

THIS AGREEMENT is made on 21st December 2022

BETWEEN:-

- (1) **THE SECRETARY OF STATE FOR EDUCATION** whose Head Office is at Sanctuary Buildings, Great Smith Street, London, SW1P 3BT (the "**Purchaser**"); and
- (2) **Rexel UK Limited**, which is a company, incorporated in and in accordance with the laws of **England & Wales** (Company No. **00434724** whose registered office address is at Eagle Court 2, Hatchford Brook, Hatchford Way, Sheldon, B26 3RZ (the "**Supplier**").

RECITALS:-

- (A) The Department and the Supplier entered into a contract for products dated 16th November 2022 with the Department's reference number of **con_17349** ("**Original Contract**") for the purposes of supplying portable carbon dioxide monitors.
- (B) The Department and the Supplier have agreed to vary the terms of the Original Contract as set out in this Agreement.
- (C) The Department's reference number for this Variation Agreement is 004.

IT IS AGREED as follows:-

1. **CONSIDERATION**

In consideration of each of the parties entering into this Agreement (such consideration being agreed by the parties to be good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged and agreed), the parties have agreed to vary the Original Contract in accordance with the 'Particulars' of the Original Contract.

2. **VARIATION OF THE ORIGINAL CONTRACT**

- 2.1 The parties agree with effect from the date of this Agreement the Original Contract shall be varied as set out in Annex 1 attached.
- 2.2 Subject to the variations set out in Annex 1, the Original Contract shall continue in full force and effect in all respects.
- 2.3 In addition to the amendments set out in Annex 1, the Original Contract shall be construed and interpreted with such further consequential amendments as are necessary to give effect to the amendments set out in Annex 1 of this Agreement, as if such further amendments were also expressly set out in Annex 1.
- 2.4 Except as provided in Clause 2.3 and Annex 1, the parties agree that no other liabilities, financial or otherwise, shall accrue to the Department because of this Variation Agreement.

3. **SEVERABILITY**

The provisions of this Agreement are intended by the parties to be severable in the event that any part of it is held to be illegal or unenforceable (in whole or in part) and such part

shall not affect the validity and enforceability of the remaining provisions or the remainder of the affected provision under this Agreement.

4. **AUTHORITY AND COSTS**

Each party undertakes that it has full power and authority to enter into and shall be responsible for its own costs arising in relation to this Agreement.

5. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

5.1 Subject to Clause 5.2 below, this Agreement is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person who is not a party to this Agreement. Accordingly, the parties confirm that no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

5.2 It is the intention of the parties that any other department, officer or agency of the Crown, may as required from time to time act as the Department's agent in enforcing the Department's rights under this Agreement.

6. **GOVERNING LAW AND JURISDICTION**

The parties agree that this Agreement and any dispute arising under or in any way connected with the subject matter of this Agreement (whether of a contractual or tortious nature or otherwise) shall be governed by and construed in accordance with the laws of England, and the parties submit to the jurisdiction of the English Courts.

EXECUTED by the parties on the first date in this Agreement.

For and on behalf of the Supplier:		For and on behalf of the Purchaser:	
Signature:	REDACTED	Signature:	REDACTED
Name:	REDACTED	Name:	REDACTED
Role:		Role:	Commercial Lead
Date:	15/02/2023	Date:	15/02/2023

ANNEX 1

VARIATIONS TO ORIGINAL CONTRACT

INSERT – Special Condition 7 below

7. The Parties agree under this Special Condition 7 that the Purchaser has ordered an additional maximum order quantity of 10,000 Products for delivery by the Supplier to educational settings in accordance with the time and delivery dates as provided by the Purchaser, and as required under Special Condition 6. The maximum additional Products required under this Special Condition may utilise those Products required under Special Condition 6 and are not in addition to those Products required under Special Condition 6. For the avoidance of doubt, the Purchaser will drawdown against the maximum order quantity of 10,000 Products via Delivery Schedule and any subsequent Delivery Schedules as notified by the Purchaser to the Supplier. The Parties agree this Special Condition 7 is not intended to bind the Purchaser to pay for an additional 10,000 Products.

7.1 The Parties agree that the Purchaser has ordered to a maximum quantity of 10,000 Products in addition to those required by the Delivery Schedule, and that the Purchaser shall only pay for those Products delivered to educational settings by the Supplier under Special Condition 6 of the 10,000 Products ordered by that Special Condition and at the rate of REDACTED per Product. In addition, the Parties have agreed the Supplier shall have no claim to payment from the Purchaser where the Supplier has failed to attempt delivery in accordance with the provisions of the Terms and Conditions of contract. Where any Products have been returned to the Supplier by educational settings, or the Supplier has attempted to deliver the Products ordered in accordance with Special Condition 6 and has been unable to deliver those Products from the maximum order quantity of 10,000 due to factors outside the Supplier's reasonable control, as exclusively determined in good faith by the Purchaser and noting the views of the Supplier, the Purchaser will pay the Supplier for any Products ordered under this Special Condition.

7.2 As an enduring obligation of contract until April 30 2023, the Supplier agrees that the Purchaser shall have the right to provide reasonable instruction to the Supplier for the actions the Supplier shall take to dispose of any Products left in the Supplier's possession from April 01 2023 but for which the Purchaser has paid in accordance with Special Condition 7.1, and that the Supplier shall follow that instruction at the Supplier's cost, provided that the Purchaser does not incur unreasonable costs to the Supplier in any such instruction. The Parties agree the Supplier will store those Products in its possession but for which the Purchaser has paid for the duration of this enduring clause at no charge to the Purchaser. In addition to this clause, the Parties agree that clause 34 (Resolving Disputes) of the Terms and Conditions shall also endure until April 30 2023, and to settle any dispute that may arise from April 01 2023 to April 30 2023 in accordance with the provisions of that clause.

7.3 In the event of a contradiction between this Special Condition 7, and the rest of the Terms and Conditions of contract, the Terms and Conditions shall take precedent.