

## BUY ONCE GIVE TWICE LIMITED

### Agreement for the appointment of Buy Once Give Twice Limited ("B1G2") for the provision of services (Partner Charities)

This agreement (the "**Agreement**") is made the day of  
(**Commencement Date**)

2009

#### Background

This document sets out the terms of B1G2's agreement with [NAME] (the "**Partner Charity**").

#### **1 APPOINTMENT**

1.1 B1G2 will be appointed by the Partner Charity to:

- (a) sell to third parties items provided to B1G2 by the Partner Charity whether returned by purchasers, unsold following a Partner Charity event, or sent in to the Partner Charity at a time when the Partner Charity cannot use them and does not wish to hold on to them (the "**Items**");
- (b) provide a service to supporters of the Partner Charity who wish to sell items with monies raised going to the Partner Charity; and
- (c) work with the Partner Charity to promote these services including via mutual website links and promotions to supporters of the Partner Charity (collectively "**the Service**").

#### **2 B1G2 SERVICES**

- 2.1 B1G2 will publicise the Partner Charity and their Items via B1G2's site, using the information provided by the Partner Charity to do this, and provide a link through to the Partner Charity's website
- 2.2 B1G2 will take all reasonable measures to ensure that Items are sold at or above the minimum reserve price (should one be stipulated by the Partner Charity) and within a time period agreed with the Partner Charity. If the Items are not sold at the minimum reserve price by the first agreed sale date, the items will continue to be relisted on the site until sold or unless the Partner Charity requests that the Items are returned to the Partner Charity
- 2.3 B1G2 will advise the Partner Charity on appropriate target sale prices, reserves and increments
- 2.4 Title to the Items will remain with the Partner Charity until the sale of the Item has been completed.
- 2.5 B1G2 confirms that it shall perform its Services under this Agreement in accordance with its obligations under the Data Protection Act 1998.

- 2.6 B1G2 offers 4 online products:
- 2.6.1 'Core' service, wherein B1G2 display the item, specifically market the item and liaise with the charity/buyer to organise despatch/delivery
  - 2.6.2 'Wishlist' service for charities to put up for sale wishlists of items needed for their operation, wherein B1G2 upload the item and markets the charity to its users
  - 2.6.3 'Facilitation' service, wherein B1G2 creates an auction page for a campaign, or a live auction preview, on behalf of a Partner Charity

### 3 PARTNER CHARITY RESPONSIBILITIES

- 3.1 The Partner Charity undertakes that Items will not be simultaneously offered for sale by any other third party whilst they are placed with B1G2 (with the exception of charity's own/branded merchandise sold via the Self-Serve section)
- 3.2 The Partner Charity will provide a link from an appropriate page of the Partner Charity's website to B1G2 using the logo and descriptive wording as supplied by B1G2.
- 3.3 The Partner Charity will use its reasonable endeavours to promote B1G2 and encourage its supporters, members and event guests to use the Service in order to generate revenue for the Partner Charity.
- 3.4 The Partner Charity will grant to the B1G2 a royalty free non-exclusive licence to use the Partner Charity's logo on B1G2's website and in publications made by B1G2 in order to market and promote B1G2 subject to the approval of the Partner Charity, such approval not to be unreasonably withheld or delayed.

### 4 PAYMENT

- 4.1 The Partner Charity acknowledges and agrees that a third party (currently Charities Technology Trust) has been engaged to process relevant payments and transactions arising from the sale of Items, in consideration for a fee ("**Third Party Fee**"). The Third Party Fee shall be as advised from time to time (currently 3%) and shall be deducted from the sale price for the relevant Item (the resulting amount being referred to in this Agreement as the "**Proceeds**").
- 4.2 In respect of Items provided directly by the Partner Charity, B1G2 will forward the Proceeds to the Partner Charity as follows:
  - 4.2.1 For items sold under the "Core" service, B1G2 will retain 15% commission
  - 4.2.2 For items sold under the "Wishlist" service, B1G2 will collect the Gift Aid and remit to the charity. B1G2 will retain 10% commission from the actual payment amount, i.e. for an £100 Wishlist item, B1G2 will retain £10 and claim GiftAid for the charity, thus remitting £118 to the charity (provided the purchaser is a UK tax payer AND ticks the Gift Aid box)
  - 4.2.3 For items sold under the "Facilitation" service, no commission shall be retained; instead a pre-agreed flat fee shall be charged
  - 4.2.4 VAT shall be added to all the above commissions or fees at the prevailing rate
- 4.3 The proceeds of the sale of items shall be remitted to the Partner Charity within one month of the receipt of the sale monies from the buyer of the item

## **5 LIMITATION OF LIABILITY**

- 5.1 Without prejudice to Clause 5.2, the total liability of B1G2 in contract, tort or otherwise arising by reason of or in connection with this Agreement shall be limited in aggregate to the Commission received by B1G2 from the Partner Charity in the twelve months up to and including the date of claim.
- 5.2 B1G2 does not exclude or limit its liability for death or personal injury caused by its negligence or fraud.

## **6 TERM AND TERMINATION**

- 6.1 The Agreement shall commence on Commencement date and shall continue (subject to termination as provided below) unless and until terminated by either party giving the other not less than 1 months' prior written notice.
- 6.2 Either party may terminate this agreement without liability to the other party immediately by giving notice if the other party commits a breach of any of the terms of this agreement and fails to remedy that breach within 14 days of being notified in writing of the breach.
- 6.3 On termination of this agreement for any reason B1G2 shall promptly return to the Partner Charity any unsold Items in B1G2's possession.
- 6.4 Termination of this agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

## **7 GENERAL**

- 7.1 Each party undertakes to the other that it will not disclose to any third party (other than its professional advisers or as required by law or as agreed between the parties) any information relating to the business affairs of the other nor any of the provisions of this Agreement.
- 7.2 Notice given under this Agreement shall be in writing, sent for the attention of the person, and to the address or fax number, given in this agreement (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery.
- 7.3 This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes and invalidates all prior oral or written communications, understandings, representation or warranties relating to its subject matter. Each party warrants to the other that it has not relied on any such communications, understandings, representations or warranties in entering into this Agreement.
- 7.4 Neither party shall be liable to the other for any delay or non-performance of its obligations under this Agreement to the extent that its performance is interrupted or prevented for reasons beyond its reasonable control.
- 7.5 This Agreement shall be governed by, and construed in accordance with, the law of England and Wales.
- 7.6 This letter constitutes a legally binding agreement enforceable in accordance with its terms.