

## TERMS AND CONDITIONS OF APPOINTMENT AS XOX AUTHORISED DEALER

The Dealer accepts the Appointment as XOX Authorised Dealer, subject to the following terms and conditions:

### 1.0 Definitions

Agreement	This agreement is made between the Dealer and XOX, including all schedules and appendices (if any) attached hereto and any modifications, amendment, variations and/or additions thereto as communicated by XOX to Dealer from time to time
Application	The Dealer Application Form signed by the Dealer
Appointment	The Application in which XOX approved to allow the Dealer to be XOX's authorized dealer to market and sell XOX Products.
Dealer	The name of the Applicant as stipulated in the Dealer Application Form.
DREG	Assigned Dealer Online Registration Number for Dealer to register and activate Subscribers
E-Recharge	Electronic recharge
KPDNKK	Kementerian Perdagangan Dalam Negeri, Koperasi Dan Kepenggunaan
MCMC	Malaysian Communications and Multimedia Commission
MNP	Mobile Number Portability, which refers to the service provided by all Mobile Service Provider ("MSP") to allow the Customer to port from one MSP to another MSP while retaining the existing mobile number
Onesys/OneXapp	The Sales and Distributor Management System
Outlet	The retail outlet established by XOX Dealers
PDPA	Personal Data Protection Act 2010
POSM	Point-of-sale materials which include signboard, signages, buntings, posters, leaflets, light-box and the like
Products	XOX's products and/or services offered and/or supplied by XOX from time to time
Subscriber	Any individual who purchase and/or subscribe to XOX's Products
Sub Dealer	The name of the Applicant as stipulated in the Sub Dealer Application Form
XOX	XOX Bhd (Company No. 900384-X) and its subsidiaries

### 2.0 Appointment of Dealer

- 2.1 XOX hereby appoints the Dealer to be an XOX Authorized Dealer to offer, market, promote, distribute and sell the Products to Subscriber.
- 2.2 Agreement between the Dealer and XOX is based on Aqad Wakalah which Dealer/ Sub Dealer represents XOX in selling the Product to the subscriber.
- 2.3 This Appointment is not transferable and nonexclusive. XOX reserves its rights to appoint more than one dealer at any time and from time to time, without reference and/or notice to the Dealer.
- 2.4 This Agreement shall commence on the date stated in the Dealer Appointment letter, confirmed by an authorized officer of XOX for a period of twelve (12) months until and unless it has been revoked in writing by XOX. Upon expiry/revocation of this Agreement, XOX may by way of an extension letter, extend the Dealer's Appointment on a month to month until a new Dealer Appointment letter has been signed.
- 2.5 Nothing in the Agreement shall constitute or be deemed to constitute, whether directly or indirectly, a partnership or a dealing between XOX and the Dealer. The Dealer shall have no authority or power to bind XOX or to contract in the name of and create a liability against XOX in any way or for any purpose.
- 2.6 The Dealer cannot assign any rights in this Agreement. However, XOX reserves the right to assign this entire Agreement to any of its associated companies, or sell, transfer or assign to a financial institution or company.

### 3.0 Dealer Obligations

- 3.1 Licenses and Permits  
The Dealer shall obtain all the necessary business licenses, permits and approvals from the relevant authorities before commencement of the dealership.
- 3.2 The Dealer shall:
  - i. Promote and sell the Products to consumers in accordance to the pricing structure, guidelines and instructions provided by XOX.
  - ii. Not make any representations, warranties or guarantees with respect to the Products, except as expressly authorized by XOX or as contained in terms and conditions of sale.
  - iii. Ensure all means to close a sale are lawful and authorized.
  - iv. Communicate only accurate information in promotion XOX's Products. Dealer shall seek clarification from XOX where required.
  - v. Carry out conduct in such a way that promotes XOX's good name.
  - vi. In all correspondences, documents, name cards and other signage at the Dealer's Outlet, describe themselves as XOX Authorized Dealer only.
  - vii. Maintain and support the Subscribers on matters pertaining to the Products, teach Subscribers on how to use the Products in accordance with the procedures or guidelines as stipulated.
  - viii. Carry out such POSM and promotional activities at the Dealer's Outlet as directed by XOX from time to time.

- ix. Be responsible to help Subscribers to top-up XOX recharge vouchers accurately and fully indemnify XOX against all liabilities or losses whatsoever arising and to comply to all the guidelines and instructions issued by XOX from time to time on all types of reloads.
- x. Strictly prohibited from selling and/or distributing to unauthorized or Unapproved representatives or channels. Strictly prohibited from using unauthorized or unapproved channels to top up for Subscribers.
- xi. All orders of Products are subject to availability of the Products.
- xii. Not to change the physical packaging, product pricing or create own combo pricing of the Products and sell to consumers.
- xiii. Not to keep the Products for a long time where such Products have exceeded its expiry dates, especially the recharge vouchers.
- xiv. Strictly adhere to all relevant rules and regulations imposed by the relevant governmental and local authorities.
- xv. Ensure that none of your shareholders, directors, partners and/or employees are persons connected (as defined in Companies Act 1965) to the directors and/or employees of XOX unless prior written consent is given.
- xvi. Ensure Subscriber registration form is sent or returned to XOX within 14 (fourteen) days from the date of the registration is made.
- xvii. Be responsible and shall refer to the Onesys/OneXapp system for the latest product information, incoming promotions, and latest news from XOX and the Dealer/ Sub Dealer training material.
- xviii. Agree that XOX have full rights on all POSM materials. The Dealer is obligated contractually to fulfil the branding guidelines & POSM guidelines provided by XOX. Should the Dealer re-produce or produce new POSM they must have the written approval & consent from XOX. XOX reserves all rights to take any legal action should the Dealer breach the branding guidelines or POSM guidelines.
- xix. At all times, fully adhere to all stipulated rules, procedures and guidelines set by XOX from time to time failing which XOX may suspend, withhold, forfeit, and/or claw back on Dealer's incentive. Notwithstanding, XOX may lodge a police report against any attempt to defraud XOX.

### 3.3 Order and Payment

- i. For the ordering of Products, the Dealer can collect at XOX's HQ personally, or XOX will provide delivery via courier service with given charge amount or the Dealer may purchase from authorized Area Dealer or Master Dealer.
- ii. Cash and Online banking payment are accepted.

### 3.4 The Dealer's Outlet shall:

- i. Showcase and sell the Products at the Recommended Retail Price (RRP) as directed by XOX.
- ii. Prominently display XOX starter packs.
- iii. Display and exhibit all POSM supplied.

### 3.5 Dealer's Obligation MNP

- i. Mobile Numbers as requested for porting by Subscriber must be in the range of Mobile Numbers as approved by MCMC from time to time.
- ii. A Prepaid and/or Postpaid Subscriber who wants to port need to submit a port-in request to XOX and the MNP process is subjected to XOX's terms and conditions for new registration of Subscribers and existing geographic numbering requirements.
- iii. Only active Mobile Numbers are eligible for porting. Mobile Numbers which have been suspended/terminated/blacklisted on the defaulter's database and/or barred shall not be eligible for the porting.
- iv. The Subscriber shall only be allowed to port out to another telco provider if he complies with the XOX registration process, failing which it is deemed that the Dealer has committed an illegal and fraudulent act of porting.
- v. The Dealer shall indemnify XOX for any loss, costs, expenses or liability in contract or tort or otherwise to the Subscriber or any person claiming through the Subscriber in relation to the MNP, irrespective of port-in or port-out, for any reasons whatsoever.

### 3.6 Indemnity

The Dealer fully agrees and undertake to fully indemnify and keep XOX indemnified against all claims, demands, losses, damages, actions, suits, proceedings, costs, expenses including legal fees as between solicitor and client (on a full indemnity basis) made against incurred or sustained by XOX arising from or in connection with any acts or omissions or failure to perform any of the aforementioned terms and conditions including any negligence or wilful misconduct on the part of the Dealer, its employees, servants and agents including but not limited to breach of intellectual property rights belonging to XOX.

## 4.0 Payment of Incentives

In consideration of the above, XOX may make incentive payments to the Dealer subject to the following:

- 4.1 Incentives are calculated and finalized by XOX. The payment of incentives is subjected to Dealer observing the terms and conditions of this Agreement. In the event that the Dealer does not comply with the terms and conditions of Agreement, XOX reserves the right to suspend, withhold, claw back and/or forfeit back any or all of the Incentives.
- 4.2 In event of over-payment of any incentive payments, the Dealer agrees that XOX shall have the sole and absolute right to recall the overpaid amount.
- 4.3 XOX reserves the right to amend all types of incentives scheme and its calculations at any time and from time to time. XOX will notify the Dealer the effective date for amendments of incentives.
- 4.4 If the Dealer shall have any disputes on incentives calculations and payment, he shall inform XOX in writing within seven (7) working days from the receipt of the incentives, failing which the incentives payment shall be deemed correct and accepted by the Dealer in good faith.
- 4.5 Dealer fully understands that XOX will not pay Incentives to the Dealer, where there is any fraudulent transactions performed on the part of the Dealer, cheating, mis-representation, illegal activities and/or non-compliance with the terms and conditions, rules,

guidelines, procedures set out in this Agreement and issued by XOX from time to time or any MCMC or other relevant authorities' rules and regulations.

- 4.6 Company has the right to commence legal action against the Dealer and/or report such Dealer to the relevant authority whom XOX believes to have carried out suspicious and/or dishonest activities. Such suspicious and/or dishonest activities shall include but not be limited to sudden high activation, received data, minutes, SMS from multiple MSISDN with valid proof of abuse. Such activities may be held accountable under Criminal Breach of Trust (S 405 Penal Code of Malaysia).
- 4.7 Dealer unconditionally agree that XOX will pay all types of incentives, sponsorship, rewards and/or reimbursement expenses to the Dealer either by:
  - i. Direct telegraphic bank transfers to Dealer's bank account
  - ii. Direct transfer E-Recharge into Dealer E-Recharge account
  - iii. Airtime as payment, and/or
  - iv. A combination of the above
- 4.8 Incentives accumulated under RM200.00 (Ringgit Malaysia Two hundred) shall be paid in the form of E-Recharge. Incentives that exceed RM200.00 (Ringgit Malaysia Two hundred) can be in the form of E-Recharge or cash.

## **5.0 Limitation of Liability**

XOX shall not be liable for any indirect, special, consequential, or incidental damages, however caused, including, without limitation, any damages arising out of the use or operation of the Products, delays in delivery or repair, loss of use of the Products, damage, lost or stolen Products of the Dealer.

## **6.0 Right to Audit/Performance Review**

- 6.1 XOX shall have the absolute rights to conduct field inspections at the Dealer's Outlet, at any time and from time to time without written notice to the Dealer. The inspection will cover areas on the Dealer's existing Products, compliance with XOX's policies, procedures and system, verifying the accuracy of information on the Products provided by the Dealer.
- 6.2 At all times, XOX shall have the right to carry out investigation towards the Dealer having suspicious behavior or carrying suspicious activities.

## **7.0 Registration Process**

The Dealer:

- 7.1 SHALL perform its duties with due care and diligence and fully adhere to XOX/One XOX's registration process and shall comply with XOX / One XOX's stipulated requirements, rules, guidelines and policies as may be communicated to the Dealer from time to time.
- 7.2 Shall sign the original NRIC/Passport and/or any valid identification document of the potential subscriber and keep a photocopy of such document.
- 7.3 SHALL receive Subscriber's acknowledgment and consent allowing the Dealer to collect, use, disclose and process personal information provided to the Dealer during the registration process. This is consistent with the PDPA.
- 7.4 is strictly prohibited from using Subscriber's information to carry out mass registration to transfer out data, minutes, and SMS as set by XOX's regulation/guidelines
- 7.5 is strictly prohibited from using Subscriber's information to sell with different pricing structure as given by XOX (KPDNKK).
- 7.6 SHALL NOT falsify or make alteration to any of Subscriber's information or documents for registration purposes.

## **8.0 Confidentiality**

- 8.1 Pursuant to PDPA the parties are bound to comply with its provision in respect of new personal data collected. In the event of any failure to comply of the said provision, the parties shall bear the risk of non-compliance of the provision. The defaulting Party agrees that money damages would not be a sufficient remedy for any breach of this clause by either party or any of its representatives and that the non-breaching party shall be entitled to equitable relief, including injunction and specific performance, as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity.
- 8.2 Each party agrees and undertakes with the other to protect the information of any kind, whether orally, printed or electronically submitted or disclosed by other party to the other ("Confidential Information") using not less than the standard of care which it treats its own confidential Information but in no event less than reasonable care and shall ensure that the Confidential Information of the other party is stored and handled in such a way as to prevent unauthorized disclosure.
- 8.3 Each party shall use its best effort to limit dissemination of the Confidential Information to its personnel to whom disclosure is reasonably required for each of them to perform their duties under this Agreement. Each party shall impose the above obligation of confidentiality on their personnel. The Confidential Information received by one party from the other shall only be used for the purpose of this Agreement and not for any other purpose.

## **9.0 Termination**

- 9.1 The Dealer agree that if the Dealer has carried out any of the following activities and/or commits breach of any terms and conditions stated herein or of any of XOX's policies, rules, regulations, guidelines and/or any applicable laws/ regulations, XOX shall at its sole and absolute right suspend and/or terminate this Agreement and/or suspend and/or revoke the Dealer's dealership without recourse, damages and/or compensation, including but not limited to the circumstances where:
  - i. The Dealer commits a breach of any terms and conditions stipulated herein or any of XOX rules, requirements, procedures and guidelines and/or if it commits a rectifiable breach, fails to rectify the said breach within thirty (30) days from the date of notification from XOX .
  - ii. The Dealer or its business entity enters into liquidation or suffers any similar action in consequence of debts.
  - iii. The Dealer ceased business, no more registered with the relevant government authorities, bankruptcy of the directors or partners or have shifted premises.

- iv. In XOX's sole opinion, the Dealer involved in any fraudulent transactions, non-ethical and/or illegal activities or that the Dealer has carried out activities where there is an element of fraud, cheating, and/or mis-representation, or in direct and/or indirect breach of MCMC or any other relevant authorities' rules and regulations.
  - v. The Dealer has conducted itself in a manner or is guilty of a conduct which is in the opinion of XOX is prejudicial to XOX's interest.
  - vi. The Dealer misuses or has misused the DREG lines assigned to the Dealer to help register other Dealers' Subscribers or the Dealer allow other Dealers to use the Dealer's own DREG lines to register their Subscribers.
  - vii. The Dealer intentionally and fraudulently register XOX MSISDN Mobile Numbers that have not been provided by XOX or provisioned but have not been sold by XOX and/or sold by XOX solely to other Dealers.
  - viii. The Dealer intentionally and fraudulently make replacement sim cards for XOX MSISDN Mobile Numbers that the Dealer is fully aware that it does not belong to the lawful Subscribers, resulting in the lawful Subscribers losing their Mobile Numbers.
  - ix. The Dealer does not co-operate with XOX in putting up the required POSM and Products for display at the Dealer's Outlet at all times.
  - x. The Dealer manipulated the information in the Onesys or have corrupted the information as stored in the Onesys.
  - xi. The (registered) Dealer/ Sub dealer MSISDN have been terminated.
- 9.2 Notwithstanding the above, XOX at its sole and absolute discretion may terminate this Agreement and/or revoke the Dealer's dealership without any liability and assigning any reasons whatsoever, by giving the Dealer thirty (30) days prior written notice.
  - 9.3 The termination or expiry of this Agreement and/or revocation of the Dealer's dealership, in whole or in part, does not operate as a waiver of any breach by a party of any provisions and is without prejudice to any rights, liabilities or obligations of any party which have accrued up to date of termination or expiry including the right of indemnity.
  - 9.4 The issuance of a suspension notice shall not in any way prejudice or prevent XOX from exercising its right to issue a termination notice, notwithstanding the above clause.

#### **10.0 Amendment or Variation**

- 10.1 XOX reserves the right with or without giving notice to upon giving the Dealer notice to review, amend, add or vary any of the terms and conditions of this Agreement from time to time as we deem fit without assigning any reasons whatsoever.
- 10.2 The Dealer shall be bound by such amendments, addition or variation of the terms and condition.
- 10.3 The Dealer shall be responsible to visit XOX website ([www.xox.com.my](http://www.xox.com.my)) periodically to determine any updates.

#### **11.0 Law Application**

- 11.1 This Agreement shall be governed by and construed in accordance with the laws of Malaysia. Both parties agree to submit to the exclusive jurisdiction of the Malaysia courts located either in Kuala Lumpur or Petaling Jaya. XOX and the Dealer agrees that irrespective of the place of business of either parties, all litigations shall settled in the Courts of Kuala Lumpur, Petaling Jaya and/or Shah Alam.
- 11.2 This Agreement is subject to the Communications and Multimedia Act 1998 and any applicable subsidiary legislation, rules, regulations, directives and/or orders.

#### **12.0 General**

- 12.1 Notice under this Agreement must be sent either by electronic mail, fax or post to the appropriate party as stated below. For these purposes, the sender's notification of receipt by the addressee shall be conclusive evidence of receipt to:

XOX Mobile Sdn Bhd  
Lot 8.1, 8th Floor, Menara Lien Hoe,  
No. 8, Persiaran Tropicana, Tropicana Golf & Country Resort,  
47410 Petaling Jaya, Selangor Darul Ehsan  
Tel: 03-78842388, Fax: 03-78030778

- 12.2 This Agreement represents the entire Agreement between the parties regarding subject matter and supersedes any terms and conditions contained on printed forms submitted with purchase orders, sales acknowledgements or invoices; it also supersedes all previous oral or written communications between the parties regarding the subject. This Agreement may not be modified or waived except in writing and signed by an authorized representative of XOX.