

**THIS AGREEMENT** is made the 1<sup>st</sup> day of Nov, 2019

**Between**

- (1) **EITA-Schneider (Mfg) Sdn Bhd (Company No.:514664-K)**, a Malaysian company having its principal place of business at Lot 5, Jalan Asam Jawa 16/15 Seksyen 16, 40200 Shah Alam, Selangor Darul Ehsan, Malaysia ] ("The Company"),

**And**

- (2) Schneider Control Sale & Service Co., Ltd, a company incorporated under Malaysia laws whose business address is at 159/576 Soi. Khubon 27, Intersection 60 Thareang Bangkhen Bangkok 10220 Thailand ("the Agent")

**WHEREAS:-**

- A. The Company has appoints The Agent in the Territory (as defined below) to sell, support and maintain the Products (as defined below).
- B. The Agent has represented to The Company that it has considerable sales, marketing, installation, and after sales service experience in the Territory (as defined below) and wishes to act as The Company's agent for the Products.

**IT IS AGREED THAT:-**

**1. Interpretation**

- 1.1 In this Agreement, unless the context otherwise requires:-

"Intellectual Property" means any patent, copyright, registered design, trade mark or other industrial or intellectual property rights subsisting in the Territory in respect of the Products, and applications for any of the foregoing.

"Products" means, subject to clause 3.2, EITA-Schneider equipment which are manufactured by or for The Company (including supplies and spare parts for the foregoing) and which are listed in Schedule 1 hereto under List of Products and such other product as may from time to time be agreed in writing by the parties.

"Restricted Information" means any information which is disclosed to the Agent by The Company pursuant to or in connection with this Agreement (whether orally or in writing, and whether or not such information is expressly stated to be confidential or marked as such).

"Territory" means the territory situated in Thailand.

- 1.2 Any reference in this Agreement to 'writing' or cognate expressions includes a reference to telex, cable, facsimile transmission, emails or comparable means of communication.
- 1.3 Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.4 The headings in this Agreement are for convenience only and shall not affect its interpretation.

## **2. Appointment of Agent**

- 2.1 The Company hereby appoints the Agent as its authorized party for the resale, and servicing of the Products in the Territory, and the Agent agrees to act in that capacity, subject to the terms and conditions of this Agreement.
- 2.2 The Agent shall meet the annual sales target set by The Company as per schedule II. The Company reserve the right to appoint another party to sell their products in the Territories if the Agent fail to achieve the annual sales target set.
- 2.3 The Agent shall be entitled to describe itself as The Company's "Authorised Agent" for the Products, but shall not hold itself out as The Company's agent for sale of the Products or as being entitled to bind The Company in any way, unless authorised in writing by The Company to that effect.
- 2.4 The Agent shall:
  - 2.4.1 set up a branch offices in the Territory. Each branch office should be staffed with 6.
  - 2.4.2 provide technical services for the Products located in the Territory. The Company shall supply to the Agent with a list with details of such Products which, to its knowledge, requires such maintenance services.

- 2.5 The Agent shall not:
- 2.5.1 obtain the Products (or any goods which compete with the Products) for resale from any person, firm or company other than from The Company;
  - 2.5.2 be concerned or interested, either directly or indirectly, in the manufacture or distribution in the Territory of any goods which compete with the Products;
  - 2.5.3 seek customers, establish any branch or maintain any distribution depot for the Products outside the Territory; or
  - 2.5.4 sell the Products to any customer in any place which is:
    - (a) outside the Territory; or
    - (b) within the Territory if to the knowledge of the Agent that customer intends to resell the Products in any place which is outside the Territory.
  - 2.5.5 in relation to the Products, use or supply to any other person any spare parts or supplies which are not supplied by The Company.

### **3. Supply of the Products**

- 3.1 Subject as provided in clause 3.2 and the “Standard Terms for Export” in force at the date of this Agreement entered into by The Company and the Agent and any amendments made thereto by The Company, The Company shall use its best endeavours to supply the Products to the Agent in accordance with the Agent’s orders.
- 3.2 The Company shall not be under any obligation to continue the manufacture or supply of all or any of the Products, and shall be entitled to make such alterations to the specifications of the Products as it may think fit.
- 3.3 Each order for the Products shall constitute a separate contract, and any default by The Company in relation to any one order shall not entitle the Agent to treat this Agreement as terminated.
- 3.4 The Agent shall, in respect of each order for the Products to be supplied hereunder, be responsible for:
- 3.4.1 ensuring the accuracy of the order;
  - 3.4.2 providing The Company with any information which is necessary in order to enable The Company to fulfil the order.
- 3.5 The Agent shall give The Company not less than three months’ written notice of its estimated requirements of the Products for each month, and shall promptly notify The Company of any changes in circumstances which may affect its requirements.

3.6 Upon receipt and confirmation of each order The Company shall as soon as is practicable inform the Agent of The Company's estimated delivery date for the consignment. The Company shall use all reasonable endeavours to meet the delivery date, but time of delivery shall not be of the essence and accordingly The Company shall have no liability to The Agent if, notwithstanding such endeavours, there is any delay in delivery.

3.6.1 – The standard delivery estimated four (4) months from signing of sales contract, down payment received, finalized of all specification, finishes and approved of shop drawing whichever is later. However, we may consider a shorter delivery lead time on case to case basis.

3.7 The title to any consignment of the Products shall not pass to the Agent until The Company has received payment in full of the price therefor.

3.8 Risk of loss of or damage to any consignment of the Products shall pass to the Agent from the time The Company notifies the Agent that the Products are available for collection or from the time of delivery to the carrier at The Company's premises, whichever is earlier.

3.9 The Company has the right to impose a storage charges of the undelivered consignment due to the failure of the Agent to receive the product after one month of delivery notice issued by The Company.

3.9.1 The storage charges shall follow The Company local rate per sq ft per month. The calculation shall start from the 1<sup>st</sup> day after one month delivery notice expired. The storage charges will be imposed on monthly basis, immaterial of number of day stored in month as per The Company local storage charges rate.

3.9.2 The Company will forward the storage charges bill to The Agent on monthly basis and the Agent must make payment within 30days from the date of the bill. The Company has the right withhold the subsequent consignment delivery until the outstanding storage charges bill is fully paid.

#### **4. Payment for the Products**

4.1 All Products to be supplied by The Company pursuant to this Agreement shall be sold on an *ex-warehouse* basis, and accordingly the Agent shall, in addition to the price, be liable for arranging and paying all costs of transport and insurance.

4.2 Where The Company agrees to arrange for transport and insurance as agent for the Agent, the Agent shall reimburse to The Company the full costs thereof and all the applicable provisions of this Agreement shall apply with respect to the payment of such costs as they apply to payment of the price of the Products.

4.3 The prices for all Products to be supplied hereunder shall be based on quotation submitted by The Company and which shall be accepted by the Agent.

- 4.4 The prices for all Products shall be fixed for a period of 12 calendar months from the date of the Agent's order as mentioned in Clause 3.5 hereinbefore.
- 4.5 Payment for the Products shall be made by the Agent in the following manner:
- 4.5.1 The first 40% of the price of the Products upon the placing of the Agent's order as mentioned in Clause 3.5 hereinbefore; and the remaining 60% will be paid via Telegraphic Transfer (T/T) Two (02) weeks before delivery of goods.

OR

- 4.5.2 The final 60% of the price of the Products before the expiry of a 30 day Irrevocable Confirmed Letter of Credit at Sight issued by a reputable international bank to be issued to us One (1) month before delivery which shall run from the date of the Bill of Lading.
- 4.6 The price for any Product not listed in Schedule 1 ("Non-Standard Products") shall be negotiated and mutually agreed upon by both parties within 30 days from the Agent requesting of the same.

## **5. Marketing of the Products**

- 5.1 The Agent shall use its best endeavours to promote the sale of the Products throughout the Territory and, subject to compliance by The Company of its obligations under clause 3.1, to satisfy market demand therefor.
- 5.2 The Agent shall be entitled, subject as provided in this Agreement, to promote and market the Products in the Territory in such manner as it may think fit.
- 5.3 In connection with the promotion and marketing of the Products the Agent shall:
- 5.3.1 make clear, in all dealings with customers and prospective customers, that it is acting as Agent of the Products and not as agent of The Company;
- 5.3.2 comply with all legal requirements from time to time in force relating to the storage and sale of the Products;
- 5.3.3 from time to time consult with The Company 's representatives for the purpose of assessing the state of the market in the Territory and permit them to inspect any premises or documents used by the Agent in connection with the sale of the Products;
- 5.3.4 at the request of The Company provide to it copies of such sales aids, including (without limiting the foregoing) catalogues, sales brochures and sales manuals, as relate to the Products; (shipping/courier fee charges to be bear by The Agent)

- 5.3.5 use in relation to the Products only such advertising, promotional and selling materials as are approved in writing by The Company;
- 5.3.6 maintain an active and, subject to implementation of clause 6.2, suitably trained sales force;
- 5.3.7 provide an after-sales service for customers in relation to the Products to The Company's reasonable satisfaction in accordance with the warranties given by The Company.

## **6. Support and Training**

- 6.1 The Company shall from time to time provide the Agent with such samples, catalogues, manuals, brochures (shipping/courier fee charges to be bear by The Agent) and up to date information concerning the Products as The Company may consider appropriate or as the Agent may reasonably require in order to assist the Agent with the sale and maintenance of the Products in the Territory, and The Company shall endeavour to answer as soon as practicable any technical enquiries concerning the Products which are made by the Agent or its customers. All samples, catalogues, manuals, and brochures concerning the Products supplied by The Company shall remain the property of The Company and the Agent may not make any reproductions thereof in any form without the prior written consent of The Company.
- 6.2 After the commencement of this Agreement:
  - 6.2.1 The Company shall make available to the Agent (at such time as may be agreed and for a reasonable period of time) the services of a suitably qualified employee of The Company to assist the Agent in technical support of the Products; and
  - 6.2.2 the Agent shall be entitled to send to The Company's premises (at such time as may be agreed and for a reasonable period of time) up to three suitably qualified employees of the Agent for training by The Company in matters relating to the Products and their marketing and/or technical support.
  - 6.2.3 The Company is accountable for it Products' design and safety under the condition where no alteration and modification being done to the original specification and proper maintenance being carried out as per The Company and the local Territories authority requirement.
- 6.3 The services to be provided by The Company pursuant to clauses 6.1 and 6.2 shall be free of charge, but the Agent shall:
  - 6.3.1 reimburse to The Company all travelling, accommodation and other expenses reasonably incurred by any employees of The Company in providing such services; and

6.3.2 remain liable for all salaries and other employment costs of, and all travelling, accommodation and other expenses incurred by, employees of the Agent who are sent to The Company's premises.

6.4 In any case where employees of either party visit the premises of the other for the purposes of this Agreement, the first mentioned party shall:

6.4.1 procure that each such employee complies with all security, safety and other regulations which apply to or are in force at the other party's premises; and

6.4.2 Indemnify the other party against any direct damage to property of the other party which is caused by any act or omission of any such employee at the other party's premises.

## **7. Intellectual Property**

7.1 The Agent shall not:-

7.1.1 make any modifications to the Products or their packaging;

7.1.2 alter, remove or tamper with any trade marks, numbers, or other means of identification used on or in relation to the Products;

7.1.3 use in the Territory any trade marks or trade names so resembling any trade mark or trade names of The Company as to be likely to cause confusion or deception.

7.2 The Agent shall have no rights in respect of any trade names or trade marks used by The Company in relation to the Products or of the goodwill associated therewith, and the Agent hereby acknowledges that, except as expressly provided in this Agreement, it shall not acquire any rights in respect thereof and there all such rights and goodwill are, and shall remain, vested in The Company.

7.3 Without prejudice to the right of the Agent or any third party to challenge the validity of any Intellectual Property of The Company, the Agent shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any Intellectual Property of The Company and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character.

## **8. Confidentiality**

8.1 Except as provided by clauses 8.2 and 8.3, the Agent shall at all times during the continuance of this Agreement and after its termination:

8.1.1 use its best endeavours to keep all Restricted Information confidential and accordingly not to disclose any Restricted Information to any other person; and

8.1.2 not use any Restricted Information for any propose other than the performance of the obligations under this Agreement.

- 8.2 Any Restricted Information may be disclosed by the Agent to:
- 8.2.1 any customers or prospective customers;
  - 8.2.2 any governmental or other authority or regulatory body; or
  - 8.2.3 any employees of the Agent or of any of the aforementioned persons, to such extent only as is necessary for the purposes contemplated by this Agreement, or as is required by law and subject in each case to the Agent using its best endeavours to ensure that the person in question keeps the same confidential and does not use the same except for the purposes for which the disclosure is made.
- 8.3 Any Restricted Information may be used by the Agent for any purpose, or disclosed by the Agent to any other person, to the extent only that:
- 8.3.1 it is at the date hereof, or hereafter becomes, public knowledge through no fault of the Agent (provided that in doing so the Agent shall not disclose any Restricted Information which is not public knowledge); or
  - 8.3.2 it can be shown by the Agent, to the reasonable satisfaction of The Company, to have been known to it prior to its being disclosed by The Company to the Agent.

## **9 Warranties and Liability**

- 9.1 Subject as herein provided The Company warrants to the Agent that:
- 9.1.1 all Products supplied hereunder will be of merchantable quality and will be warranted against defect in design, workmanship and material for a period of 1 calendar year from the date of the contract between the Agent and its customer or 18 calendar months from the date of the Bill of Lading mentioned in Clause 4.5.2 hereinbefore whichever is earlier.
  - 9.1.2 it is not aware of any rights of any third party in the Territory which would or might render the sale of the Products unlawful.
  - 9.1.3 any claim by the Agent made under Clause 9.1.1 herein must be made in writing within the warranty period stipulated and must state the particulars of the defects sufficient to allow The Company to rectify the alleged defects (if applicable).
- 9.2 In the event of any breach of The Company's warranty in clause 9.1.1 (whether by reason of defective materials, production faults or otherwise) The Company's liability shall be limited to:
- 9.2.1 replacement of the Products in question; or
  - 9.2.2 at The Company's option, repayment of the price (where this has been paid)



9.3 The Company shall provide The Agent with the necessary parts and components for maintenance purpose for a period of 10 years. The maintenance of the Products shall be governed by a separated agreement entered into by The Company and The Agent.

## **10. Duration and Termination**

10.1 This Agreement shall come into force on **1<sup>st</sup> November 2019** and, subject as provided in clauses 10.2 and 10.3, shall continue in force for a period of 3 (Three) years and thereafter unless or until terminated by either party giving to the other not less than 6 months written notice expiring at or at any time after the end of that period.

10.2 The Company shall be entitled to terminate this Agreement by giving not less than 30 days' written notice to the Agent:

10.2.1 if there is at any time a material change in the management, ownership or control of the Agent;

10.2.2 if the Agent is in breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

10.2.3 if an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Agent;

10.2.4 if the Agent makes any voluntary arrangement with its creditors or becomes subject to an administration order;

10.2.5 if the Agent goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the Company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement); or

10.2.6 if the Agent ceases, or threatens to cease, to carry on business.

10.3 For the purposes of Clause 10.2.2, a breach shall be considered capable of remedy if the Agent can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

10.4 Any waiver by The Company of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.

10.5 The rights to terminate this Agreement given by this Clause shall be without prejudice to any other right or remedy of The Company in respect of the breach concerned (if any) or any other breach.

## 11. Consequences of Termination

### 11.1 Upon the termination of this Agreement for any reason:

- 11.1.1 The Company shall be entitled (but not obliged) to repurchase from the Agent all or part of any stocks of the Products then held by the Agent at the price at which they were bought from The Company or the value at which they stand in the books of the Agent, whichever is lower, provided that:
- (a) The Agent shall be responsible for arranging and for the cost of, transport and insurance; and
  - (b) The Agent may sell stocks for which it has accepted orders from customers prior to the date of termination, or in respect of which The Company does not, by written notice given to the Agent within 7 days after the date of termination exercise its right of repurchase, and for those purposes and to the extent the provisions of this Agreement shall continue in full force and effect;
- 11.1.2 The Agent shall at its own expense within 30 days send to The Company or otherwise dispose of in accordance with the directions of The Company all samples of the Products and any advertising, promotional or sales material relating to the Products then in the possession of the Agent;
- 11.1.3 outstanding unpaid invoices rendered by The Company payable by the Agent and invoices in respect of Products ordered prior to termination but for which an invoice has not been submitted shall be payable immediately upon submission of the invoice;
- 11.1.4 The Agent shall cease to promote, market or advertise the Products other than for the purpose of selling stock in respect of which The Company does not exercise its right of repurchase;
- 11.1.5 the provisions of clauses 8 and 9 shall continue in force in accordance with their respective terms;
- 11.1.6 the Agent shall have no claim against The Company for compensation for loss of distribution rights, loss of goodwill or any similar loss; and
- 11.1.7 subject as otherwise provided herein and to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Agreement.

**12. Nature of Agreement**

- 12.1 The Company shall be entitled to perform any of the obligations undertaken by it and to exercise any of the rights granted to it under this Agreement through any other company which at the relevant time is its holding company or subsidiary or the subsidiary of any such holding company and any act or omission of any such company shall for the purposes of this Agreement be deemed to be the act or omission of The Company.
- 12.2 The Company may assign this Agreement and the rights and obligations thereunder with prior notification in writing to the Agent.
- 12.3 This Agreement is personal to the Agent, which may not without the written consent of The Company, assign, mortgage, charge (otherwise than by floating charge) or dispose of any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder.
- 12.4 Subject as provided in clause 4.2, nothing in this Agreement shall create, or be deemed to create a partnership or the relationship of principal and agent or employer and employee between the parties.
- 12.5 It is hereby agreed that The Company is entitled to vary any term or condition of this Agreement by prior written notice to the Agent.
- 12.6 Each party acknowledges that, in entering into this Agreement, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly provided herein, and all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.
- 12.7 If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.

**13. Proper Law**

- 13.1 This Agreement shall be governed and construed in accordance with English laws and all disputes arising out of or in connection with this Agreement shall be settled conclusively by arbitration under the Arbitration Rules of Singapore International Arbitration Centre before a sole arbitrator appointed under such rules.

**14. Notices**

- 14.1 All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given: on delivery (if sent by messenger during normal business hours of the recipient) or on transmission (if sent by facsimile transmission during normal business hours) or on the third business day following posting (if posted by inland registered mail) in each case addressed as follows (unless otherwise notified):

EITA-SCHNEIDER (MFG) SDN BHD

Company Chop:

.....

**Lim Joo Swee**  
**Managing Director**

.....

Date:

Witness:

.....

Wee Fook Sang

.....

Date:

**Schneider Control Sale & Service Co., Ltd**

Company Chop:

.....

**Jakchai Eakwong**  
**Managing Director**

.....

Date: 1<sup>st</sup> Nov 2019

Witness:

.....

.....

Date: 1<sup>st</sup> Nov 2019

Company Chop:

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Product List:-

- 1) Passenger Lift
- 2) Goods Lift
- 3) Handicapped Lift
- 4) Hospital Lift
- 5) Stretcher Lift
- 6) Home Lift
- 7) Car Lift
- 8) Observation Lift
- 9) Motor Room Less Lift
- 10) Dumbwaiter
- 11) Escalator
- 12) Travellator
- 13) Accessories
- 14) Spare Parts

## Annual Sales Target (2020-2022)

YEAR	UNIT	SALES VALUE (USD)
2020	50	1,000,000.00
2021	80	1,600,000.00
2022	110	2,200,000.00

\*\*Note: Target is based on unit or sales value (USD), whichever is higher.