



TERMS AND CONDITIONS OF USE OF [WWW.AAWARRANTIES.CO.ZA](http://WWW.AAWARRANTIES.CO.ZA)

in favour of

**ADVANTAGE MOTOR PROTECTOR PROPRIETARY LIMITED**

**1. TERM**

- 1.1. This document sets out the terms and conditions (“**Terms**”) pertaining to the access of and use of the services and functions of Advantage Motor Protector Proprietary Limited t/a AA Warranties (“**AA Warranties**”) provided on this website: [www.aawarranties.co.za](http://www.aawarranties.co.za) (“**Site**”).
- 1.2. Should User (“**User**” which shall mean any person that accesses the Site) disagree with any of the Terms, User must refrain from accessing the Site and from using AA Warranties’ services and products in their entirety. By accessing the Site, User warrants and represents to AA Warranties that User is legally entitled to use the services. Any person below the age of 18 (eighteen) years may not use the services and must be assisted by their legal guardian when reading and entering into these Terms.
- 1.3. AA Warranties reserves the right, in its sole discretion, to amend and/or replace any of, or the whole of, the Terms. Such amendments shall supersede and replace any previous Terms and shall be made available on the Site. Each time User accesses the Site, User shall be deemed to have consented, by such access and/or use, to the Terms, as amended and/or replaced by AA Warranties from time to time.
- 1.4. In the event of a dispute as to the content of the Terms at any time, a certificate signed by the administrator responsible for maintaining the Site shall be prima facie proof of the date of publication and content of the current version and all previous versions of the Terms.

**2. DISCLAIMER**

- 2.1. It is expressly recorded and agreed that any service available on the Site, or information gathered from the Site, is not intended to constitute legal, financial, accounting, tax, investment, consulting or other professional advice or services. Before making any decision based on the information gathered from or through the Site, User should seek advice from a qualified professional advisor.

- 2.2. Any calculations made on or through the Site are illustrative and serve as guidelines only and are subject to confirmation by AA Warranties. AA Warranties does not guarantee the accuracy or completeness of these calculations.

### **3. CONTENT OF THE SITE**

- 3.1. AA Warranties reserves the right to make improvements, to change or to discontinue, without notice, any aspect or feature of the Site and any information or content on the Site.
- 3.2. AA Warranties reserves the right to change and amend the prices and rates quoted on the Site at any time and from time to time without notice.
- 3.3. AA Warranties may use the services of and information obtained from other organisations to provide information on the Site. AA Warranties does not control this information and makes no representations or warranties of any nature as to its accuracy, appropriateness or correctness. User agrees that such information is provided "as is" and that AA Warranties and its online partners shall not be liable for any losses or damages that may arise from User's reliance on it, howsoever these may arise.
- 3.4. AA Warranties makes no representations or warranties, whether express or implied, as to the accuracy, completeness or reliability of any information, data and/or content on the Site. In addition and without limiting the generality of the foregoing:
  - 3.4.1. AA Warranties does not warrant that the Site, the information or downloads shall be error-free or that they shall meet any particular criteria of performance or quality. AA Warranties expressly disclaims all implied warranties, including without limitation, warranties of merchantability, fitness for a particular purpose, non-infringement, compatibility, security and accuracy;
  - 3.4.2. Whilst AA Warranties has taken reasonable measures to ensure the integrity of the Site and its contents, no warranty, whether express or implied, is given that any files, downloads or applications available via the Site are free of viruses, Trojans, time bombs, time-locks or any other data or code which has the ability to corrupt, damage or affect the operation of the user's system; and
  - 3.4.3. AA Warranties disclaims any responsibility for the verification of any claims. Information published on or through the Site may be done so in the format in which AA Warranties receives it and statements from external parties are accepted as fact.

### **4. LINKED THIRD PARTY WEBSITE AND THIRD PARTY CONTENT**

- 4.1. AA Warranties may provide links to third party sites on the Site. These links are provided to User for convenience purposes only and AA Warranties does not endorse, nor does the inclusion of any link imply AA Warranties' endorsement of, such sites, their owners, licensees or administrators or such sites' content or security practices and operations.
- 4.2. While AA Warranties seeks to provide links only to reputable sites or online partners, AA Warranties cannot accept responsibility or liability for the information provided on

other sites. Linked websites or pages are not under, nor subject to, the control of AA Warranties. AA Warranties is not responsible for and gives no warranties or makes any representations in respect of the privacy policies or practices of linked or any third party or advertised websites on the Site.

- 4.3. User agrees that AA Warranties shall not be held liable, directly or indirectly, in any way for the content, the use or inability to use or access to any linked website or any link(s) contained in a linked website, nor for any loss or damage of any sort incurred as a result of any dealings with, or as the result of the presence of such third party linked websites on the Site. Any dealings User has with any linked websites, including advertisers, found on the Site are solely between User and the third party site.

## 5. **LINKING AND FRAMING**

- 5.1. Without the prior written approval of AA Warranties (which approval, or conditional approval, may be withheld in AA Warranties' sole discretion), User may not establish a hyperlink, frame, metatag or similar reference, whether electronically or otherwise (collectively "linking") to this Site or any subsidiary pages or applications.
- 5.2. An application for linking must be submitted to AA Warranties at [service@aawarranties.co.za](mailto:service@aawarranties.co.za). AA Warranties shall take reasonable steps to respond and enter into further discussions with User regarding the application. If no written response is received from AA Warranties within 7 (seven) days, the request shall be deemed to be rejected.

## 6. **USAGE RESTRICTIONS**

User hereby agrees that it shall not itself, nor through a third party:

- 6.1. copy (other than for backup, archival or disaster recovery purposes), reproduce, translate, adapt, vary, modify, lease, licence, sub-licence, encumber or in any other way deal with any portion of the Site for any reason and in any manner, unless it is consistent with the intent and purpose of these Terms;
- 6.2. decompile, disassemble or reverse engineer any portion of the Site;
- 6.3. collect service listings, descriptions or other information displayed on the Site;
- 6.4. write and/or develop any derivative of the Site or any other software program based on the Site;
- 6.5. modify or enhance the Site. In the event of User effecting any modifications or enhancements to the Site in breach of this clause, such modifications and enhancements shall be the property of AA Warranties;
- 6.6. remove any identification, trademark, copyright or other notices from the Site; and
- 6.7. notwithstanding anything contained to the contrary in these Terms, use the Site for any purpose other than pure information purposes only.

## 7. SECURITY

- 7.1. In order to ensure the security and reliable operation of the services to all AA Warranties Users, AA Warranties hereby reserves the right to take whatever action it finds necessary to preserve the security, integrity and reliability of its network and back-office applications.
- 7.2. User may not utilise the services and/or Site in any manner which may compromise the security of AA Warranties' networks or tamper with the services or the Site in any manner whatsoever, which shall include without limitation, gaining or attempting to gain unauthorised access to the Site, or delivering or attempting to deliver any unauthorised, damaging or malicious code to the Site, all of which is expressly prohibited. Any person or entity which does so, or attempts to do so, shall be held criminally liable. Further, should AA Warranties suffer any damage or loss, whether directly or indirectly, as a result thereof, civil damages shall be claimed by AA Warranties against User.
- 7.3. Should User commit any of the offences detailed in Chapter 13 of the ECT Act (specifically sections 85 to 88 (inclusive)) User shall, notwithstanding criminal prosecution, be liable for all resulting liability, loss or damages suffered and/or incurred by AA Warranties and its affiliates, agents and/or partners.

## 8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. For the purpose of this clause, the following words shall have the following meanings ascribed to them:
  - 8.1.1. "copyright" means whether existing now or in the future, in and to, the software including without limitation, designs and documentation relating thereto;
  - 8.1.2. "intellectual property rights" means all intellectual property of any nature whatsoever owned and/or controlled directly or under licence by AA Warranties, including without limitation, AA Warranties' rights, title and interest in and to all technology, source code/s, trade secrets, logos, systems, methods, trademarks, trade names, styles, insignia, designs, patents and copyright relating to the software, whether registered or not.
- 8.2. All copyright and other intellectual property rights in all content, trademarks, software, data, material, including logos, databases, text, graphics, icons, hyperlinks, private information, designs, agreements, and multimedia works, published on or via the Site, are the property of, or are licensed to, AA Warranties and as such are protected from infringement by local and international legislation and treaties.
- 8.3. All rights not expressly granted are reserved. The copyright in all content, information and logos vesting in the Site shall continue to vest in AA Warranties and no right, title or interest in any proprietary material or information contained in the Site is granted to User.

- 8.4. Except with AA Warranties' express written permission and/or in specific accordance with these Terms, no logo, graphic, sound or image from the Site may be copied or retransmitted.
- 8.5. Irrespective of the existence of copyright, User acknowledges that AA Warranties is the proprietor of all material on the Site (except where a third party is indicated as the proprietor), whether it constitutes confidential information or not, and that User has no right, title or interest in any such material.
- 8.6. AA Warranties authorises User only to view, copy, temporarily download to a local drive and to print the content of the Site, or any part thereof, provided that such content is used for information purposes only.

## 9. **RISK, LIMITATION OF LIABILITY AND INDEMNITY**

- 9.1. User's use of this Site and the information contained on the Site is entirely at User's own risk and User assumes full responsibility and risk of loss resulting from the use thereof.
- 9.2. The transmission of information via the internet, including without limitation via a mobile application and via email, is susceptible to monitoring and interception. User bears all risk of transmitting information in this manner. Under no circumstances shall AA Warranties be liable for any loss, harm, or damage suffered by User as a result thereof. AA Warranties reserves the right to request independent verification of any information transmitted via the Application and/or via email and User consents to such verification should AA Warranties deem it necessary.
- 9.3. To the extent permissible by law:
  - 9.3.1. Neither AA Warranties, its affiliates, shareholders, agents, consultants or employees shall be liable for any damages whatsoever, including without limitation any direct, indirect, special, incidental, consequential or punitive damages, howsoever arising (whether in an action arising out of contract, statute, delict or otherwise) related to the use of, or the inability to access or use the content of the Site or any functionality thereof, or the information contained on the Site, or of any linked website or application, even if AA Warranties knows or should reasonably have known or is expressly advised thereof.
  - 9.3.2. The liability of AA Warranties for faulty execution of the Site as well as all damages suffered by the User, whether direct or indirect, as a result of the malfunctioning of the Site shall be limited to AA Warranties rectifying the malfunction, within a reasonable time and free of charge, provided that AA Warranties is notified immediately of the damage or faulty execution of the Site. This liability shall fall away and be expressly excluded if User attempts to correct or allows third parties to correct or attempt to correct the Site without the prior written approval of AA Warranties. However, in no event shall AA Warranties be liable to User for loss of profits or for special, incidental, consequential or punitive losses or damages arising out of or in connection with

the Site, or its use or the delivery, installation, servicing, performance or use in combination with other computer software and/or applications.

- 9.3.3. User hereby unconditionally and irrevocably indemnifies AA Warranties and agrees to hold AA Warranties free from all loss, damages, claims and/or costs, of whatsoever nature suffered or incurred by AA Warranties or instituted against AA Warranties as a direct or indirect result of:
- 9.3.3.1. User's use of the Service;
  - 9.3.3.2. Software, programs and support services supplied by, obtained by or modified by User or any third party without the consent or knowledge of AA Warranties;
  - 9.3.3.3. User's failure to comply with any of the Terms or any other requirements which AA Warranties may impose from time to time;
  - 9.3.3.4. The actions or requirements of any telecommunications authority or a supplier of telecommunications services or software; and/or
  - 9.3.3.5. Any unavailability of, or interruption in, the service which is beyond the control of AA Warranties.
- 9.3.4. Any information provided by AA Warranties to the User shall in no way be construed as AA Warranties opinion on the solvency, financial standing, integrity or motives of the parties reported upon, but merely reflects an analysis of certain information compiled by AA Warranties from various sources, including without limitation the records of the courts of the republic of South Africa.
- 9.3.5. AA Warranties makes no warranty or representation as to the availability, accuracy or completeness of the content of the Site. User expressly waives and renounces all its rights of whatever nature that it may have against AA Warranties for any loss suffered by User, as a result of information supplied by AA Warranties being incorrect, incomplete or inaccurate.
- 9.3.6. User acknowledges that the information supplied AA Warranties is published/made available for information purposes only and that any action taken by User pursuant to that information is taken at the sole risk of User.

## **10. CONFIDENTIALITY**

- 10.1. Any information or material sent to AA Warranties by User will be deemed not to be confidential, unless otherwise agreed in writing by User and AA Warranties. Notwithstanding the foregoing, any information or material sent to or transmitted through AA Warranties will always be handled by AA Warranties in accordance with the applicable provisions of POPI.

## **11. BREACH; CANCELLATION BY AA WARRANTIES**

- 11.1. AA Warranties is entitled without notice, in addition to any other remedy available to it at law or under these Terms, including obtaining an interdict, to cancel these Terms, and/or limit or deny such User use of the Site, or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to AA Warranties right to claim damages, should User:

- 11.1.1. breach any of these Terms;
- 11.1.2. in the sole discretion of AA Warranties, use the Site in an unauthorised manner;  
or
- 11.1.3. infringe any statute, regulation, ordinance or law.

11.2. Breach of these Terms entitles AA Warranties to take legal action without prior notice to User and User agrees to reimburse the costs associated with such legal action to AA Warranties on an attorney and own client scale.

## 12. **COMPLIANCE WITH SECTION 43(1) OF ECT ACT**

In compliance with section 43(1) of the ECT Act, the following is noted:

- 12.1. Full name: Advantage Motor Protector Proprietary Limited t/a AA Warranties
- 12.2. Registration number: 2001/003085/07
- 12.3. Physical address: Stemcor House, The Braes, 193 Bryanston Drive, Bryanston, 2191
- 12.4. Fax number: 086 623 0066
- 12.5. Telephone number: 0860 267 267
- 12.6. Website address: [www.aawarranties.co.za](http://www.aawarranties.co.za)
- 12.7. e-mail address: [support@aawarranties.co.za](mailto:support@aawarranties.co.za)
- 12.8. Names of office bearers: PH Wessels; SAH Kajee; CV Khumalo; NA Hughes; JG Williams
- 12.9. Registered at: Pretoria

## 13. **GENERAL COMPLIANCE WITH LAWS**

13.1. User shall comply with all applicable laws, statues, ordinances and regulations pertaining to User's use of the services and the accessing of this Site.

## 14. **NOTICES**

14.1. Except as explicitly stated otherwise, any notices to AA Warranties shall be given by email to [support@aawarranties.co.za](mailto:support@aawarranties.co.za) and to User at the email address User may specify. Notice shall be deemed given 48 hours after email is sent, unless the sending Party is notified that the email address is invalid. Notice may also be given by registered mail, in which case, notice shall be deemed given 7 days after the date of mailing. User acknowledges that all agreements, notices or other communication required to be given in terms of the law or these Terms may be given via electronic means and that such communications shall be "in writing". Notwithstanding anything to the contrary, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address/es for that purpose.

## 15. **DISPUTES**

15.1. Save in respect of those provisions of these Terms which provide for their own remedies or which would be incompatible with arbitration, in the event of any dispute of any nature whatsoever arising between the parties on any matter provided for in, or arising out of these Terms (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction), shall be submitted to and decided by

arbitration to be held with only the parties and their representatives present at Sandton, Gauteng, Republic of South Africa.

- 15.2. It is the intention that the arbitration shall, where possible, be held and concluded in 21 (twenty one) days after it has been demanded. The parties shall use their best endeavours to procure the expeditious completion of the arbitration.
- 15.3. Save as expressly provided in these Terms to the contrary, the arbitration shall be subject to the arbitration legislation for the time being in force in the Republic of South Africa.
- 15.4. The arbitrator shall be an impartial practising attorney of not less than 10 (ten) years' standing appointed by the parties or, failing agreement by the parties within 14 (fourteen) days after the arbitration has been demanded, at the request of either of the parties shall be nominated by the President for the time being of the Law Society of the Northern Provinces (or the successor body thereto). If that person fails or refuses to make the nomination, either party may approach the High Court of South Africa to make such an appointment. To the extent necessary, the court is expressly empowered to do so.
- 15.5. The parties shall keep the evidence in the arbitration proceedings and any order made by any arbitrator confidential unless otherwise contemplated herein.
- 15.6. The arbitrator shall be obliged to give his award in writing fully supported by reasons.
- 15.7. The provisions of this clause are severable from the rest of these Terms and shall remain in effect even if these Terms are terminated for any reason.
- 15.8. The arbitrator shall have the power to give default judgment if any party fails to make submissions on due date and/or fails to appear at the arbitration.
- 15.9. Save where expressly provided elsewhere in these Terms that User shall be liable for AA Warranties' legal costs, each party shall pay their own arbitration costs, which they incur with their own legal advisors in respect of the negotiations, preparation for and conclusion of the arbitration proceedings. Any joint costs, such as those of the arbitrator, shall be born jointly and equally by the parties.

## 16. GENERAL CLAUSES

- 16.1. These Terms shall be governed in all respects by the laws of the Republic of South Africa as such laws are applied to agreements entered into and to be performed entirely within South Africa.
- 16.2. The Site is controlled, operated and administered by AA Warranties from its offices within the Republic of South Africa. AA Warranties makes no representation that the content of the Site is appropriate or available for use in other locations or countries. Access to the Website from territories or countries where the content of the Site is illegal is prohibited. Users may not use this Site in violation of South African export laws and regulations. If the user accesses this Site from locations outside of South Africa, that user is responsible for compliance with all local laws.



- 16.3. AA Warranties does not guarantee continuous, uninterrupted or secure access to its services, as operation of its Site may be interfered with as a result of a number of factors which are outside of its control.
- 16.4. If any provision of these Terms is held to be illegal, invalid or unenforceable for any reason, such provision shall be struck out from these Terms and the remaining provisions shall be enforced.
- 16.5. AA Warranties' failure to act with respect to a breach by User or others does not constitute a waiver of AA Warranties' right to act with respect to subsequent or similar breaches.
- 16.6. User shall not be entitled to cede its rights or assign its rights or delegate its obligations in terms of these Terms to any third party without the prior written consent of AA Warranties.
- 16.7. AA Warranties shall not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- 16.8. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply.
- 16.9. The head notes to the paragraphs to these Terms are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 16.10. Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include females and words importing persons shall include partnerships and corporate and unincorporated entities.
- 16.11. When any number of days is prescribed in these Terms, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday as officially proclaimed in the Republic of South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 16.12. The expiration or termination of these Terms shall not affect such of the provisions of these Terms as expressly provide that they shall operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 16.13. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 16.14. Expressions defined in these Terms shall bear the same meanings in schedules or annexures to these Terms which do not themselves contain their own conflicting definitions.

16.15. These Terms, read together with the other documents available on the Site (including but not limited to the Privacy Policy, PAIA Manual and Conflict of Interest Policy) set forth the entire understanding and agreement between AA Warranties and the User with respect to the subject matter hereof.

LAST UPDATED: 26 FEBRUARY 2018