy2's suppliers. 2buy2 will be making arrangements with suppliers and signing contracts with suppliers on your behalf to buy the items, but you, not 2buy2, are liable under those contracts.
2. Provided 2buy2 acts in accordance with your instructions, it will have no liability to you for either the items ordered or the services provided. You, not 2buy2, will be liable for payment of all invoices for the Goods and Services which 2buy2 orders on your behalf and for the payment of 2buy2's commission and that of 2buy2's sub-agent (as set out in Schedule 1 below).
3. Given the current global pandemic, the market for buying PPE is volatile and supplier-led. You are therefore required to pay in advance for the items ordered (and the associated services). If the currency markets move by more than 10% in relation to the currencies relevant to your Order, your Order may be cancelled. Once placed you will not be able to cancel an Order.
4. Your Order is for a certain monetary amount, not for specific quantities. The quantities of the different types of Goods which you receive may therefore be different to those you ordered (for more details please see the website).
5. 2buy2 are acting as agent for a number of customers in order to aggregate orders and meet suppliers' minimum quantity requirements. If the minimum quantities are not met, your Order will not be placed and your payment will be held for future use for one month and then, at your option, held for a further month or returned to you.
6. The selected suppliers have been vetted but it is possible that you will not receive the items ordered, e.g. if the UK government decides that it needs to take priority.
7. The items will be inspected to check they comply with the quality standards referred to in Schedule 1 below but that does not guarantee that they will or can prevent transmission of COVID-19 or any other disease. 2buy2 cannot and will not provide any guidance or advice on, and is not liable for, the way in which any items (or combination of items) are used by individuals.
8. As an agent, 2buy2's liability is limited to you in a number of ways (as highlighted below and set out in Schedule 2).
9. You are advised to consider taking out appropriate insurance in relation to this Agreement and your liability under it.
10. Supplies of PPE are currently zero rated for VAT. If that changes you will be liable for the VAT. If you are not VAT registered you may not be able to recover the VAT.



LIMITS ON 2BUY2's LIABILITY

THE FOLLOWING RESTRICT THE EXTENT TO WHICH 2BUY2 ARE LIABLE TO YOU

PLEASE NOTE: THESE ARE THE MAIN RESTRICTIONS. TO UNDERSTAND ALL RESTRICTIONS, AS WELL AS YOUR RIGHTS, RESPONSIBILITIES AND LIABILITIES UNDER THIS AGREEMENT YOU NEED TO READ THIS DOCUMENT IN FULL BEFORE YOU PLACE AN ORDER

BEFORE AGREEING TO THE TERMS OF THIS AGREEMENT YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE

1. 2buy2 has no liability to you for any breach of this Agreement caused by any event or circumstance beyond its reasonable control, including those caused by the COVID-19 pandemic (or any other or subsequent pandemic or epidemic).
2. Nothing in this Agreement excludes or limits 2buy2's liability for death or personal injury arising from its negligence, or fraud or fraudulent misrepresentation, or any other liability that cannot be lawfully excluded or limited.
3. Subject to paragraph 2 above, 2buy2 is not responsible for your potential losses (of whatever nature) resulting from any failure by 2buy2 to perform this Agreement. In particular, in no event shall 2buy2 be liable to you for:
 - any indirect or consequential loss or damage;
 - loss of profit;
 - loss or corruption of data;
 - loss of opportunity;
 - loss of savings, discount or rebate (whether actual or anticipated); or
 - harm to reputation or damage to goodwill.
4. The liability to you of Crown Agents Limited, who have been appointed as sub-agent (as detailed below), and will also be acting on your behalf to procure the Goods and Services, is limited and shall in no event exceed the amount paid by you for the Order.
5. Your liability to Crown Agents, in accordance with the Sub-Agency Agreement has been limited to amount paid by you for the Order. For further details, see the Sub-Agency Agreement on the website. If any part of your liability to Crown Agents is actually something for which 2buy2 is liable to you, then subject to paragraphs 2 and 3, 2buy2's aggregate liability to you under or in connection with this Agreement, whether arising from tort (including negligence), breach of statutory duty, restitution, breach of contract or otherwise shall in no event exceed the amount paid by you for the Order.
6. Subject to paragraph 2 above and to the extent permitted by law, 2buy2 excludes all conditions, warranties and/or representations, whether express or implied, which may apply to this Agreement.

SCHEDULE 1

SPECIFIC TERMS

1. Sub-Agent

Crown Agents Limited have been appointed as sub-agent (the **Sub-Agent**). The Sub-Agent's registered office is at Blue Fin Building, 110 Southwark Street, SE1 0SU, UK and its registered number is 3259922.

2. Goods and Services

The items available to be ordered are as specified on the website (the **Goods**). The associated services (the **Services**) include:

- Delivery of the Goods to the location in the United Kingdom mainland specified in your Order
- Inspection of the Goods in accordance with applicable laws and the Quality Standards specified below
- Customer and support services, which are accessible by contacting 2buy2 via the following emails addresses:
 - General (including care homes): enquiries@2buy2.com
 - Churches (other than Church of England Parishes): help@Churchbuying.org.uk
 - Church of England Parishes: support@Parishbuying.org.uk
 - Schools/Education Establishments: help@educationbuying.com
- Applying for an EORI number from HMRC, on your behalf, for the Goods you order to be imported into the UK

Quality Standards:

Item	Specification	Standards
Gloves, non-sterile	Gloves, examination, powder-free, non-sterile, single-use	<ul style="list-style-type: none">• EU MDD Directive 93/42/EEC Category III• EU PPE Regulation 2016/425 Category III

	<p>Gloves should have long cuffs, reaching well above the wrist, ideally to mid-forearm</p> <p>Sizes: small, medium, large</p>	<ul style="list-style-type: none"> • EN 455 • EN 374 • ANSI/ISEA 105, • ASTM D6319, <p>or equivalent</p>
Gloves, sterile	<p>Gloves, examination or surgical, powder-free, sterile, single-use</p> <p>Gloves should have long cuffs, reaching well above the wrist, ideally to mid-forearm</p> <p>Sizes: small, medium, large</p>	<ul style="list-style-type: none"> • EU MDD Directive 93/42/EEC Category III, • EU PPE Regulation 2016/425 Category III, • EN 455, • ANSI/ISEA 105, • ASTM D6319 <p>or equivalent</p>
Mask, surgical health care worker.	<p>Surgical mask, good breathability; internal and external faces should be clearly identified</p> <p>Type II or higher.</p>	<ul style="list-style-type: none"> • EU MDD Directive 93/42/EEC Category III or equivalent • EN 14683 Type II, IR, IIR • ASTM F2100 minimum level 1 <p>or equivalent</p>
Goggles, protective	<p>Good seal with the skin of the face, flexible PVC frame to easily fit all face contours with even pressure, enclose eyes and the surrounding areas, accommodate wearers with prescription glasses;</p> <p>clear plastic lens with fog- and scratch-resistant treatments; adjustable band to secure firmly so as not to become loose during clinical activity;</p> <p>indirect venting to avoid fogging.</p> <p>May be re-usable (provided appropriate arrangements for decontamination are in place) or disposable.</p>	<ul style="list-style-type: none"> • EU PPE Regulation 2016/425 • EN 166 • ANSI/ISEA Z87.1 <p>or equivalent</p>

Face shield	<p>Made of clear plastic and providing good visibility to both the wearer and the patient</p> <p>Adjustable band to attach firmly around the head and fit snugly against the forehead, fog-resistant (preferable).</p> <p>Completely covers the sides and length of the face. May be re-usable (made of robust material which can be cleaned and disinfected) or disposable.</p>	<ul style="list-style-type: none"> • EU PPE Regulation 2016/425 • EN 166 • ANSI/ISEA Z87.1 <p>or equivalent</p>
Particulate respirator, grade N95 or higher.	<p>N95 or FFP2 respirator, or higher</p> <p>Good breathability with a design that does not collapse against the mouth (e.g. duckbill, cupshaped).</p>	<ul style="list-style-type: none"> • Minimum "N95" respirator according to FDA Class II, under 21 CFR 878.4040, and CDC NIOSH, or • Minimum "FFP2 according to EN 149, EU PPE • Regulation 2016/425 Category III, <p>or equivalent</p>
Apron, heavy duty	<p>Straight apron with bib,</p> <p>Fabric: 100% polyester with PVC coating, or 100% PVC, or 100% rubber, or other fluid-resistant coated material.</p> <p>Waterproof, sewn strap for neck and back fastening</p> <p>Minimum weight: 300 g/m²</p> <p>Covering size: 7090 cm (width) x 120–150 cm (height)</p> <p>Reusable (provided appropriate arrangements for decontamination are in place)</p>	<ul style="list-style-type: none"> • EN ISO 13688 • EN 14126-B and partial protection (EN 13034 or EN 14605) • EN 343 for water and breathability <p>or equivalent</p>

3. Payment

Your payment includes the following:

- **The cost of the Goods (which includes inspection charges)**



- The cost of the Services provided in relation to the Goods (including all customs duties, taxes and clearance charges and delivery costs)
- Our Commission (as specified below)
- The Sub-Agent's Commission (as specified below)

Our Commission: 5% of the value of the Order

The Sub-Agent's Commission: 5% of the value of the Order

All amounts which are in a currency other than GBP have been converted to GBP on the basis of the following currency conversion: at the selling rate of exchange established by the OANDA website as prevailing on date of the most recent market price comparison/tendering exercise

ADDITIONAL DOCUMENTS:

Before agreeing to this Agreement or paying for an Order, please read the additional documents relevant to this Agreement:

- i) Sub-Agency Agreement with the Sub-Agent (the **Sub-Agency Agreement**)
- ii) Crown Agents' General Conditions of Contract for the Purchase of Goods (2013)

SCHEDULE 2

GENERAL TERMS AND CONDITIONS

1. Definitions

1.1 The terms defined elsewhere in this Agreement and the following definitions shall be used for the purposes of interpreting this Agreement and all documents relating thereto (and other definitions that are not applicable to all clauses shall be stated in the clause where the definition is first used and shall apply only to that clause and subsequent clauses as appropriate):

- 1.1.1 **Agreement:** has the meaning given in clause 2.3.
- 1.1.2 **Charges:** has the meaning given in clause 7.4.
- 1.1.3 **Client Account:** has the meaning given in clause 7.2.
- 1.1.4 **Commission Reduction:** has the meaning given in clause 7.9.
- 1.1.5 **Customer, you or your:** has the meaning given in clause 2.3.
- 1.1.6 **Goods:** has the meaning given in paragraph 2 of Schedule 1.
- 1.1.7 **Held Monies:** has the meaning given in clause 6.3.
- 1.1.8 **Interest:** has the meaning given in clause 7.2.
- 1.1.9 **Order:** has the meaning given in clause 2.3.
- 1.1.10 **Our Commission:** has the meaning given in paragraph 3 of Schedule 1.
- 1.1.11 **Returned Monies:** has the meaning given in clause 7.8.
- 1.1.12 **Services:** has the meaning given in paragraph 2 of Schedule 1.
- 1.1.13 **Site:** has the meaning given in clause 2.2.
- 1.1.14 **Sub-Agent's Commission:** has the meaning given in paragraph 3 of Schedule 1.
- 1.1.15 **Supplier Payment:** has the meaning given in clause 7.3.1.
- 1.1.16 **we, us or our:** has the meaning given in clause 2.1.

1.2 If there is a conflict between this Agreement and the Sub-Agency Agreement, the terms of this Agreement shall prevail.

2. Who we are

2.1 2buy2.com Limited (**we, us or our**) is a company registered in England and Wales under company number 06925506. Our registered office at c/o Pencoed Technology Centre, Pencoed Technology Park, Pencoed, Bridgend, Mid Glamorgan, CF35 5HZ. References to us in this Agreement also includes our group companies from time to time.

2.2 We own the websites at www.2buy2.com, www.churchbuying.org.uk, www.educationbuying.com and all associated web pages, mobile applications or other software applications (together the **Site**).

2.3 This agreement, which incorporates the Schedules to it, together with any other documents, notices or policies referred to in it (together this **Agreement**) applies to any organisation (including any corporate or unincorporated body) which agrees to it via the Site (**Customer, you or your**) and places an order for the Goods and Services on the Site (an **Order**).

3. Our Appointment as Agent

3.1 By clicking or ticking a box to agree to this Agreement and making a payment for the Order, you hereby appoint us as your agent in relation to the purchase of the Goods and Services. We accept that appointment, on and subject to the terms of this Agreement.

3.2 You hereby agree that we may delegate to the Sub-Agent and that, as your agent, we will enter into the Sub-Agency Agreement on your behalf and, as your sub-agent, the Sub-Agent will enter into various contracts in order to purchase the Goods and provide the Services, on your behalf.

3.3 The fact that we are acting as your agent will be disclosed by us to the Sub-Agent and any suppliers or relevant third parties with whom we have dealings on your behalf. The fact that the Sub-Agent is acting as your sub-agent will be disclosed to its suppliers and relevant third parties with whom the Sub-Agent has dealings on your behalf. Your position as principal will, therefore, be disclosed.

4. Your rights and duties as the principal

4.1 You shall:

- 4.1.1 at all times look after our interests and act dutifully and in good faith towards us;
- 4.1.2 at your own expense, provide us with such information as we require to procure the Goods and Services on your behalf and otherwise to be able to perform our obligations under this Agreement; and
- 4.1.3 pay the Charges, which shall include all out-of-pocket expenses incurred by us in connection with the performance of our obligations under this Agreement.

5. Our rights and duties as your agent

5.1 We shall:

- 5.1.1 act dutifully and in good faith towards you;
- 5.1.2 comply with your reasonable instructions in relation to procuring the Goods and Services and otherwise in our dealings with the Sub-Agent and relevant suppliers and third parties;
- 5.1.3 promptly inform you of any anticipated delay in the procurement of the Goods and/or performance of the Services;
- 5.1.4 promptly and efficiently deal with any enquiries or complaints from you;
- 5.1.5 make clear to the Sub-Agent and relevant suppliers and third parties that we are your agent, but only to the extent provided for in this Agreement and we shall not pledge your credit or otherwise incur any obligation on your behalf except as expressly provided for under this Agreement or with your prior written consent;

- 5.1.6 not allow our interests to conflict with yours or the duties we owe to you and we shall endeavour not to do anything prejudicial to your reputation;
- 5.1.7 disclose all conflicts of interest and potential conflicts of interest to you and comply with your instructions in relation thereto;
- 5.1.8 comply with relevant laws and regulations as may from time to time be necessary to perform this Agreement;
- 5.1.9 use our reasonable endeavours to procure that the Sub-Agent and the relevant suppliers comply with relevant laws and regulations as may from time to time be necessary in relation to the Goods and Services and these shall include obtaining and holding such import licences, permits and registrations as may be necessary for the import of the Goods into the United Kingdom and their delivery to you and the provision of the Services;
- 5.1.10 report to you any material complaints, problems or claims relating to the Goods and/or Services;
- 5.1.11 employ sufficient competent and appropriately qualified personnel to carry out and comply with our obligations under this Agreement;
- 5.1.12 comply with your reasonable instructions in connection with any dispute, claims or proceedings in connection with the Goods and/or Services.

6. The Orders

- 6.1 The Order will not be placed by us with the Sub-Agent unless and until your payment of the Charges is received in full in the Client Account.
- 6.2 You acknowledge and agree that the notification to the Sub-Agent of the Order by us, on your behalf, comprises an offer and once the Sub-Agent confirms to us in writing that it has placed the Order with the suppliers, on your behalf, we shall provide confirmation to you of acceptance of such offer, and therefore the formation of a contract.
- 6.3 We shall provide general customer support (in particular but not limited to explaining the nature of the particular arrangements relating to the purchase of the Goods and Services) as well as specific support in relation to each Order. We shall aggregate your Order with the orders of other principals for whom we act in order to meet the relevant minimum quantity requirements of suppliers. If the relevant minimum quantities are not met then your Order will not be placed with the suppliers and the Charges paid by you in respect of such Order (if any) (the **Held Monies**) will be dealt with in accordance with clause 7.9. We shall also provide the specific details of your Order to the Sub-Agent (including the relevant person's name, address and contact details for delivery of the Goods to be made) to enable the relevant Goods in respect of your Order to be delivered to you.
- 6.4 In the event that the relevant currency values payable in relation to the Goods and/or Services are such that they exceed the 10% contingency provided for, the Sub-Agent shall be entitled not to place an Order (a **Cancelled Order**). The Charges paid by you in respect of a Cancelled Order (if any) or any other Order which is not placed (the **Cancelled Order Monies**) will be dealt with in accordance with clause 7.10.

7. Costs and payment

- 7.1 We do not accept any liability for payment of any invoices for Goods and/or Services placed in our capacity as agent for you.
- 7.2 All payments received from you will be paid into a separate client bank account held by us (the **Client Account**), and we shall hold all such monies in the Client Account as trustee for your benefit. Subject to clause 7.9, any

interest earned on monies held on your behalf in the Client Account (the **Interest**) will be held in the Client Account.

- 7.3 We shall be entitled to withdraw your monies or authorise the Sub-Agent to withdraw monies from the Client Account to make the following payments:
- 7.3.1 the monies payable to the relevant supplier of the Goods pursuant to such Order (the **Supplier Payment**);
 - 7.3.2 following receipt of an undisputed invoice from the Sub-Agent, the cost of the Services provided and to be provided by the Sub-Agent in respect of the relevant Order and all disbursements in relation thereto and the Sub-Agent's Commission;
 - 7.3.3 on presentation of an invoice for Our Commission, the monies to pay such invoice.
- 7.4 Our Commission, the cost of the Goods and Services, the commission of the Sub-Agent and all disbursements charged by them are specified on the Site (together, the **Charges**). The Charges are payable, by bank transfer to the account details specified on the Site, in advance of the Order being placed.
- 7.5 The Charges are in pounds sterling (£)(GBP) and, unless stated otherwise, are exclusive of VAT, sales or other taxes that may apply from time to time. Any Charges, which are not in GBP, have been converted on the basis specified in Schedule 1.
- 7.6 If the Sub-Agent has withdrawn an amount from the Client Account in respect of an Order but that Order is not placed (whether as a result of a Cancelled Order or otherwise), the Sub-Agent shall immediately pay the amount withdrawn back into the Client Account.
- 7.7 Once the Supplier Payment has been made, the Goods in respect thereof shall be your property. The obligation to insure such Goods shall be the responsibility of the relevant supplier (whether an affiliate or group company of the Sub-Agent or third party supplier) providing the Services in relation to the transport and delivery of the Goods, pursuant to the Sub-Agent's contractual terms with such suppliers. In the event of any damage, destruction or loss of such Goods, any sums received by or payable to the Sub-Agent from such insurance shall be held by the Sub-Agent on your behalf and, on demand by us, paid into the Client Account.
- 7.8 Any monies received by the Sub-Agent as a rebate, refund, retention in respect of the Order, sum under an insurance policy or contract or earned in interest by the Sub-Agent between the period starting on the date on which the Supplier Payment in respect of the Order was withdrawn from the Client Account and, if it is not paid to the supplier of the Goods on the due date for such payment, the date on which the withdrawn amount is so paid to the relevant supplier or paid back to the Client Account, shall be returned to and held in the Client Account for you (the **Returned Monies**).
- 7.9 If you receive a rebate or refund of part of the cost of the Order (a **Cost Reduction**), you shall be entitled to a refund of both Our Commission and of the Sub-Agent's Commission, of an amount equal to the Cost Reduction (in other words, Our Commission and the Sub-Agent's Commission are both 5 % of the value of the Order, so if the value of the Order is reduced, the amount of Our Commission and the Sub-Agent's Commission will be reduced accordingly) (the **Commission Reduction**).
- 7.10 The Returned Monies, Cancelled Order Monies, Held Monies, Commission Reduction and Interest shall be held in the Client Account for a period of three months and used to pay or off-set any Charges incurred by you during that period. If, at the end of that period any Returned Monies, Cancelled Order Monies, Held Monies, Commission Reduction and/or Interest remain held in the Client Account on your behalf, we will offer to refund them to you or to continue holding them for a further period of three months. At the end of such second period of three months, if any Returned Monies, Cancelled Order Monies, Held Monies, Commission Reduction and/or

Interest remain held in the Client Account on your behalf we shall refund them to you (to a bank account, the details of which you have notified us).

8. Using the Site and restrictions on use

- 8.1 Subject to your compliance with the terms of this Agreement, we hereby grant to you a non-transferable, non-exclusive, revocable licence to use the Site to the extent necessary for you to receive the benefit of it in accordance with this Agreement.
- 8.2 Your use of the Site is also subject to our Privacy Notice and Cookie Policy available at www.2buy2.com/privacy-policy (our **Privacy Notice**). If there is any conflict between this Agreement and our Privacy Notice, this Agreement shall take precedence.
- 8.3 By accessing or using our Site to place an Order you agree to be legally bound by, and comply with this Agreement and our Privacy Notice, as applicable. If you do not agree with or accept any of these terms, you should not place an Order and should stop using the Site immediately. If you have any questions about this Agreement or the Privacy Notice, please let us know as soon as possible using the contact details shown on the Site.
- 8.4 You agree that you are solely responsible for all costs and expenses you may incur in relation to your use of the Site.
- 8.5 The Site is intended for use only by those who can access it from within the UK. If you choose to access the Site from locations outside the UK, you are responsible for compliance with local laws where they are applicable.
- 8.6 Your right to use the Site does not permit you to attempt to decompile (as defined in section 50B of the Copyright, Designs and Patents Act 1988) the underlying software (or any part of it) that is used in or to provide the Site, or to observe, study or test the functioning of the underlying software (or any part of it) that is used in or to provide the Site, except and only to the extent that such restrictions are prohibited pursuant to section 50B of the Copyright, Designs and Patents Act 1988.
- 8.7 We may prevent or suspend your access to the Site if you do not comply with any part of this Agreement, any terms or policies to which it refers, or any applicable law.
- 8.8 Your use of the Site is dependent on the reliability of the internet and your use of your own computer system to access the Site; and it is your responsibility to ensure the facilities and functions of the Site meet your requirements.
- 8.9 Although we try to keep disruptions to a minimum, we do not warrant or represent that the Site shall be uninterrupted or error free, entirely secure, virus free, or interoperable with third party software or equipment. We may suspend the Site from time to time to carry out maintenance and support work, and to investigate any unauthorised use in accordance with this Agreement.

9. Accounts and account information

- 9.1 To purchase the Goods and Services you can either create an account on the Site (an **Account**) or check-out as a guest.
- 9.2 By accepting this Agreement and paying the Charges you represent and warrant to us that you are authorised to bind the Customer to this Agreement, including all obligations set out in it and to grant all rights and licences provided for in this Agreement.

- 9.3 If you create an Account you can choose or will be provided with, a user identification code, password or other piece(s) of information as part of our security procedures (**Account Information**), in order to set up and manage your Account.
- 9.4 If you hold an Account:
- 9.4.1 you agree that you are solely responsible for keeping your Account Information confidential. If you know of or suspect any unauthorised use of your Account Information you must promptly notify us by email; and
 - 9.4.2 you acknowledge and agree that you are responsible for all activity carried out on the Site through your Account, and that you will be liable to us for any reasonable costs and expenses incurred by us as a result of any breach of this Agreement committed through your Account.
- 9.5 We reserve the right to monitor Account usage for the purpose of (among others) ensuring compliance with this Agreement. We may also instruct third parties to conduct such monitoring on our behalf. If any monitoring reveals that any Account Information has been wrongfully used or disclosed in breach of this Agreement, we reserve the right, in our sole discretion and without delay, to disable your Account and restrict your access to the Site.
- 10. Termination**
- 10.1 Either party may terminate this Agreement by giving written notice to the other with immediate effect if the other party:
- 10.1.1 commits a material breach and such material breach is not remedied within 30 days after issue of a written notice specifying the material breach and requesting it to be remedied or the material breach is not, in the opinion of the party terminating, capable of remedy;
 - 10.1.2 does something or fails to do something which brings the party terminating into disrepute;
 - 10.1.3 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
 - 10.1.4 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the non-defaulting party reasonably believes that to be the case;
 - 10.1.5 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
 - 10.1.6 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
 - 10.1.7 has a resolution passed for its winding up;
 - 10.1.8 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
 - 10.1.9 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
 - 10.1.10 has a freezing order made against it;
 - 10.1.11 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items; or
 - 10.1.12 is subject to any events or circumstances analogous to those in clauses 10.1.3 to 10.1.11 in any jurisdiction.

10.2 On termination:

- 10.2.1 all rights and licences granted to us under this Agreement shall cease;
- 10.2.2 we shall immediately cease to represent ourselves as your agent or as otherwise acting for you in relation to the Order;
- 10.2.3 all outstanding invoices and other sums owed to us shall be paid using any Returned Monies, Cancelled Order Monies, Held Monies, Commission Reduction and Interest held in the Client Account on your behalf or if no such monies are available, paid by you within 30 days of termination or of receipt of a valid VAT invoice;
- 10.2.4 any Returned Monies, Cancelled Order Monies, Held Monies, Commission Reduction and Interest held in the Client Account on your behalf following payment of outstanding invoices and other sums pursuant to clause 10.2.3 shall be returned to you within 30 days of termination;
- 10.2.5 all Goods which are in the process of being delivered shall be delivered to you in accordance with the terms of this Agreement;
- 10.2.6 we shall return or (at your request) destroy all Confidential Information and other property of yours then in our possession or control.

10.3 Termination of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination, including any right to claim damages in respect of any breach of this Agreement which existed at or prior to the date of termination.

10.4 Subject to applicable law, neither party shall have any liability to the other for damages, compensation or otherwise by reason only of the termination of this Agreement in accordance with its terms.

10.5 The provisions set out on pages 1 and 2 of this Agreement, Schedule 1 and clauses 1 and 10 to 23 (inclusive) and Schedule 3 shall survive termination of this Agreement, however occurring.

11. Exclusion of warranties

11.1 **Save to the extent that any exclusion is prohibited or restricted by law (including applicable consumer protection laws), no other representations, warranties or conditions, whether express or implied, beyond those set out in this Agreement are given or assumed by us in respect of the Site or our performance of this Agreement. Any such representations, warranties or conditions are hereby excluded to the fullest extent permitted by law. This does not affect your statutory rights.**

12. Events beyond our control

12.1 Our performance of this Agreement might be affected by events beyond our reasonable control, including, but not limited to, fire, flood, violent storm, pestilence, pandemic, epidemic, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare or any other disaster, natural or man-made but excluding any industrial action occurring within our or the Sub-Agent's organisation. If so, there might be a delay before we can start or restart our performance.

12.2 We will make reasonable efforts to limit the effect of any of these events and will do our best to keep you informed of the circumstances so we can start or restart performance as soon as these events have been rectified or ceased having an impact.

12.3 **Notwithstanding the above clauses, we shall have no liability to you for any breach of this Agreement caused by any event or circumstance beyond our reasonable control.**

13. Data Protection

- 13.1 Each party shall comply with its respective obligations, and may exercise its respective rights and remedies, under Schedule 3.

14. Confidentiality

- 14.1 In this clause, **Confidential Information** shall mean any information of either party however it is conveyed or on whatever media it is stored that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of such party, including Personal Data, intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential.

- 14.2 Subject to clause 14.3, each party undertakes:

- 14.2.1 to keep confidential all Confidential Information that it shall have obtained or received as a result of the discussions leading up to or the entering into or performance of this Agreement or otherwise obtains or receives during or in connection with this Agreement.
- 14.2.2 that it shall not, without the other party's written consent, disclose the Confidential Information in whole or in part to any other person; and
- 14.2.3 to use the Confidential Information solely in connection with the performance of this Agreement and not for its own benefit or the benefit of any third party.

- 14.3 The provisions of clause 14.2 shall not apply to any disclosure of information:

- 14.3.1 required by any applicable law or to any disclosures required under the FOIA or the EIRs;
- 14.3.2 reasonably required by persons engaged by a party in the performance of that party's obligations under this Agreement;
- 14.3.3 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 14.2;
- 14.3.4 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information.

- 14.4 Each party undertakes to make all its relevant employees, representatives, agents and the sub-contractors aware of the requirements in respect of the Confidential Information and the provisions of this clause 14, and, without limitation to the foregoing, to take all such steps as shall from time to time be necessary to ensure compliance by its employees, representatives, agents and sub-contractors with the provisions of this clause 14.

15. Freedom of Information

- 15.1 For the purposes of this clause:

- 15.1.1 **EIRs** shall mean the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

- 15.1.2 **FOIA** shall mean the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
- 15.1.3 **Information** has the meaning given under section 84 of the FOIA.
- 15.1.4 **Request for Information** means a request for information or an apparent request under the FOIA or the EIRs.
- 15.2 We acknowledge and agree you may be subject to the requirements of FOIA and the EIRs. If that is the case, we shall:
 - 15.2.1 comply with your instructions and directions, including any publication scheme, policies and codes of practice issued by you from time to time in relation to FOIA and the EIRs;
 - 15.2.2 transfer to you all Requests for Information relating to this Agreement that we receive as soon as practicable and in any event within 2 working days of receipt;
 - 15.2.3 provide you with a copy of all Information belonging to you requested in the Request for Information which is in our possession or control in the form that you require within 5 working days (or such other period as you may reasonably specify) of your request for such Information; and
 - 15.2.4 not respond directly to any access requests, complaints or investigations in relation to FOIA without your prior written consent.
- 15.3 We acknowledge that you may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from us. You shall take reasonable steps to notify us of a Request for Information (in accordance with the section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for you to do so but (notwithstanding any other provision in this Agreement) you shall be responsible for determining in your absolute discretion whether any commercially sensitive information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.
- 16. **Records and Audit Access**
 - 16.1 We shall keep full and proper records, accounts and all the documents relating to this Agreement, including the procurement of the Goods and/or Services, the contracts entered into by us and the Sub-Agent, all invoices and receipts and details of the amounts paid by you.
 - 16.2 We shall keep the records and accounts referred to in clause 16.1 above in accordance with good accountancy practice.
 - 16.3 We shall, at all reasonable times, give you and your authorised representatives access to and the right to reproduce our, our affiliates' and the Sub-Agent's records, accounts and documents as referred to in clause 16.1 and access to the relevant premises at all reasonable times in order for you and your representatives to undertake an audit.
 - 16.4 We shall on demand provide you and your authorised representatives with all reasonable co-operation and assistance in relation to each audit, including:
 - 16.4.1 all information requested by you within the scope of the audit;
 - 16.4.2 reasonable access to sites controlled by us and the Sub-Agent, to equipment used in the provision of the Goods and/or Services; and

16.4.3 access to relevant members of staff.

16.5 The provisions of this clause 16 shall apply during the term of this Agreement and for six years after the date on which it is terminated.

17. Disputes

17.1 We will try to resolve any disputes with you quickly and efficiently.

17.2 If you are unhappy with any aspect of our performance of this Agreement, please contact us as soon as possible by post or email to the addresses at 2buy2.com/contact-us and we will attempt to resolve your issue as soon as possible.

17.3 If you and we cannot resolve a dispute we will let you know that we cannot settle the dispute with you and give you certain information required by law about the options available to you.

18. Anti-bribery

18.1 For the purposes of this clause 18 the expressions:

18.1.1 **Bribery Laws** means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption and any similar or equivalent legislation in any other relevant jurisdiction; and

18.1.2 **adequate procedures** and **associated with** shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.

18.2 Each party shall comply with applicable Bribery Laws including ensuring that there are in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:

18.2.1 all of its personnel;

18.2.2 all others associated with it; and

18.2.3 all of its subcontractors;

involved in performing obligations under this Agreement so comply.

18.3 Without limitation to clause 18.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.

18.4 Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 18.

19. Anti-slavery

19.1 Each party undertakes, warrants and represents to the other that:

19.1.1 neither it nor any of its officers, employees, agents or subcontractors has:

(a) committed an offence under the Modern Slavery Act 2015 (a **MSA Offence**); or

- (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

19.1.2 it shall comply with the Modern Slavery Act 2015 and any anti-slavery and/or human trafficking policy the other party may have in force and notify to it from time to time; and

19.1.3 it shall notify the other party immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of its obligations under clause 19.1. Such notice shall set out full details of the circumstances concerning the breach or potential breach of such obligations.

19.2 Any breach of clause 19.1 by a party shall be deemed a material breach of this Agreement and shall entitle the other party to terminate this Agreement with immediate effect.

20. No partnership and extent of agency

20.1 We are independent organisations and are not partners or employer and employee and nothing in this Agreement shall be deemed to constitute or establish any partnership, joint venture, trust, fiduciary other relationship between you and us. You are principal and we are your agent to the extent and in respect of the matters expressly set out in this Agreement. Save as expressly provided for in this Agreement, we shall not have, nor shall we represent that we have, any authority to make any commitments on your behalf.

21. Notices

21.1 Notices under this Agreement must be sent:

21.1.1 by email – to us at legal@2buy2.com and to you at the email address you provide to us as part of your contact details, and such notices shall be deemed received at 9am on the first working day after transmission provided no delivery failure notification is received by the sender; or

21.1.2 by first-class post – to the other party's address, and such notices shall be deemed received two working days after posting.

21.2 It is your responsibility to ensure that all contact details (including email addresses) you submit to us are accurate and you notify us of any change in your contact details. Any notice we give you will be deemed to have been properly notified if sent in accordance with clause 21.1, and shall be deemed received at the times set out in clause 21.1, even if you do not actually see such notice, for example because you have not checked your email account or because you have failed to notify us of a change in your contact details.

21.3 This clause does not apply to notice given in legal proceedings, arbitration or other dispute resolution proceedings.

22. General legal terms

22.1 Entire agreement – this Agreement constitutes the entire agreement between us and you in relation to the appointment of us as your agent and the purchase of the Goods and Services on your behalf. This Agreement replaces and extinguishes all prior agreements or arrangements made between you and us, whether oral or written, in relation to such matters.

- 22.2 Rights of Third Parties – save as expressly set out herein, for the purposes of the Contracts (Rights of Third Parties) Act 1999, this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. However, this does not affect any rights or remedy of such a person that exists or is available apart from that Act.
- 22.3 Assignment – you may not assign, subcontract or encumber any of your rights or obligations under this Agreement, in whole or in part, without our prior written consent.
- 22.4 Severance – if any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 22.5 Waiver – a waiver of any right under this Agreement is only effective if it is in writing, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.
- 22.6 Legal rights – unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 22.7 Survival – provisions which by their terms or intent are to survive termination of this Agreement will do so.
- 23. Governing law and jurisdiction**
- 23.1 This Agreement, its subject matter and formation (and any non-contractual disputes or claims) are governed by the law of England and Wales. You and we both agree to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

DATA PROTECTION

1. In this Schedule:

Data Controller: has the meaning set out in the Data Protection Legislation in force at the time.

Data Processor: has the meaning set out in the Data Protection Legislation in force at the time.

Data Protection Legislation: the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy.

Data Subject: has the meaning set out in the Data Protection Legislation in force at the time.

Domestic Law: the UK Data Protection Legislation and any other law that applies in the UK.

Personal Data: has the meaning set out in the Data Protection Legislation in force at the time.

Relevant Laws: (for so long as and to the extent that they apply to us) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law.

UK Data Protection Legislation: any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation.

2. Each party will comply with all applicable requirements of the Data Protection Legislation. This paragraph 2 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
3. The parties acknowledge that for the purposes of the Data Protection Legislation, you are the Data Controller and we are the Data Processor. The scope, nature and purpose of the processing is to perform and comply with this Agreement and the transactions and documents referred to herein. The duration of the processing is the term of this Agreement (unless otherwise required or stated herein). The type of Personal Data and the categories of Data Subject are the names and contacts details of those individuals involved in the performance of this Agreement and the documents referred to herein and/or, where different, the beneficiaries or recipients of the Goods and Services.
4. Without prejudice to the generality of paragraph 2, each party will ensure that it has all necessary appropriate consents and/or notices in place to enable lawful transfer of any Personal Data to the other party for the duration and purposes of this Agreement.
5. Without prejudice to the generality of paragraph 2, we shall, in relation to any Personal Data processed in connection with the performance by us of our obligations under this Agreement:

- 5.1. process that Personal Data only on your documented written instructions or policies which have been provided to us, unless we are required by Relevant Laws to otherwise process that Personal Data. Where we are relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Relevant Laws unless those Relevant Laws prohibit us from so doing;
- 5.2. ensure that we have in place appropriate technical and organisational measures (as defined in the Data Protection Legislation), reviewed and approved by you, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of our systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by us);
- 5.3. not transfer any Personal Data outside of the European Economic Area unless your prior written consent has been obtained and the following conditions are fulfilled:
- (i) we have provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective remedies;
 - (iii) we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) we comply with the reasonable instructions notified to us in advance by you with respect to the processing of the Personal Data;
- 5.4. notify you immediately if we receive:
- (i) a request from a Data Subject to have access to that person's Personal Data;
 - (ii) a request to rectify, block or erase any Personal Data;
 - (iii) any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
- 5.5. assist you in responding to any request from a Data Subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 5.6. notify you without undue delay on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this Agreement;

- 5.7. at your written direction, delete or return Personal Data and copies thereof to you on termination or expiry of this Agreement unless required by the Relevant Laws to store the Personal Data;
- 5.8. maintain complete and accurate records and information to demonstrate our compliance with this Schedule 3 and immediately inform you if, in our opinion, an instruction infringes the Data Protection Legislation.
6. We shall indemnify you against any losses, damages, cost or expenses incurred by you arising from, or in connection with, any breach of our obligations under this Schedule 3.
7. A party may, at any time on not less than 30 Business Days' written notice, revise this Schedule 3 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).
8. The provisions of this Schedule 3 shall apply during the continuance of this Agreement and after its expiry or termination for such period as we continue to process Personal Data, provided that we shall cease all processing by no later than six months after the date on which this Agreement is terminated or expires.