

## AAAA MEMBERSHIP TERMS AND CONDITIONS

### 1. AGREEMENT

- 1.1. These terms and conditions (**Terms**) apply to your membership with the Australian Automotive Aftermarket Association Limited ACN 002 271 454 (**AAAA, we, our, us**) (**Membership**). These Terms and any other terms and conditions we disclose to you in connection with your Membership, including our website terms and [privacy policy](#) (together, the **Agreement**) constitute the entire agreement between you and AAAA related to your Membership.
- 1.2. You accept this Agreement on the earlier of applying for Membership, obtaining Membership, receiving or using the benefits of Membership, signing these Terms, clicking the "Accept" button or check box in respect of these Terms or otherwise acknowledging the Terms. Please read the Terms and the documents that form part of this Agreement carefully.
- 1.3. On accepting this Agreement, you agree to:
  - (a) become a member of the AAAA and the terms of the AAAA company constitution (**AAAA Constitution**); and
  - (b) purchase a Membership for an annual period or other period of time specified in clause 4.1.
- 1.4. If an individual accepts this Agreement on behalf of an entity, such as a company or as trustee of a trust, the individual warrants that they are authorised to legally bind the entity to this Agreement. The individual also warrants that they are legally able to accept this Agreement, including that they are over the age of 18 years.

### 2. DEFINITIONS AND INTERPRETATION

- 2.1. In this document the following terms have the following meanings:
  - (a) **AAAA, we, our, us** has the meaning given in clause 1.1, being the Automotive Aftermarket Association Limited ACN 002 271 454;
  - (b) **AAAA Constitution** has the meaning given in clause 1.3(a);
  - (c) **Agreement** has the meaning given in clause 1.1;
  - (d) **Membership** has the meaning given in clause 1.1, being your membership with AAAA;
  - (e) **Membership Fee** means the applicable fee for your Membership on the AAAA website in and in Australian dollars, as varied by AAAA and applicable from time to time;
  - (f) **Member Services** means the Membership services as described on the AAAA website, as varied by AAAA and applicable from time to time;
  - (g) **Payment Method** means the available payment method selected in your Membership or renewal application (including credit card, debit card, Capricorn account or as otherwise agreed in writing with AAAA);
  - (h) **Payment Provider** means the third-party payment gateway provider we use from time to time;
  - (i) **Period** means the term of the Membership as defined in clause 4.1; and
  - (j) **Terms** has the meaning given in clause 1.1, being these terms and conditions as varied in accordance with these Terms.
- 2.2. In these Terms, unless the context otherwise requires:
  - (a) a reference to writing includes post and email, including email and other communication established through the AAAA's website (if any);

- (b) the singular includes the plural and vice versa;
- (c) all references to monetary amounts are in Australian currency;
- (d) the meaning of general words is not limited by specific examples introduced by “include”, “includes”, “including”, “for example”, “in particular”, “such as” or similar expressions;
- (e) a reference to a clause or paragraph is a reference to a clause or paragraph of these Terms;
- (f) a reference to a party to this Agreement or any other document or arrangement includes that party’s executors, administrators, successors and permitted assigns;
- (g) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; and
- (h) headings are for ease of reference only and do not affect the meaning or interpretation of these Terms.

### **3. ELIGIBILITY AND ACCEPTANCE OF MEMBERSHIP**

- 3.1. To apply for Membership, you must be an eligible person or entity in accordance with the AAAA Constitution.
- 3.2. We reserve the right to accept or refuse your Membership, to the extent permitted by law and the AAAA Constitution.

### **4. MEMBERSHIP PERIOD**

- 4.1. The Membership is purchased for the annual Membership term (**Period**) from 1 July to 30 June, except in the following circumstances:
  - (a) if your Membership application is accepted after 1 July but before 1 January, the initial Period will start on the acceptance date and end on 30 June of the same membership year (resulting in an initial Period of at least 6 months but less than 12 months); or
  - (b) If your Membership application is accepted between 1 January and 30 June, the initial Period will start on the acceptance date and end on 30 June of the following membership year (resulting in an initial Period of more than 12 months).

### **5. AUTOMATIC RENEWAL**

- 5.1. This clause does not apply to category five members (e.g. franchisors).
- 5.2. Unless you notify us of your decision not to renew your Membership in accordance with this Agreement, your Membership will automatically renew for a further Period on and from 1 July (**Renewal Date**) at the Membership Fee.
- 5.3. We will send you a renewal reminder at least 60 days before the Renewal Date, detailing the renewal process and any changes to the Membership Fee or Agreement.
- 5.4. You can cancel the automatic renewal at any time up until 30 days before the Renewal Date. If you decide not to renew your Membership, you must notify us within this timeframe.
- 5.5. You authorise us to process the Membership Fee in accordance with your chosen Payment Method on each Renewal Date. It is your responsibility to ensure that your payment information is up to date.

### **6. MEMBER SERVICES**

- 6.1. As part of your Membership, you will have access to the Member Services in accordance with this Agreement.
- 6.2. You will not have access to the Member Services until after we accept your Membership, and your Membership Fee has been paid.

6.3. Member Services may be limited to the type of Membership applied for.

## **7. PAYMENT**

7.1. You must pay the Membership Fee in advance of each Period using the Payment Method.

7.2. Credit card transactions are processed by our Payment Provider. We do not store credit card information on our own systems.

7.3. If you pay the Membership Fee using our Payment Provider or a Capricorn account:

(a) you acknowledge the Payment Provider or Capricorn terms and conditions apply; and

(b) you indemnify and hold harmless AAAA and our officers, employees, agents, consultants, licensors, partners and affiliates from and against any losses, liabilities, costs, expenses or damages (including actual, special, indirect and consequential losses or damages of every kind and nature, including all legal fees on a solicitor-client basis) including, without limitation, from any third party claim, suffered or incurred by any of them due to, arising out of, or in any way related to (directly or indirectly) your failure to comply with the Payment Provider or Capricorn terms and conditions, or providing incorrect information to the Payment Provider or Capricorn.

## **8. MEMBERSHIP EXCLUSIONS**

8.1. Our Membership Fee does not include any third-party fees you incur in connection with your Membership, including for example charges for internet access from your internet service provider.

## **9. FAILURE TO PAY**

9.1. If you do not pay the Membership Fee in accordance with this Agreement, we may, in our absolute discretion, suspend and/or cancel your access to Member Services and/or discipline or expel you in accordance with the AAAA Constitution.

9.2. You agree to reimburse AAAA for any costs we incur as a direct result of a failure in your chosen Payment Method. This includes, but is not limited to, third-party fees and our reasonable administrative costs associated with addressing the payment failure.

## **10. MEMBERSHIP CANCELLATION**

10.1. Your Membership and access to the Member Services will end on expiry of the Period if you do not renew your Membership for a further Period.

10.2. You can cancel your Membership at any time, and you will continue to have access to the Member Services until the end of the Period. To the extent permitted by law, the Membership Fee is not refundable, and we do not provide refunds for any unused portion of the Period.

## **11. YOUR OBLIGATIONS AND INDEMNITY**

11.1. You must:

(a) comply with this Agreement;

(b) accept and comply with the AAAA Constitution;

(c) provide us with the correct information when applying for Membership;

(d) promptly provide us with written notice of:

(i) your updated and correct contact details when they change, including your business address, business telephone, mobile phone number and email address. You acknowledge that if you fail to update your contact details when they change, you may not receive notices, including Membership renewal notices;

- (ii) any change to the number of employees employed by you; and
  - (iii) any change in control to your business, including a change in ownership, shareholding or directorship;
- (e) keep any access information and passwords used in connection with your Membership secure and not allow unauthorised use of your Membership or Member Services. You are responsible and liable, including for loss and damage incurred by us or a third party claiming against us, for any authorised use of your Membership or Member Services;
  - (f) immediately change your password and provide us with written notice if there is unauthorised use of your Membership or Member Services;
  - (g) only use the Member Services and our website for lawful purposes, and you must not contravene any laws, or infringe any person's or entity's rights (including intellectual property rights), when using Member Services or accessing our website; and
  - (h) comply with the terms and conditions provided by a third-party providing Member Services.
- 11.2. If you contribute material to any Member Service or our website, you must not:
- (a) infringe the intellectual property rights or copyright of any person or entity;
  - (b) misrepresent facts or connections/affiliations with persons or entities;
  - (c) contribute information that is defamatory, libellous, abusive, threatening, harassing, obscene, lewd, violent, ethnically or racially offensive or objectionable, discriminatory or unlawful; and/or
  - (d) contribute information that puts us or our employees, officers or affiliates into disrepute.
- 11.3. You indemnify and hold harmless AAAA and our officers, employees, agents, consultants, licensors, partners and affiliates from and against any losses, liabilities, costs, expenses or damages (including actual, special, indirect and consequential losses or damages of every kind and nature, including all legal fees on a solicitor-client basis), including without limitation from any third party claim, suffered or incurred by any of them due to, arising out of, or in any way related to (directly or indirectly) your failure to comply with clauses 11.1 and/or 11.2.

## **12. INTELLECTUAL PROPERTY**

- 12.1. AAAA, or a third party, owns or has an interest in the intellectual property rights and/or copyright in the materials or information provided through the Member Services and/or the delivery of the Member Services (for example, software and source code), which is protected by applicable laws.
- 12.2. Materials and information provided to you through the Member Services are provided to you for use in your business or for personal (non-commercial) use only, however, you must not provide the materials and/or information to any third party, whether by sale or otherwise.
- 12.3. You are granted a revocable, limited, non-exclusive, non-transferable and non-sublicensable licence to access and use AAAA's intellectual property in the information and material available through the Member Services for use in your business or for personal (non-commercial) use in accordance with this Agreement.

## **13. LINKS AND THIRD-PARTY PROVIDERS**

- 13.1. Links may be available through the Member Services to third party websites, you acknowledge AAAA does not control the content of such third-party websites and the third-party website may have terms and conditions of use you will be required to comply with.
- 13.2. Third parties may provide some Member Services and/or materials, if accessing Member

Services and/or materials, you acknowledge that the third parties may also have terms and conditions that must be complied with and agree to comply with such third-party terms and conditions.

#### **14. DEFAULT AND EXPULSION OR DISCIPLINE**

- 14.1. If you fail to remedy a breach of this Agreement within the period specified by AAAA in writing, then we may without limitation to any other rights or remedies:
- (a) suspend and/or cancel your access to Member Services; and/or
  - (b) expel or discipline you in accordance with the AAAA Constitution.

#### **15. LIMITATION OF LIABILITY**

- 15.1. Any limitation of liability in this clause and/or this Agreement does not apply if it would restrict, modify or exclude your rights in a way that is not permitted under Australian Consumer Law provided in the *Competition and Consumer Act 2011* (Cth), or any other applicable law.
- 15.2. To the extent permitted by law:
- (a) all express and implied warranties, guarantees and conditions under statute or general law as to merchantable quality, description, quality, suitability or fitness of the Membership or Member Services is expressly excluded;
  - (b) we do not warrant that access to the Member Services will be free of errors, uninterrupted or will be continuously available and we do not accept liability for errors relating to access or where access is interrupted or not continuously available;
  - (c) we do not warrant that any information provided in connection with the Membership or Member Services is accurate or error free and we do not accept liability for information that is inaccurate or contains errors. If you do locate an error or inaccurate information, please notify us in writing;
  - (d) we do not warrant that the Membership or any Member Services are suitable for your purposes and you are responsible for making an assessment as to the suitability of the Membership and Member Services for your purposes;
  - (e) we will not be liable for any damage to your reputation or goodwill, or for loss of revenue, business opportunity or profit; and
  - (f) we limit our liability to you to the provision of the services again or a refund of the Membership Fee.

#### **16. FORCE MAJEURE**

- 16.1. Except for the payment of the Membership Fee, neither party has any liability under this Agreement or may be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party (including without limitation as a result of any strike, war, terrorist attack, trade dispute, fire, flood, tempest, theft, epidemic, pandemic or breakdown in machinery of any kind, disruption to electricity (or any other utility), or breakdown or disruption of any electronic communication support system).
- 16.2. The party affected by these circumstances must promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so.
- 16.3. If such circumstances continue for a continuous period of more than 6 months, either party may cancel the Membership by written notice to the other party.

#### **17. ASSIGNMENT**

- 17.1. We may assign, license or sub-contract all or any part of our rights and obligations under this Agreement, to another person or entity without notice to you provided your rights under this Agreement are not detrimentally affected by the assignment.
- 17.2. You must not assign any rights or obligations under this Agreement or transfer your Membership to another person or entity without the written consent of AAAA, such consent not unreasonably withheld.

## **18. VARIATION**

- 18.1. The parties may vary or replace these Terms at any time by agreement in writing.
- 18.2. AAAA may also vary these Terms at any time during the Period under the following circumstances effective on providing 30 day's written notice to you:
  - (a) to comply with changes in the law;
  - (b) to make minor, non-material changes to the Member Services;
  - (c) to change the Membership Fee for a subsequent Period;
  - (d) to introduce changes for your benefit.

## **19. GENERAL**

- 19.1. Clauses 7, 11.3, 12, 15 and any clauses incidental to these clauses survive the suspension, cancellation or expiry of the Member Services or your Membership (including by way of being expelled under the AAAA Constitution) or the termination of this Agreement.
- 19.2. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.
- 19.3. No failure or delay by AAAA in exercising any right, power or privilege under this Agreement will impair the same or operate as a waiver of the same nor may any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 19.4. If a provision of this Agreement is invalid or unenforceable in a jurisdiction, it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability, and that fact does not affect the validity or enforceability of that provision in another jurisdiction, or the remaining provisions.
- 19.5. This Agreement is governed by, and will be construed in accordance with, the laws of Victoria, Australia. The parties irrevocably agree that the courts of Victoria, Australia have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this Agreement or its subject matter or formation.