

## XENDNOW Service Terms & Conditions

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### 1. Definition

The table below is the terms of service

<b>1.1 "Agreement"</b>	means the agreement between XENDNOW and the Customer for Carriage of the Shipment subject to these general terms and conditions for the carriage of Shipment at the time that the e-CN is signed by the Customer.
<b>1.2 "Customer "</b>	refers to the shipper, its employees, principals and/or agents and/or consignees and/or receivers.
<b>1.3 "e-Consignment Note" or "e-CN"</b>	refers to electronic/web-based document prepared by a consignor and countersigned by the carrier as a proof of receipt of consignment for delivery at the destination.
<b>1.4 "e-CN sticker"</b>	the CN label printed by XENDNOW and placed on the shipment.
<b>1.5 "Shipment"</b>	means all documents and parcels that travel under one consignment note and which may be carried by air, road or any other transporter engaged by the management for the XENDNOW service.
<b>1.6 "XENDNOW"</b>	is the service brand managed and owned by Xend Sdn Bhd (1172439-P) and also refers to the company, all its related corporations, subsidiaries, branches, employees, directors, agents, affiliates, contractors and any of their respective employees and agents.

## **2. Entire Agreement**

**2.1** Customer, upon tender of any Shipment for Carriage shall be deemed to have accepted and agreed to the terms and conditions herein on the Customer's behalf and on behalf of anyone else with an interest in the Shipment.

**2.2** XENDNOW or its owner shall not be bound by any warranty, condition, statement, express or implied term, representation, promise or agreement purporting to vary these conditions unless it is in writing and signed on behalf of by a duly appointed director of Xend Sdn Bhd.

## **3. Carriage**

**3.1** XENDNOW reserves its right to refuse carriage of any Shipment or class of Shipment at its absolute discretion.

**3.2** XENDNOW reserves its right to carry the Customer's Shipment by any means, route, procedure, form of handling, form of storage, transportation method, carrier or successive carrier as it deems fit at its absolute discretion.

**3.3** XENDNOW or any Person authorised by the company (Xend Sdn Bhd) reserves the right, but under no obligation, to open and inspect any Shipment at any time. If it appears at any time that the Shipment cannot safely or properly be carried further, either at all or without incurring any additional expense or taking measures in relation to the Shipment, XENDNOW may without giving notice to the Customer (but as his agent only) take any measures and/or incur any reasonable additional expense to carry or continue the Carriage thereof, and/or to sell or dispose of the Shipment and/or to abandon the Carriage and/or to store the Shipment, under cover or in the open, at any place, whichever the Carrier in his absolute discretion considers most appropriate, which abandonment, storage, sale or disposal shall be deemed to constitute due delivery under this consignment.

## **4. Loading and unloading if pickup or drop-off of a Shipment takes place at Customer's premises**

Any Shipment (or part thereof) requiring any special equipment for loading and unloading is accepted by XENDNOW for transportation only on the understanding and condition that such special equipment will be made available at the pickup and/or drop-off point as required. Where such equipment is not available and if XENDNOW agrees to load or unload the Shipment (or part thereof) XENDNOW shall be under no liability or obligation whatsoever to Customer for any damage however caused during the loading or unloading of the Shipment. This includes any damage caused whether or not by the negligence of XENDNOW, and Customer shall agree to indemnify and hold XENDNOW including its management and owner, employees and representatives harmless against any claim or demand from any person arising out of XENDNOW agreeing to load or unload the Shipment in these circumstances.

## **5. Delivery**

**5.1** XENDNOW may deliver a Shipment to the Customer named on this consignment or to any other person appearing to have authority to accept delivery of the Shipment on the Customer's behalf (such as persons at the designated address as the Customer or Receiver). In the event of unforeseen acts beyond XENDNOW's reasonable control, XENDNOW does not warrant that the Shipment will be handled delicately. The Customer shall produce adequate and legibly designated address for each Shipment to enable effective delivery to be made, otherwise XENDNOW shall be entitled to deal or dispose of any such undelivered Shipment as XENDNOW deems fit. The Customer shall comply with all applicable laws, rules and regulations, including but not limited to governmental regulations and laws of any country to, from, through or over the Shipment may be carried.

**5.2** If at any time the Carriage is or is likely to be affected by any hindrance, risk, , difficulty or disadvantage of whatsoever (including the condition of the Shipment), whenever and howsoever arising (whether or not the Carriage has commenced) XENDNOW may without notice to the Customer abandon the Carriage of the Shipment and where reasonably possible place the Shipment or any part of them at the Customer's disposal at any place which XENDNOW may deem safe and convenient, whereupon delivery shall be deemed to have been made and the responsibility of XENDNOW in respect of such Shipment shall cease. In any event XENDNOW shall be entitled to full Charges on Shipment received for Carriage and the Customer shall pay any additional costs resulting from the above mentioned circumstances.

## **6. Payment**

Any Shipping Rate quoted by XENDNOW shall exclude Service Tax or Sales and Service Tax (SST), Value Added Tax and any other applicable tax, duty and expenses as may be imposed by any local or foreign Customs or similar Authority in respect of the carriage of the Customer's Shipment. If the Customer gives different instructions on methods of payment, the Customer shall be primarily liable for any duty, tax (including pre-payment of the same), surcharge, fine, legal costs (on solicitor-and-client basis) or loss suffered by XENDNOW.

## **7. Customer's obligations**

**7.1** Customer is responsible for providing all necessary shipping information for documentation as well as the marking, labelling and packaging of all his documents and parcels. The Customer warrants to XENDNOW that the description and particulars including, but not limited to, weight, content, measure, quantity, quality, condition, marks, numbers and value are correct.

**7.2** The Customer shall comply with all applicable laws, regulations and requirements of customs, port and other authorities and shall bear and pay all duties, taxes, fines, imposts, expenses and losses incurred or suffered by reason thereof or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Shipment.

**7.3** The Customer undertakes that the Shipment is packed in a manner adequate to withstand the ordinary risks of Carriage having regard to their nature and in compliance with all laws, regulations and requirements which may be applicable.

**7.4** The Customer shall indemnify XENDNOW against all claims, losses, damages or expenses arising in consequence of the Carriage of prohibited items.

## **8. Custom clearance**

The Customer appoints XENDNOW as his agent solely for performance of custom clearance. The Customer warrants that all statements and information in any Shipment is accurately described in this consignment note and the Customer shall attach the relevant documents to meet the export or air carriage requirements. The Customer shall provide proper documentation whenever required.

## **9. Commercial Invoice**

Commercial invoice is required for any Shipment that is delivered to East Malaysia and outside Malaysia. The Customer shall furnish to XENDNOW or its a third party logistic partner, the commercial invoice in proper form and number, a proper consular declaration, weights, measures, values and other information as may be required by the laws and regulations.

## **10. Packaging**

**10.1** Customer must package all Shipment in a manner that properly protects the contents during transportation and without making it physically difficult for lifting and stacking.

**10.2** Customer shall ensure that:

- (a)** any old/expired and unapplicable labels/stickers are removed;
- (b)** packaging suits the content of the Shipment;
- (c)** fragile contents are always placed in the centre of the packaging with enough cushioning material.

## **11. No liability and/or limited liability**

**11.1** Every Shipment is transported on a limited liability basis on the terms and conditions stated herein. XENDNOW's liability is strictly limited to DIRECT LOSS AND DAMAGE ONLY.

**11.2** XENDNOW shall not be liable for the Customer's failure to comply with the conditions herein or resulting from the Customer's acts, negligence, default, misconduct or omission, including but not limited to inaccurate description of any Shipment; inadequate or inappropriate packaging, securing, marking or addressing of any Shipment.

**11.3** Any item that is listed under the heading of "Prohibited Items", will be exempted from any claim againts loss, damage, delay, shortage, mis-delivery, non delivery, mis-information, or failure to provide information in connection with the items stated .

**11.4** XENDNOW shall not be liable for any loss, damage, delay, shortage, mis-delivery, non delivery, misinformation or failure to provide information in connection with Customer's Shipment which is

- a.** beyond the reasonable control of the management of XENDNOW;
- b.** resulting from of Acts of God and
- c.** by the occurrence of a force majeure event including but not limited to:
  - (i)** severe weather, **(ii)** fire and flood ; **(iii)** war, rebellion, sabotage, riot, terrorism; **(iv)** strike or industrial dispute of whatsoever nature; **(v)** act or omission of local or overseas public authority and changes in applicable law; **(vi)** disruption of air or ground network; **(vii)** mechanical problems to modes of transportation / machinery or material shortage (i.e. fuel and electricity).

**11.5** If not governed by convention, regulations, rules or other mandatory national laws, XENDNOW will only be liable if loss, damage, shortage, mis-delivery, non-delivery, misinformation or failure to provide information in connection with the Customer's Shipment, is proven to be resulted from the acts or omissions of the management of XENDNOW committed with the intent to cause such loss or recklessness and with knowledge that such loss would probably result and XENDNOW's maximum liability under any circumstances whatsoever is limited by this consignment to RM200.00 per Shipment or the cost of replacement, whichever is lower, unless a higher value has been declared in which case the Shipment shall be insured by the Customer and the Customers' sole remedy shall be from the proceeds of the insurance policy.

**11.6** XENDNOW shall be discharged of all liability whatsoever in respect of the Shipment unless suit is brought in the proper forum and written notice thereof received by XENDNOW:

**(i)** in respect of loss or damage during Carriage by air, within 2 years after delivery of the Shipment or the date when the Shipment should have been delivered or any other time limit compulsorily imposed by applicable convention, rules or regulations whichever is the later

**(ii)** in respect of loss or damage during Carriage other than by air, within 30 days or any other time limit compulsorily imposed by applicable rules or regulations, whichever is later, after delivery of the Shipment or the date when the Shipment should have been delivered.

In the event that such time period shall be found contrary to any convention or law compulsorily applicable, the period prescribed by such convention or law shall then apply but in that circumstance only.

**11.7** XENDNOW shall not be liable for any loss of income, loss of profits, loss of markets, loss of reputation, loss of customers, loss of use, loss of an opportunity even if XENDNOW had knowledge that such damages or loss might arise or for any indirect, incidental, special or consequential damages or loss howsoever arising including without limitation breach of contract, negligence, wilful act or default.

## **12. Indemnification**

Customer irrevocably agrees to indemnify and hold XENDNOW harmless against any and all liabilities, claims, demands, suits, judgments, damages, losses, costs and legal fee in connection therewith or incident thereto, arising out of Customer's failure to comply with the conditions herein or resulting from Customer's negligence, acts, defaults, misconduct or omissions or the Customer's errors in the declaration of the Shipment or the provision of erroneous information relating to the Shipment or non-declaration of the dangerous nature of the Shipment and/or the failure of the Customer to comply with all applicable import, export, customs and other laws and regulations which apply to the Shipment.

## **13. Prohibited Item**

XENDNOW shall not carry the following items (or any item which contains any element thereof):

- (a)** dangerous, hazardous, combustible, radioactive, explosive, corrosive, biohazard, inhalation hazard, perishables, poisonous gases, prohibited drugs;
- (b)** any form of gold, bullion, jewellery, precious or semi-precious item (i.e. diamond, antique, artwork and etc), classified official documents (i.e. passport, identity card, birth certificate, credit card);
- (c)** currency (note or coin) of any nationality or negotiable instrument equivalent to cash (i.e. endorsed stock, bond, travellers cheque), animals or plants of any kind;
- (d)** mixtures of liquids, liquids containing solids in solution or suspension which gives off a flammable vapor, human remains;
- (e)** weapon and/or any sharp objects and any item that is prohibited by local or (any) foreign law.

## **14. Lien**

**14.1** XENDNOW shall have a lien over all Shipment and any documents relating thereto for all sums whatsoever due at any time to XENDNOW under this agreement.

**14.2** XENDNOW shall also have a lien against the Customer on the Shipment and any documents relating thereto for all sums due from any cause whatsoever.

**14.3** XENDNOW may exercise its lien at any time and at any place at its sole discretion, whether the contractual Carriage is completed or not. In any event any lien shall (a) survive the delivery of the Shipment and (b) extend to cover the cost of recovering any sums due and for that purpose XENDNOW shall have the right to sell the Shipment and documents by public auction or private treaty, without notice to the Customer and at the Customer's expense and without any liability towards the Customer.

## **15. Notification and claim for Loss and Damage Shipment**

**15.1** Any claim by the Customer for loss or damage to the Shipment must be made in writing within fourteen (14) calendar days from the date when the Shipment should have reached the designated destination failing which XENDNOW shall have no liability whatsoever.

**15.2** The content, original shipping carton and packaging of the Shipment shall be made available to XENDNOW within Seven (7) calendar days from the date of written notification in order for XENDNOW to evaluate the claim for damage. No claim shall be entertained unless all outstanding amounts due to XENDNOW from the Customer have been fully settled. The amount of any claim shall not be set-off against any amount owing to XENDNOW.

**15.3** XENDNOW shall be deemed prima facie to have delivered the Shipment as described in this consignment note unless notice of loss of, or damage to the Shipment, indicating the general nature of such loss or damage, shall have been given in writing to XENDNOW or to their representative at the place of delivery before or at the time of removal of the Shipment into the custody of the person entitled to delivery thereof under this consignment note. If the Customer accepted the Shipment by endorsing on the Proof of Delivery without raising any damage, shortage or dispute, XENDNOW shall be deemed to have discharged its responsibility / liability towards the Customer and / or over the Shipment.

## **16. Refund Policy**

**16.1** Shipment will be shipped the next working day after payment is confirmed. If service is not required, cancellation can be made in writing via email to [enquiries@xendnow.my](mailto:enquiries@xendnow.my) or call 012-4298650. Refunds will be made, if **(a)** cancellation of service is requested before 2pm the same day of pickup, **(b)** failed pickup, **(c)** you made a duplicate order in error, as long as all duplicate order must have been made under the same event, name, email address, billing address, date and final price, **(d)** you over estimated the weight and paid more than what is required.

**16.2** No refunds will be given for cancellation of service made **(a)** after 2pm on pickup day, **(b)** when document or parcel has already been delivered to destination address, and **(c)** because of delay in delivery transit time. Customers are advised to ensure all pickup and delivery information is accurate upon confirmation of order.

**16.3** No refunds will be given for any delayed shipment due to Acts of God or the force majeure events stipulated in 11.4. However, XENDNOW reserves the right to investigate on case to case basis, and if found that XENDNOW is legitimately at fault for the delay (meaning the company had reasonable control) then such a request for refund will be entertained.

**16.4** XENDNOW's products sold are non-refundable and non-exchangeable as the nature of products are consumable goods unless at the event you have received a wrong or faulty order.

**16.5** All refund for loss or damaged of shipment must be made in writing within 14 calendar days from the date when Shipment should have reached the designated destination. No further dispute will be entertained after 14 calendar days from the delivered date.

**16.6** Customer must show proof to XENDNOW damage incurred to document or parcel while in transit by submitting clear and undoctored photographs of damaged done to Shipment and, if required by XENDNOW, return damaged Shipment to XENDNOW for further investigation.

**16.7** Upon receiving and inspecting the evidence submitted by Customer, XENDNOW will acknowledge receipt of evidence by notifying Customer within 14 working days via phone call or email. At the same time, XENDNOW will also inform Customer if his request for full refund of delivery charges is approved or rejected.

**16.8** If full refund is approved, a credit will be refunded through original payment method, within 7 working days.

## **17. Complaints handling procedure**

**17.1** XENDNOW manages all Customer complaints seriously and will make every effort to resolve Customer issues professionally, openly and courteously.

**17.2** Customers can make their complaints by email to the XENDNOW Customer Service representative at [enquiries@xendnow.my](mailto:enquiries@xendnow.my) or call 012-4298650 during office hours to speak with a Customer Service representative.

**17.3** XENDNOW Customer service representative will resolve Customer complaints as soon as possible. If complaints cannot be dealt with immediately, XENDNOW will respond to customer by email or phone within 3 working days.

**17.4** XENDNOW reserves the right to terminate any correspondence or communication in any media, that could be interpreted as abusive or bullying in content, voluminous, frivolous or vexatious, and which specifically diverts resources and affects operation of key Customer relations.

## **18. Governing Law**

These Terms and Conditions shall be subject to and construed in accordance with the laws of Malaysia. The parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of Malaysia.

## **19. Privacy Policy**

[Kindly click here to view XENDNOW Privacy Policy.](#)