

## TERMS AND CONDITIONS OF APPOINTMENT AS XOX AUTHORISED DEALER

### 1.0 Definitions

Agreement	This agreement is made between the Dealer and XOX Mobile, including the schedules and appendices (if any) and any modifications, amendments or additions thereto as informed by XOX to Dealer from time to time.
XOX	XOX Mobile Sdn Bhd (Company No.813250-K) and/or; XOX Com Sdn Bhd (Company No.709922-X), the holding company of XOX Mobile for the time being and/or; XOX Com and/or XOX Mobile as a group of companies.
Dealer	The name of the Applicant in the Dealer Application Form.
Outlet	The retail outlet(s) established by XOX Dealers.
Sub dealer	Name of applicant in Sub dealer Application form.
Application	The Dealer Application Form signed by the dealer.
Appointment	The Application in which XOX senior management has approved to allow the dealer to be XOX's authorized dealer to market and sell XOX Products. Approved Appointment to be XOX's authorized dealer by XOX Management based on Application received.
Products	XOX Group's products and services.
Subscriber	Any individual who may purchase and/or subscribe to XOX Products.
MCMC	The Malaysian Communications and Multimedia Commission.
DREG	Assigned Dealer Online Registration Number for Dealer to register and activate Subscribers.
POSM	Point-of-sale materials which include signboard, signages, buntings, posters, leaflets, light-box and the like.
Onesys	The Sales and Distributor Management System.
E-Recharge	Electronic recharge

### 2.0 Appointment of Dealer

- 2.1 XOX hereby appoints the Dealer to be an authorized Dealer to offer, market, promote, distribute and sell the Products to Subscriber and the Dealer hereby accepts the Appointment, subject to the terms and conditions of this Agreement.
- 2.1.1 Agreement between Dealer/ Sub dealer and XOX is based on Aqad Wakalah which Dealer/ Sub Dealer represent XOX in selling the product to the customer.
- 2.2 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 to the Dealer.
- 2.3 This Agreement shall commence based on the date stated in the Dealer Appointment letter, signed by an authorized officer of XOX for a period of twelve (12) months until and unless it has been terminated in writing earlier by XOX. Upon expiry of this Agreement, XOX may continue to re-appoint the Dealer in writing whether fax or email, on a month to month basis by XOX until a new Dealer Appointment Letter has been signed.
- 2.4 Nothing in the Agreement shall constitute or be deemed to constitute a partnership between the parties and 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.
- 2.5 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 companies.
- 2.6 Sub Dealer will be upgraded as Dealer when meet the target stipulated by XOX from time to time; and qualification for benefits whether in the form of incentives or other rewards or upgrading of status of Dealer will be solely dependent on the achievement of targets that are stipulated and set by XOX from time to time.

### 3.0 Dealer Obligations

- 3.1 The Dealer shall obtain all the necessary business licenses, permits and approvals from the relevant authorities before commencement of the dealership and thereafter, the Dealer shall:
- Promote and sell the Products to consumers in accordance to the pricing structure, guidelines and instructions provided by XOX.
  - 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.
  - In all correspondences, documents, name cards and other signage at the Dealer's Outlet, describe themselves as XOX Authorized Dealer only.
  - 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.
  - Carry out such POSM and promotional activities at the Dealer's Outlet as directed by XOX from time to time.
  - 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.
  - 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.
  - All orders of Products are subject to availability of the Products.
  - Not to change the physical packaging, product pricing or create own combo pricing of the Products and sell to consumers.
  - Not to keep the Products for a long time where such Products have exceeded its expiry dates, especially the recharge vouchers.
  - Strictly adhere to all rules and regulations imposed by the relevant governmental and local authorities.
  - 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.
  - Ensure Subscriber registration form is sent or returned to XOX within 14 (fourteen) days from the date of the registration is made.
  - 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.
  - Agree that XOX have full rights on all POSM materials. The Dealer is obligated contractually to fulfill 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.
  - 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 attempts to defraud XOX.
- 3.2 Order and Payment
- For the ordering of Products, the Dealer can collect at XOX 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.
  - Cash and Online banking payment are accepted.
  - All payments shall be submitted together with the receipts or proof of payment.

- 3.3 The Dealer's Outlet shall:
- Showcase and sell the Products at the Recommended Retail Price (RRP) as directed by XOX.
  - Prominently display XOX starter packs at anyone.
  - Display and exhibit all POSM supplied.

- 3.4 Dealer's Obligation on Mobile Number Portability (MNP)
- MNP is a service provided by all Mobile Service Provider ("MSP") to allow the Customer to port from one MSP to another MSP using the same existing Mobile Number.
- Mobile Numbers as requested for porting by Subscriber must be in the range of Mobile Numbers as approved by MCMC from time to time.
  - 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.
  - 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.
  - 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.
  - 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.

### 3.5 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 willful 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.

- 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 XOX reserves the right to amend all types of incentives and its calculations at any time and from time to time. XOX will inform the Dealer (either by email, fax, sms or letter, by written circular) the effective date for amendments of incentives.
- 4.3 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.
- 4.4 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.

4.5 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).

4.6 Dealer unconditionally agree that XOX will pay all types of incentives, sponsorship, rewards and/or reimbursement expenses to the Dealer either by:

- Direct telegraphic bank transfers to Dealer's bank account
- Direct transfer E-Recharge into Dealer E-Recharge account
- Airtime as payment, and/or
- A combination of the above

4.7 Incentive accumulated under RM200.00 (Ringgit Two hundred) shall be paid in the form of E-Recharge. Incentives that exceed RM200.00 (Ringgit 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 XOX 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, Company has the right to carry out investigation towards the Dealer having suspicious behavior or carrying out suspicious activities.

#### 7.0 Registration Process

7.1 The Dealer shall ensure that its registration process shall comply with XOX's requirements, rules, guidelines and policies.

7.2 The Dealer 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 Personal Data Protection Act ("PDPA 2010").

7.3 The Dealer is strictly prohibited from using Subscriber's information to carry out mass registration to transfer out data, minutes, and SMS as set by Company's regulation.

7.4 The Dealer is strictly prohibited from using Subscriber's information to sell with different pricing structure as given by XOX (KPDNKK Act).

7.5 The Dealer shall not falsify or make alteration to any of Subscriber's information or documents for registration purposes.

#### 8.0 Confidentiality

8.1 Pursuant to the Personal Data Protection Act 2010, 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.

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 not 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 of XOX Dealership

9.1 You agree that if you have carried out the following activities and/or have violated the policies, rules and regulations of XOX and/or MCMC, XOX reserves the right at its sole and absolute discretion to suspend and/or terminate this Agreement with you and/or suspend or revoke your dealership, without any recourse, damages or compensation, if:

- You commit a breach of any terms and conditions stipulated above or herein or any of XOX rules, procedures and guidelines.
- Your company or business entity have been wound-up, ceased business, no more registered with the relevant government authorities, bankruptcy of the directors or partners or have shifted premises.
- In XOX's sole opinion, you are involved in any fraudulent transactions and non-ethical and/or illegal activities or that you have carried out activities where there is an element of fraud, cheating, misrepresentation, or direct and/or indirect breach of MCMC or other relevant authorities' rules and regulations.
- You have conducted yourself in a manner or is guilty of a conduct which is in the opinion of XOX is prejudicial to XOX's interest.
- You have misused the DREG lines assigned to you where you help to register other Dealers' Subscribers and/or you allow other Dealers to use your DREG lines to register their Subscribers.
- You have intentionally and fraudulently register XOX MSISDN Mobile Numbers that have not been provision by XOX, provisioned but have not been sold by XOX and/or sold by XOX but to other Dealers and not yourself.
- You have intentionally and fraudulently make replacement sim cards for XOX MSISDN Mobile Numbers that you know are not belonging to the lawful Subscribers, resulting in the lawful Subscribers losing their Mobile Numbers.
- You have not co-operated with XOX in putting up the required POSM and Products for display at your Outlet at all times.
- You have manipulated the information in the Onesys or have corrupted the information as stored in the Onesys.
- The (registered) Dealer/ Sub dealer MSISDN have been terminated.

9.2 Notwithstanding the above, XOX may terminate this Agreement, without any liability and assigning any reasons whatsoever, by giving you thirty (30) days prior written notice, at its sole and absolute discretion.

9.3 The termination or expiry of this Agreement and/or revocation of your 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 issue a termination notice, notwithstanding the above clause.

#### 10.0 Amendment of Variation

10.1 XOX reserves the right 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 as a result of changing industry, economic, commercial and legal requirements. Such changes, if any will inform the Dealer either by email and/or posted onto our XOX website at [www.xox.com.my](http://www.xox.com.my).

#### 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, Petaling Jaya or the Klang Valley. 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 These terms and conditions do not imply whether directly and indirectly, a dealing between XOX and the Dealer. Nothing in this Agreement shall constitute or be deemed to constitute a partnership between both the parties.

12.2 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**

12.3 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.

12.4 XOX reserves the right, upon giving the Dealer notice or posted in XOX website ([www.xox.com.my](http://www.xox.com.my)), to review, amend, add or vary any of the terms and conditions of this Agreement from time to time, without notice as XOX deems fit without assigning any reasons whatsoever and the Dealer shall be bound by such amendments, addition or variation of the terms and condition.