

MOTO LUBE MAINTENANCE PLAN TERMS AND CONDITIONS

1. DEFINITIONS

Unless the contract otherwise requires :-

- 1.1. "AA" means Automobile Association;
- 1.2. "Moto Lube" means Peak Performance CC t/a Moto Lube;
- 1.3. "Paint & Panelshop" means Dent & Mag Surgeon CC;
- 1.4. "Dent & Mag Surgeon CC" means an auto body and mag wheel repairer found at Moto lube premises;
- 1.5. "the Client" means the party/owner of a vehicle who contracts to the Moto-Maintenance Plan and who is identified as the client on the inspection certificate;
- 1.6. "the vehicle" means any motor vehicle which is approved after inspection by Moto Lube or the AA;
- 1.7. "cancellation date" means the date of cancellation hereof in terms of clause 11;
- 1.8. "Inspection Certificate" means the certificate produced by Moto Lube or the AA after inspection and repair of the vehicle as described more fully in clause 3 hereinbelow;
- 1.9. "Moto Lube Service Centre" means any Moto Lube branch in and around South Africa;
- 1.10. "Moto-Maintenance Plan booklet" means a Moto Lube service book containing service history of the vehicle;
- 1.11. Any reference to a gender includes the other gender.
- 1.12. Any reference to the singular includes the plural and vice versa.
- 1.13. Any reference to natural includes legal persons and vice versa.
- 1.14. The clause headings have been inserted for convenience only and shall not be taken into account in interpreting the terms and conditions herein.
- 1.15. Words and expressions defined in any clause hereof shall for the purpose of the clause in question bear the meaning assigned to such words and expressions in that clause.

2. WHEREAS :-

- 2.1. The Moto-Maintenance Plan consists of the following :-
 - 2.1.1. All mechanical aspects of vehicle service and maintenance at no charge of any vehicle under the Moto-Maintenance Plan for specified kilometers or time period (whichever occurs first);
 - 2.1.2. Servicing and repairs carried out at Moto Lube's service centres;
 - 2.1.3. Towing charges to be covered by the AA as well as a full AA membership for each Moto-Maintenance Plan member;
 - 2.1.4. Excess up to R1 500, 00 covered for accidental damage over R8 000, 00 by Dent & Mag Surgeon CC;
 - 2.1.5. Undertaking to maintain and service the vehicle.

3. UNDERTAKING TO MAINTAIN AND SERVICE THE VEHICLE

- 3.1. Provided that the vehicle has been purchased and serviced in the Republic of South Africa and the Client adheres to the terms and conditions contained herein, Moto Lube undertakes to fully maintain and service the Client's vehicle at no cost to the Client in accordance with this Agreement for the kilometers or time period specified on the warranty registration certificate (whichever occurs first).
- 3.2. The above is subject to the Client adhering to the following procedure:-
 - 3.2.1. The Client is to take the vehicle to the Parkmore Branch of Moto Lube, situated at 125 11 Street, Parkmore, for a pre-inspection and evaluation at a non-refundable fee of R600, 00 subject to change without notice.

- 3.2.2. The pre-inspection and the evaluation of the vehicle may also be carried out at any AA testing centers countrywide (at their current rate).
 - 3.2.3. All faults found on inspection will be entered on the Inspection Certificate checklist and quoted for.
 - 3.2.4. After evaluation and once all faults are repaired at owner's/dealer's cost, the vehicle will be placed on the Moto-Maintenance Plan.
 - 3.2.5. Should the Client not wish to repair the faults in the vehicle as determined by Moto Lube or the AA and still want the plan, these items shall become exclusions to the Moto-Maintenance Plan.
- 3.3. The cost of the plan will be determined solely and exclusively by Moto Lube after the above inspection of the vehicle and it shall be recorded in the Inspection Certificate.

4. **MAINTENANCE WORK**

- 4.1. The following maintenance work will be covered :-
 - 4.1.1. The performance of all maintenance and service work stipulated by the manufacturer of the vehicle in the service booklet applicable to that specific vehicle which is prepared by the manufacturer of each vehicle or the Moto-Maintenance Plan booklet as prepared by Moto Lube;
 - 4.1.2. the supply of engine oil, transmission oil, brake fluid and other lubricants and service products required when carrying out the work;
 - 4.1.3. the performance of any preventative treatment, checks or other work which Moto Lube in its absolute discretion determines to be necessary;
 - 4.1.4. the Performance off all repairs becoming necessary as a result of normal wear and tear. The decision as to what constitutes normal wear and tear lies solely in the discretion of Moto Lube;
 - 4.1.5. subject to the Exclusions referred to below, the replacement parts required in the performance of the service and maintenance tasks referred to above
- 4.2. The following work shall not be included in the maintenance works covered herein :-
 - 4.2.1. Any alteration or modification of the vehicle of whatsoever nature and any consequential damage resulting from such alteration or modification unless the vehicle is modified or altered whilst under the Moto-Maintenance Plan solely by a Moto Lube Dealership;
 - 4.2.2. The repair or maintenance of any accessory, modification or equipment which was not fitted to the vehicle when it was originally inspected by Moto Lube or the AA;
 - 4.2.3. the repair or replacement of any windscreen, windows, damaged glass, carpets, trim, seat covers, soft top canvas, paint work or body panels, interior components or any non mechanical exterior repairs;
 - 4.2.4. any measures to be carried our in preparing the vehicle for extended periods of storage;
 - 4.2.5. the repair of any damage caused to the vehicle as a result of an extended period of storage;
 - 4.2.6. the repair of any work required as a result of a Client failing to comply with the terms hereof or with his/her obligations in terms of the specific vehicle's owner's handbook and/or Moto Lube Maintenance Plan service booklet;
 - 4.2.7. the repair or replacement of any alarms and/or immobilizers;
 - 4.2.8. the required daily or other regular checks in regard to maintenance such as the checking of coolant levels, lubricant levels, tire pressures, anti-freeze, additives as specified in the handbook and/or service booklet of the specific vehicle as provided for by the manufacturer of the vehicle;
 - 4.2.9. the repair of any damage of whatsoever nature caused as a result of :-

- 4.2.9.1. The vehicle being involved in a collision except as provided for in clause 2 above;
- 4.2.9.2. accidental or intentional damage to the vehicle of whatsoever nature;
- 4.2.9.3. rust corrosion;
- 4.2.9.4. the vehicle being used in competitive events, racing or rally events or emergency services;
- 4.2.9.5. the neglect, misuse, abuse or improper treatment of the vehicle;
- 4.2.9.6. work performed on the vehicle by persons other than any employee and/or member of Moto Lube and/or Dent & Mag Surgeon CC;
- 4.2.9.7. civil commotion, labour disturbances, riots or political unrest;
- 4.2.9.8. the Client's failure to comply with his/her obligations in terms hereof;
- 4.2.9.9. force majeure (acts of God) including but not limited to labour, unrest, strikes, political upheaval, riots, as well as damages resulting from a natural occurrence such as flood, lightening, fire, hail and polluted or impure petrol, oil or lubricants having been used;
- 4.2.9.10. the replacement of tires and/or wheel alignment;
- 4.2.9.11. certain squeaks and rattles are excluded, however Moto Lube may in its sole discretion decide to repair such certain squeaks and rattles;
- 4.2.9.12. electronics and air-conditioning;
- 4.2.9.13. repairs to cd, radio and/or tape players;
- 4.2.9.14. any consequential damage in the event of an accident as a result of repairs gone wrong.

5. **SPARE PARTS WHICH ARE COVERED BY THE MOTO LUBE MAINTENANCE PLAN**

The repair or replacement of spare parts in the Client's vehicle which are covered by the Moto-Maintenance Plan are listed in Schedule "A" attached hereto.

6. **CLIENT'S OBLIGATIONS**

The Client shall :-

- 6.1. Make the vehicle available to any Moto Lube dealership by prior appointment during the normal working hours of Moto Lube at the relevant service interval specified by the manufacturer of the vehicle or the Moto Lube service booklet so that the relevant maintenance work is performed. The Client must sign the Repair Order before the maintenance work can be performed and must upon collection of the vehicle sign the relevant invoice reflecting the maintenance work performed. Moto Lube shall not be liable for the rectification of any damage or other work arising as a result of a Client failing or refusing to make the vehicle available as required in terms of this clause;
- 6.2. comply with the instructions given in the owner's handbook as specified by the manufacturer of the vehicle and/or Moto Lube service booklet in regard to the use, care and maintenance of the vehicle;
- 6.3. take all reasonable steps to minimise damage to the vehicle in the event of any defect or failure occurring in the vehicle;
- 6.4. accept that Moto Lube may in its absolute discretion procure and fit to the vehicle any replacement parts that it deems necessary, provided always that these are suitable for use on the vehicle;
- 6.5. keep an accurate record for the purposes hereof of the distance traveled by the vehicle.
- 6.6. Accordingly the Client shall :-
 - 6.6.1. As and when requested by Moto Lube, furnish proof of the distance traveled by the vehicle.

- 6.6.2. Immediately inform Moto Lube in writing should the odometer used for measuring the distance travelled by the vehicle fail to operate or suffer any damage, in which event the Client will immediately make arrangements for the vehicle to be delivered to a Moto Lube service centre in order that the necessary repair work can be carried out.
- 6.6.3. In the event of the odometer being inoperative or defective, permit Moto Lube to calculate the estimated kilometers travelled by reference to the kilometers travelled by the vehicle during the period when the vehicle was used by the Client and when the odometer was operative and by reference to the state of the vehicle. Moto Lube's determination in this regard shall be final.
- 6.7. Permit to inspect and check the odometer reading and its operation at any time;
- 6.8. accept that, should it be found that the odometer has been tampered with in any way whatsoever, Moto Lube will be entitled to cancel the Moto-Maintenance Plan in accordance with clause 11 and to exercise its right in terms of clause 12 hereof.
- 6.9. In the event of the Client wishing to store the vehicle for an extended period, comply with the requirements for storage as set out in the owner's handbook and/or Moto Lube service booklet of the specific vehicle.
- 6.10. Upon entering into the Moto-Maintenance Plan, fully and truthfully provide Moto Lube (this will be indicated on the Inspection Certificate) with all information relating to the vehicle as required in terms of the Inspection Certificate and to ensure that such information be recorded on the Inspection Certificate. If the Client fails to provide Moto Lube with such information on the Inspection Certificate or if such information be found to be incorrect in any respect, Moto Lube shall be entitled to cancel this Moto-Maintenance Plan in accordance with clause 11 and to exercise its rights in terms of clause 12 hereof.

7. **EMERGENCY WORK**

In the event of an emergency breakdown the Client is to contact AA directly with their AA membership number as provided upon signature hereof. AA shall then provide the necessary assistance to the Client.

8. **DAMAGE TO THE VEHICLE**

- 8.1. The Client shall whenever reasonably possible have all damage caused to the vehicle repaired by Dent & Mag Surgeon CC. In the event that the Client chooses to have the damage to the vehicle repaired elsewhere, the Client prior to having such repair work carried out must notify Moto Lube in writing of the nature and extent of the damage and/or loss and supply to Moto Lube copies of the assessed quotation and invoice. Moto Lube will be entitled to suspend the Moto-Maintenance Plan pending confirmation from the repairer that the vehicle had been repaired to an acceptable standard, which can be determined from a list supplied by the repairer of all the work done on the vehicle. Moto Lube will be entitled to inspect the repairs that were carried out on the Client's vehicle. Failure by the Client to meet any of its obligations in terms hereof will entitle Moto Lube to cancel the Moto-Maintenance Plan in accordance with clause 11 and to exercise its rights in terms of clause 12 including the right to recover any costs which may have been incurred by Moto Lube as a result of such collision, accident or loss.
- 8.2. The costs of any work necessitated as a result of the improper repairs or maintenance performed by a workshop other than Moto Lube and/or Dent & Mag Surgeon CC shall be paid for by the Client at the Moto Lube and/or Dent & Mag Surgeon's usual rate.

9. **DISPOSAL OF VEHICLE**

- 9.1. In the event of the Client disposing of the vehicle or ceasing to be the owner, purchaser or lessee of the vehicle before the expiration of this Moto-Maintenance Plan, the Client shall immediately notify Moto Lube in writing of this fact and supply Moto Lube with the name and address of the new owner, purchaser or lessee of the vehicle whereafter Moto Lube may agree to an assignment of the Moto-Maintenance Plan to such new

owner, purchaser or lessee subject to a further compliance by the new owner of clause 3 above.

- 9.2. The change of ownership is to be recorded in the Moto-Maintenance Plan booklet as well as the Inspection Certificate.
- 9.3. In the event of the vehicle having been stolen, hi-jacked, destroyed or damaged beyond repair or written off by an insurer before the expiration of this Moto-Maintenance Plan the Client shall immediately notify Moto Lube in writing of this fact and the Moto-Maintenance Plan shall be deemed to have been cancelled upon the date of such occurrence.
- 9.4. In such event Moto Lube and the Client shall be released from all further obligations in terms hereof in respect of the vehicle and the Client shall not be entitled to any refund.

10. **SET-OFF**

The Client shall not set off any claims he may have against Moto Lube and/or Dent & Mag Surgeon CC against the amount he is required to pay hereunder to Moto Lube and/or Dent & Mag Surgeon CC.

11. **CANCELLATION**

Moto Lube shall in its sole discretion have the right to cancel this Moto-Maintenance Plan by giving written notice of such cancellation to the Client in the event of :-

- 11.1. Alterations or modifications of the vehicle and/or repair or maintenance of any accessory modification or equipment having taken place without the knowledge and written consent of Moto Lube notwithstanding the contents of clauses 4.2.1 and 4.2.2; or
- 11.2. tampering with the odometer as contemplated in clause 6.8 above; or
- 11.3. the Client failing to provide Moto Lube with the information required in terms of clause 6.10 above or if such information be found incorrect in any respect; or
- 11.4. the Client failing to inform Moto Lube of the nature and extent of damage or loss and the cost of repairs as provided for in terms of clause 8.1; or
- 11.5. the Client failing to inform Moto Lube of the disposal or destruction, damage of the vehicle as provided for in terms of clause 9; or
- 11.6. the Client failing to meet any other obligation in terms of this Moto Lube Maintenance Plan; or
- 11.7. the Client being sequestered, placed in liquidation, under judicial management or in the event of the Client being a business ceasing to carry on business; or
- 11.8. the Client committing any act of insolvency or making any arrangement or compromise with his creditors.

The effective date of the cancellation of this Moto Lube Maintenance Plan shall be the date on which such notice of the cancellation is given ("notification date") or at Moto Lube's sole and absolute discretion any date of the occurrence in question to the notification date. Moto Lube shall stipulate the effective date in the cancellation notice.

12. **LIABILITY ON CANCELLATION**

Moto Lube's obligations in terms hereof shall cease upon cancellation of this Moto-Maintenance Plan.

13. **VALIDITY**

If any provisions hereof are invalid and unenforceable or become such, such provisions shall, if practicable, be divisible and the remainder of this Moto-Maintenance Plan shall nevertheless be valid and binding.

14. **LAW APPLICABLE**

This Moto-Maintenance Plan shall be construed, enforced and performed in accordance with the laws of the Republic of South Africa.

15. **LIABILITY**

Moto Lube shall not be liable to the Client for a failure to fulfill its obligations if such failure is caused solely by a matter or occurrence which is beyond its control, and nor shall Moto Lube be liable for indirect or consequential losses howsoever caused.

16. **TERM**

This Moto-Maintenance Plan shall commence on the date upon which the vehicle is inspected and approved by Moto Lube at the Parkmore Branch of Moto Lube or alternatively the AA, i.e. the date on which the Client signs the Inspection Certificate ("the commencement date") and shall terminate on the date stipulated in the Inspection Certificate ("the termination date"). In the event of the end kilometers (as stipulated in the Inspection Certificate) having been reached prior to the termination date, Moto Lube's obligations in terms hereof shall cease.

17. **ENTIRE AGREEMENT**

Moto Lube and the Client record that this Moto-Maintenance Plan constitutes the entire agreement between them in relation to the servicing and maintenance of the vehicle.

18. **NON-VARIATION**

No alteration, variation or suspension of any of the terms hereof or any consensual cancellation hereof shall be of any force or effect unless reduced to writing and signed by Moto Lube and the Client or their duly authorised representatives.

19. **NON-WAIVER**

No latitude, extension or indulgence which may be given or allowed by either Moto Lube or the Client ("the grantor") to the other in respect of any obligation, hereunder shall under no circumstances operate as a waiver or novation of or otherwise affect any of the grantor's rights in terms hereof or arising herefrom or preclude the grantor from enforcing at any time and without notice strict and punctual compliance with each and every provision or term hereof.

20. **AUTHORITY TO SIGN**

By signing the inspection certificate the signatory represents that he is authorised to do so that all information contained in the inspection certificate is correct and that all the terms and conditions contained herein shall be complied with. In the event of a client challenging the authority of the signatory to sign the inspection certificate or in the event of any information set out in the inspection certificate being incorrect as envisaged in clause 6.10 then the signatory shall be personally liable to Moto Lube for all of the obligations of the Client.

21. **DOMICILIA AND NOTICES**

21.1. The parties choose domicilium citandi et executandi ("domicilium") for the purpose of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this agreement as follows:-

21.1.1. Moto Lube : 125, 11th Street, Parkmore, Sandton
Facsimile No. (011) 883-8410

21.1.2. the Client : at the physical address as stipulated in the Inspection Certificate

21.2. Each of the parties shall be entitled from time to time, by written notice to the other to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante.

21.3. Any notice given and any payment made by either party to the other ("the addressee") which is delivered:-

21.3.1. by hand during the normal business hours of the addressee at the addressee's domicile for the time being shall be deemed, until the contrary is proved, to have been received by the addressee at the time of delivery;

21.3.2. by pre-paid registered post at the addressee's domicile for the time being shall be deemed, until the contrary is proved, to have been received by the addressee on the next but 7 (seven) days after the posting thereof;

by facsimile during the normal business hours of the addressee at the addressee's domicile (facsimile number recorded in 14.1 above) for the time being shall be deemed, until the contrary is proved, to have been received by the addressee on the date of transmission.

22. **EFFECTIVE DATE**

This Moto-Maintenance Plan shall become effective and binding on the warranty date upon which the Client signs the Inspection Certificate at Moto Lube Parkmore or any AA branch countrywide.

23. **VEHICLE WARRANTY**

Where the client has rights and obligations in terms of the standard new vehicle warranty or approved used car warranty granted by the dealer from whom the vehicle was originally acquired, such rights and obligations will not be affected by the Moto-Maintenance Plan.

24. **PAYMENT**

In relation to the Moto-Maintenance Plan :-

24.1. The Client undertakes to pay Moto Lube upon signature of the Inspection Certificate by the Client the amount as stipulated in the Inspection Certificate as the lump sum single payment plus value added tax at the rate applicable at the time of entering into the Moto-Maintenance Plan.

24.2. In the event of the amount stipulated in the inspection certificate being paid by credit card, failure by the client's bank to make payment to Moto Lube shall not absolve the client from his obligation to make payment in terms of the Moto-Maintenance Plan.

COMMENCEMENT DATE ____ OF _____ 20__

EXPIRY DATE ____ OF _____ 20__

SIGNED AT JOHANNESBURG ON THIS THE ____ DAY OF _____ 200

AS WITNESS:-

1. _____

"THE CLIENT"