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**BETWEEN**

**ECOLIVE PTE LTD  
[ACRA NO. RCE 200601963R]**

**AND**

**[ACRA NO.]**

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**NON-EXCLUSIVE DISTRIBUTION AGREEMENT**

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## **NON-EXCLUSIVE DISTRIBUTION AGREEMENT**

This Agreement is made the of 2009.

### **BETWEEN**

1. **ECOLIVE PTE LTD**, a company incorporated in Singapore, and having its principal office at 135 Middle Road #02-23 Bylands Building, Singapore 188975 (hereinafter referred to as the "Supplier"); and
2. .. a company incorporated in Singapore, and having its principal office at (hereinafter referred to as the "Authorized Distributor").

### **WHEREAS**

- A. The Supplier is engaged in procuring, selling, marketing, distributing and maintaining the Products (as defined hereafter).
- B. The Authorized Distributor is now desirous to acquire from the Supplier the Non-Exclusive rights to carry on such business with respect to the Products.
- C. The Supplier proposes extending the market for the Products by granting to the Authorized Distributor the Non-Exclusive rights herein for the Authorized Distributor to sell, market, distribute and maintain the same within the Territory (as defined hereafter), subject to the terms and conditions contained hereafter.

**THEREFORE IT IS HEREBY AGREED** as follows:-

### **1. INTERPRETATION**

- (a) In this Agreement, unless the context otherwise requires:-

"Force Majeure" means, in relation to either party, any circumstances beyond the reasonable control of that party (including, without limitation, any war, act of terrorism, rebellion,

civil commotion, explosion, strikes, lock outs and industrial disputes, fire, earthquake, flood, drought or bad weather, epidemics or widespread diseases, acts of God, the inability to take deliveries, products or supplies or the requisitioning or other act or order by the government, statutory boards or other local municipalities);

“Intellectual Property” means any patent, copyright, registered design, trade mark or other industrial or intellectual property right subsisting in the Territory and/or otherwise in respect of the Products, and applications for any of the foregoing;

“Products” means such of the products listed in the **FIRST SCHEDULE** as are at the date of this Agreement in the range of products manufactured by or for the Supplier, and such other products as may be included from time to time and agreed in writing by the parties;

“Territory” means Singapore;

“Trade Marks” means such trade marks as are used by the Supplier on or in relation to the Products at any time, if any, during this Agreement;

- (b) Any reference in this Agreement to “writing” or related expressions includes a reference to cable, facsimile transmission, e-mail or comparable means of communication.
- (c) Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa, and words denoting any one gender may include all other genders where applicable.

## **2. APPOINTMENT OF AUTHORIZED DISTRIBUTOR**

- (a) The Supplier appoints the Authorized Distributor for the sale of the Products in the Territory only, and the Authorized Distributor agrees to act in that capacity, subject to the terms of this Agreement.
- (b) Under such appointment, the Supplier grants to the Authorized Distributor and the Authorized Distributor accepts the Non-Exclusive rights to sell, market, distribute and maintain the Products within the Territory only.
- (c) The Authorized Distributor shall be entitled and must describe itself as the Supplier’s “Authorized Distributor” for the Products within the Territory only.

### 3. TERM

This Agreement shall take effect on 2009 (the "Commencement Date") notwithstanding the date hereof, and shall endure for a period of one (1) year and from year to year thereafter on the same terms and conditions, until or unless terminated by either party giving to the other not less than three (3) months prior written notice without prejudice to Clause 16 of this Agreement.

### 4. DISTRIBUTOR FEE

Upon executing this Agreement, the Authorized Distributor shall immediately pay the Supplier a one (1) time Distributor Fee of SGD S\$2000 (hereinafter referred to as the "Distributor Fee"). In consideration of the payment of the Distributor Fee by the Authorized Distributor, the Supplier shall supply the Products set out in Clause 5(a) below and provide the services set out in Clause 10 of this Agreement to the Authorized Distributor.

### 5. SUPPLY OF THE PRODUCTS

- (a) Upon executing this Agreement and payment of the Distributor Fee set out in Clause 4 of this Agreement, the Supplier shall supply SGD approximate S\$2000 worth of the Products, which are pre-selected by the Supplier, to the Authorized Distributor.
- (b) In addition to the Products supplied under Clause 5(a) above, the Authorized Distributor may place order and purchase from the Supplier (hereinafter referred to as the "Other Orders") and the Supplier shall sell to the Authorized Distributor such quantities of the Products as listed in the **FIRST SCHEDULE** as the Authorized Distributor shall require from time to time.
- (c) The Authorized Distributor shall give the Supplier not less than two weeks' written notice of its estimated requirements of the Products as listed in the **FIRST SCHEDULE** for each month, and shall promptly notify the Supplier of any changes in circumstances which may affect its requirements.
- (d) Upon receipt and confirmation of the Other Orders by the Supplier, the Supplier shall as soon as is practicable inform the Authorized Distributor of the Supplier's estimated delivery date for the

consignment. The Supplier shall use all reasonable endeavours to meet the delivery date.

## **6. PAYMENTS FOR THE PRODUCTS**

- (a) The prices for all Products supplied under this Agreement to be paid by the Authorized Distributor shall be contained in the price list set out in the **FIRST SCHEDULE**.
- (b) Payments for the Other Orders shall be made by the Authorized Distributor to the Supplier by way of cheque or Inter bank transfer into a designated bank account as the Supplier may from time to time notify in writing to the Authorized Distributor. These payments are payable by the Authorized Distributor to the Supplier immediately upon delivery of the Products by the Supplier to the Authorized Distributor.
- (c) All prices as contained in the price list set out in the **FIRST SCHEDULE** do include the Goods and Services Tax (“GST”) or any other form of taxes payable under Singapore, or other applicable laws.

## **7. DELIVERY**

- (a) Delivery of the Products will be made to the Authorized Distributor’s premises located at ..., or such other location as the Authorized Distributor may inform the Supplier in writing. All costs of transportation, insurance, import or other duties on the Products shall be met and borne by the Authorized Distributor.
- (b) The Authorized Distributor shall ensure that all import licences, certificates and other relevant documentation and authorizations have been procured prior to delivery.

## **8. PASSING OF RISK**

- (a) The title to any consignment of the Products shall pass to the Authorized Distributor only upon the Supplier receiving full payment of the price of that consignment

## **9. MARKETING OF THE PRODUCTS**

- (a) The Authorized Distributor shall use its reasonable endeavours to promote, market, sell, distribute and advertise in order to create a

demand for the Products throughout the Territory. The Authorized Distributor agrees to use all reasonable endeavours to satisfy the market demand within the Territory.

- (b) The Authorized Distributor shall be entitled, subject to the provisions in this Agreement, to promote and market the Products in the Territory in such manner as it may think fit. In particular, the Authorized Distributor shall be entitled to sell the Products to its customers at such prices as it may determine, after prior consultation with the Supplier.
- (c) The Authorized Distributor shall maintain such stocks of the Products as may be necessary to meet its customers' requirements.
- (d) In connection with the promotion and marketing of the Products, the Authorized Distributor shall:-
  - (i) make clear, in all dealings with customers and prospective customers, that it is acting as distributor of the Products and not as agent of the Supplier;
  - (ii) comply with all local legal requirements within the Territory from time to time in force relating to the storage and sale of the Products;
  - (iii) provide to the Supplier copies of its up to date price lists;
  - (iv) provide the Supplier on a quarterly basis with a report, in such form as the Supplier may reasonably require, of sales of the Products which it has made in the preceding quarter and containing such other information as the Supplier may reasonably require;
  - (v) from time to time consult with the Supplier's representatives for the purpose of assessing the state of the market in the Territory;
  - (vi) at the request of the Supplier, to provide to it copies of such sale aids, including catalogues, sales brochures and manuals, that are related to the Products.

## **10. SUPPORT AND TRAINING**

In consideration of the Authorized Distributor's payment of the Administration Fee set out in Clause 4 in this Agreement, the Supplier

shall, at its own costs, and from time to time, provide the Authorized Distributor with such samples, catalogues, brochures and up to date information concerning the Products .

## **11. INTELLECTUAL PROPERTY**

- (a) The Supplier authorizes the Authorized Distributor to use the Supplier's trade marks, if any, within the Territory or in relation to the Products for the purposes only of exercising its non-exclusive rights and performing its obligations under this Agreement.
- (b) The Authorized Distributor shall ensure that each reference to and use of any of such trade marks, if any, by the Authorized Distributor is in a manner from time to time approved by the Supplier.
- (d) The Authorized Distributor shall promptly and fully notify the Supplier of any actually, threatened or suspected infringement in the Territory of any Intellectual Property of the Supplier or in relation to the Products which comes to the Authorized Distributor's notice, and of any claim by third party so coming to its notice that the importation of the Products into the Territory, or their sale in the Territory, infringes any rights of any other person, and the Authorized Distributor shall at the request and expense of the Supplier do all such things as may be reasonably required to assist the Supplier in taking or resisting any proceedings to any such infringement or claim.

## **12. WARRANTY**

- (a) The Supplier warrants to the Authorized Distributor that all the Products supplied under this Agreement are:-
  - (i) of merchantable quality, suitable for sale in the Territory and that they conform to all local, national and international standards and requirements affecting the Territory; and
  - (ii) free from defects of design, workmanship or materials.
  - (iii) Warranty is for 2 years otherwise stated by supplier from the date of receipt of goods
  - (iv) Authorise Distributor will be responsible for the replacement of parts after the warranty expires. If supplier were to call

upon on site for support, labour fee will be charge depending on case to case basics.

### **13. FORCE MAJEURE**

The parties shall be under no liability to the other party in any way whatsoever for destruction, damage, delay or any matters of that nature whatsoever arising out of any force majeure event, and the parties shall further be under no liability to the other party in any way whatsoever for any other circumstances or happenings (whether of the foregoing clauses or not) beyond the parties' reasonable control. Should any such event last more than one month, the party affected may then elect to terminate this Agreement forthwith, by giving written notice of the same to the other party.

### **14. INDEMNITIES**

- (a) The Supplier agrees to indemnify and keep harmless and defend at its own expense the Authorized Distributor from and against any and all claims of infringement of copyright, trade marks or other intellectual property rights, if any, under the laws of any country, affecting the Authorized Distributor's licence within the Territory.
- (b) The Authorized Distributor undertakes that the Supplier shall be given prompt notice of any claim described in Clause 14(a) above that is made against the Authorized Distributor, dealers and customers.

### **15. CONFIDENTIAL INFORMATION**

The parties have imparted and may from time to time impart to the other party certain confidential information relating to their marketing and support of the Products, and the parties may otherwise obtain confidential information concerning the business and affairs of the other party pursuant to this Agreement. The parties hereby agree that they will use such confidential information solely for the purposes of this Agreement and that they shall not disclose, whether directly or indirectly, to any third party such information that is required to carry out the purposes of the Agreement. In the event that disclosure is essential, the parties will, prior to any such disclosure, obtain from such third parties duly binding Agreements to maintain in confidence the information to be disclosed hereunder.

## 16. TERMINATION OR EXPIRY

- (a) Notwithstanding any provisions herein contained, this Agreement may be terminated forthwith by either party to this Agreement by notice in writing if any of the following events shall occur, namely:
- (i) if any party commits any act of bankruptcy, or has a receiving order made against it, shall make or negotiate for any composition or arrangement with or assignment for the benefit of its creditors or if any party, being a body corporate, shall present a petition or have a petition presented by a creditor for its winding up or shall enter into any liquidation (other than for the purpose of a bona fide reconstruction or amalgamation), shall call any meeting of its creditors, shall have a receiver of all or any of its undertakings or assets appointed, shall be deemed by virtue of the law relating to this Agreement to be unable to pay its debts, or shall cease to carry on business; or if any event analogous to any of the foregoing under the law of any foreign jurisdiction shall occur with respect to any party;
  - (ii) if any party shall at any time be in default under this Agreement and shall fail to remedy such default (if capable of remedy) within thirty days having received notice of the same from the other party;
  - (iii) if any party is by any cause prevented from performing its obligations hereunder for a continuous period of one month consecutive months or for a total period of one month in any period of one month consecutive months.

If any such event referred to in (i), (ii), (iii) above shall occur, termination shall become effective forthwith or on the date set forth in such notice.

- (b) The expiry or termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry or termination.
- (c) The expiry or termination of this Agreement shall not be construed to affect the rights of the Authorized Distributor to maintain the Products in terms of the Authorized Distributor's Agreement with its customers.

## 17. INFORMATION

The parties to this Agreement agree and undertake to provide each another, at mutually agreed intervals or at such reasonable times or at the request of the other party, with information concerning sales and inventory of the Products, and any changes in the Territory relating to demand and customers, the activities of competitors and other such matters and information in any way relating to the performance of this Agreement. The parties also undertake to do all such acts and things as may be necessary or helpful to extend and improve the Products, and goodwill in the Territory.

**18. WAIVER**

Failure or neglect by the parties to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed as a waiver of the other party's rights hereunder nor in any way affect the validity as to the whole or any part of this Agreement nor prejudice the parties' rights to take subsequent action.

**19. ASSIGNMENT**

This Agreement shall not be assigned by the parties, whether voluntarily or involuntarily or by operation of law, in whole or in part, to any other party without the prior written consent of the other party. No such assignment by the parties howsoever occurring shall relieve the other party of its obligations hereunder.

**20. NOTICES**

All notices to or by the respective parties hereto shall be in writing and in the English language and shall be deemed to have been duly given when delivered by hand, posted by recorded delivery post or sent by facsimile or email to the party to which such notice is required to be given under this Agreement addressed as follows:

**The Supplier:**

CONTACT: EcoLive Pte Ltd  
FAX: Nil  
EMAIL: info@ecolive.com.sg

**The Authorized Distributor:**

Or to such other address or facsimile number as the respective parties hereto may hereafter specify to the others in writing.

Notices sent by facsimile or email shall be deemed received the first working day following such delivery or sending, at latest. Notices which have been posted as above shall be deemed received on the third (3<sup>rd</sup>) working day following posting.

**21. AGREEMENT**

- (a) This Agreement supersedes any arrangements, understandings, promises or Agreements made or existing between the parties hereto prior to or simultaneously with this Agreement and constitutes the entire understanding between the parties hereto.
- (b) This Agreement is personal to the parties herein and such parties may not, without the written consent of the other party, assign, mortgage, charge or dispose of any of its rights, or sub-contract or otherwise delegate any of its obligations under this Agreement.
- (c) Except as otherwise provided herein, no addition amendment to or modification of this Agreement shall be effective unless it is in writing and signed by and on behalf of both parties.

**22. HEADINGS**

The headings of the paragraphs of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning and interpretation of this Agreement.

**23. SEVERABILITY**

In the events any of the terms, conditions or provisions contained herein shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent be severed from the remaining body of the Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

**24. GOVERNING LAW & JURISDICTION**

The Agreement shall be deemed to be made in Singapore and shall be subject to, governed by and interpreted in accordance with the laws of the Republic of Singapore for every purpose. The parties also agree to submit to the non-exclusive jurisdiction of the Singapore courts.

**25. EXCLUSION OF LAWS**

- (a) The application of the United Nations Convention on Contracts for the International Sale of Goods 1980 to this Contract is hereby expressly excluded.
- (b) Unless otherwise expressly stated herein, a person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce any of its terms.

**IN WITNESS WHEREOF**, this Agreement has been entered into the day and year first above written and signed for and on behalf of each party by its duly authorized representative.

SIGNED )

\_\_\_\_\_  
Designation

\_\_\_\_\_  
Witness Name

SIGNED: )

\_\_\_\_\_  
Designation

\_\_\_\_\_  
Witness Name

**FIRST SCHEDULE**

