

# MIGHTY RENTAL AGREEMENT TERMS AND CONDITIONS



New Zealand Campervans | Effective 01 April 2019 - 31 March 2020

Thank you for choosing Mighty. We are very proud of our product and our reputation, and we have built our business on providing the best possible experience for our customers. Your safety and security are our greatest concerns, so to assist you in making your holiday a wonderful experience, it is important for you to carefully read these terms and conditions. Should you have any questions about these terms and conditions please contact us on freecall 0800 422 267. These terms and conditions do not exclude, restrict or modify the application of any provision, the exercise of any right, or the imposition of any liability under any New Zealand consumer law statute, where that would contravene the statute. However, the Consumer Guarantees Act 1993 will not apply to Vehicle rentals acquired by Customers in trade.

## 1) RATES AND CONDITIONS

Rates and Conditions quoted in our documentation are subject to change without notice. However (subject to changes in legislation or errors) we will not alter rates or conditions applicable to your rental once Mighty has confirmed your booking. Any booking amendments will result in the rate booked being re-calculated at the rate applicable on the date of amendment. Please note all prices are quoted and payable in New Zealand dollars.

## 2) DEFINITIONS

'Agreement' means the Rental Agreement and these Terms and Conditions.

'Customer' means the person or persons nominated as the hirer and any person whose credit or debit card is presented for payment of the Customer's charges or the credit card authority. Refer to clauses 20, 22 and 29 for information about the Liability requirements and credit or debit card payments.

'Mighty' means Tourism Holdings Ltd.

'Damage' means any and all damage as described in clause 20.4.

'Liability Reduction Option' means the Liability Reduction Option described in clause 20.

'Rental Period' means the hire period or any agreed variation thereof and any additional period during which the Vehicle is in the Customer's possession or control.

The 'Mighty Inclusive Pack' means the product that includes the Liability Reduction Option and cover for the cost of damage resulting from a single Vehicle rollover as described in clause 14.1(a).

'The Bundle' means the product that, when purchased in conjunction with the Liability Reduction Option, provides cover for the cost of damage resulting from a single Vehicle rollover as described in clause 14.1(a).

'Vehicle' means the Vehicle hired by the Customer and includes tyres, tools, accessories, camping utensils, and all other equipment, documents or additional hire items related to the Vehicle and any replacement or substitute Vehicle that may be provided.

## 3) RENTAL DURATION

3.1 Rental days are calculated on a calendar day basis. When calculating the number of days the Vehicle is rented, the day of pick up is counted as day one of the rental, regardless of pick up time. The day of the Vehicle's return is

counted as the final day of the rental regardless of drop-off time.

3.2 Minimum rental periods are subject to change, and any such change will be notified to you prior to booking confirmation.

3.3 Late pick up or early return of the Vehicle does not entitle the Customer to any refund of the unused portion of the rental.

## 4) DELIVERY AND RETURN OF THE VEHICLE

4.1 The Customer acknowledges having received the Vehicle in a clean condition, with a full fuel tank and full bottles of gas (if applicable).

4.2 The Customer will return the Vehicle in a clean condition with a full fuel tank and full bottles of gas (if applicable and subject to any pre-purchase fuel and/or pre-purchase gas option being taken), on the return date, time and location set out in the Rental Agreement. Failure to adhere to these requirements will result in additional charges. Should the Customer have the pre-purchase fuel and/or the pre-purchase gas option there is no refund for unused fuel and/or gas.

4.3 Mighty reserves the right to charge the Customer a NZ\$250 cleaning fee if the Vehicle is not returned in clean condition. This includes smoking related cleaning, as smoking is not permitted in the Vehicle.

4.4 The toilet and wastewater tank (if applicable) must be emptied prior to the return of the Vehicle, or an additional NZ\$125 soiling fee will be charged.

## 5) BRANCH HOURS OF OPERATION

5.1 All Vehicles must be collected from, and returned to, a Mighty branch. Mighty Branches are open 7 days per week, 8:00am to 4:30pm. Customers must allow adequate time to complete the required paperwork when collecting or returning your Vehicle. Branches are closed Christmas Day (25 December).

5.2 NZ\$100 surcharge will apply to all rentals picked up and/or dropped off on the following National public holidays;

- Good Friday (19 April 2019)
- Easter Monday (22 April 2019)
- ANZAC Day (25 April 2019)
- Queen's Birthday (3 June 2019)
- Labour Day (28 October 2019)
- Boxing Day (26 December 2019)
- New Year's Day (1 January 2020)
- Day after New Year's Day (2 January 2020)
- Waitangi Day (6 February 2020)

## 6) CHANGE OF DROP-OFF DESTINATION

If the Customer wishes to change the drop-off destination, they must first obtain authorisation from Mighty (call 0800 422 267). Subject to the change being approved, an additional charge of up to NZ\$750 may apply, which will be notified to you at time of approval and is required to be paid immediately via credit or debit card. The fee may apply in all cases irrespective of the reason for location change.

## 7) LATE DROP-OFFS

7.1 If the Customer wishes to drop off the Vehicle after business hours, they must first get approval from Mighty (call 0800 422 267). Failure to obtain authorisation for a drop off outside business hours will result in an additional daily fee of NZ\$150 in addition to the daily rate being charged.

7.2 If the late drop-off is approved, a fee of NZ\$150 is applicable and the Customer will be required to pay an extra day's charge for the Liability Reduction Option, The Bundle or Mighty Inclusive Pack (if applicable) as they will be held responsible for the Vehicle up until the time that it is checked in by a Mighty staff member the following day.

7.3 No late drop off fees will be charged if the late drop off is the result of a mechanical failure of the Vehicle (provided that the failure has been reported to Mighty's on-road assistance support).

## 8) RENTAL EXTENSION

8.1 If the Customer wishes to extend the rental whilst on hire, they must first obtain authorisation from Mighty (call 0800 422 267). This is subject to availability. The extra cost of an extended rental must be paid by credit or debit card on confirmation of the rental extension. The daily rate for the extension may differ from the original rate booked.

8.2 Failure to obtain an authorisation for a rental extension will result in a late fee of NZ\$150 per day in addition to the daily rental rate (plus Liability Reduction Option, The Bundle or the Mighty Inclusive Pack charges) for each day until the Vehicle is returned. The daily rental rate charged will be the rate applicable on the day of extension (which may differ from the original rate booked) per Vehicle for the extended rental period.

## 9) QUEENSTOWN

An additional location fee of NZ\$95 applies to all campervans picked up or dropped off in Queenstown (though if the pick up and drop

off both occur in Queenstown, only one location fee will apply). This is in addition to the one-way fee if applicable.

## 10) ONE-WAY RENTALS

**10.1** One-Way rentals are available between branch locations.

**10.2** The fees applicable to one-way rentals are as follows:

- (a) Where pick up originates from Auckland and returns to Christchurch or Queenstown and pick up is between:
  - 1. 1 April and 30 September - a one-way fee of NZ\$100 applies;
  - 2. 1 October and 31 March - a one-way fee of NZ\$250 applies.
- (b) Where pick up originates from Christchurch or Queenstown and returns to Auckland and pick up is between:
  - 1. 1 April and 30 September - no fee applies;
  - 2. 1 October and 31 March - a one-way fee of NZ\$150 applies.
- (c) Where pick up originates from Christchurch and returns to Queenstown and pick up is between:
  - 1. 1 April and 30 September - a one-way fee of NZ\$50 applies;
  - 2. 1 October and 31 March - a one-way fee of NZ\$75 applies.
- (d) Where pick up originates from Queenstown and returns to Christchurch and pick up is between:
  - 1. 1 April and 30 September - a one-way fee of NZ\$50 applies;
  - 2. 1 October and 31 March - a one-way fee of NZ\$75 applies.

## 11) MULTIPLE RENTALS

Should a Customer have more than one consecutive rental, the bookings can be combined to qualify for longer-term hire discounts off the daily Vehicle rate. Consecutive campervan hire in Australia and New Zealand for Britz, maui and Mighty can be combined to qualify if travel is within a 3-month period.

## 12) LICENCE

**12.1** A current and full (non-probationary) motor vehicle driver's licence is required and must be produced upon Vehicle collection. Should a foreign licence be in a language other than English, it must be accompanied by an accredited English translation. The translation must be provided by a NZ Transport Agency, authorised translation service or a diplomatic representative at a high commission, embassy or consulate, or the authority that issued your overseas licence. An International Driving Permit may be acceptable as a translation if in English.

**12.2** An extra driver fee applies for each additional driver's licence added to the rental agreement except where The Bundle or the Mighty Inclusive Pack has been purchased.

## 13) AGE RESTRICTIONS

Drivers must be 21 years of age or over with the exception of the hired Vehicles being the Highball or the Double Down which requires drivers to be 18 years of age or over.

## 14) USE OF THE VEHICLE

**14.1** The Customer agrees that, during the Rental Period, the Customer will observe all applicable road rules and other legal requirements in relation to driving in New Zealand and not allow the Vehicle to be:

- (a) driven otherwise than in a prudent and cautious manner. A single Vehicle rollover is considered a breach of this condition. A single Vehicle rollover may include, but is not limited to, a Vehicle that has rolled, tipped or fallen over and this has caused damage to the side and/or roof area of the Vehicle in circumstances within the control of the Customer. Customers who have purchased The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack will have the cost of damage resulting from an accidental single Vehicle rollover covered, provided that the Customer has not otherwise breached this Agreement in relation to the rollover;
- (b) driven by a person under the influence of alcohol or drugs or with a blood alcohol level in excess of that permitted by law;
- (c) left with the ignition key in the Vehicle while it is unoccupied;
- (d) submerged in water, brought into contact with salt water, used in a creek or river crossing, driven on a beach or through flooded areas;
- (e) used for any illegal purpose or in a race, rally or contest;
- (f) used to tow any vehicle or trailer;
- (g) used to carry passengers or property for hire or reward;
- (h) used to carry more persons than is permitted by any relevant authority or detailed in the Vehicle manual or on the Vehicle or specified in this Agreement;
- (i) used to carry volatile liquids, gases, explosives or other corrosive or inflammable material; and
- (j) used for transporting and haulage of goods other than what might be reasonably expected of a leisure rental.

### 14.2 Use of Mighty products and services

The Customer is responsible for the activity and use of all goods and services purchased from Mighty.

The Customer and any user that the Customer permits to use a Mighty product or service, is solely responsible for observing safe driving, operating, and other practices so as to avoid accidents or injury to persons or property. It is the Customer's responsibility to use all Mighty products and services (including the use and reliance of any data provided through an associated device ("Data")) in a careful, sensible, responsible and safety-conscious manner. You must not use or knowingly permit others to use the products or services for any fraudulent, malicious, inappropriate or illegal purposes, or in a manner that may threaten or cause harm to any other person, Mighty, or otherwise disrupt the proper operation of the product, service, or network.

Use of Data or any feature provided through a Mighty product or service is at the Customer's own risk and is intended as a reference tool only. The use and interpretation of the Data is your responsibility and you acknowledge and agree that the Data may not be suitable or verified by anyone, and may contain inaccurate or incomplete information due to the passage of time, changing circumstances, sources used, and the nature of collecting

geographic data, any of which may lead to incorrect or unreliable results.

**14.3** Driving campervans on certain roads in New Zealand can be both difficult and dangerous. Accordingly, to protect customers' safety, Mighty limits the roads our customers can travel on. Road restrictions apply as follows:

- (a) Mighty Vehicles may only be driven on sealed/bitumen or well-maintained roads. The only exception to this is reasonable use of access roads limited to a maximum of twelve kilometres in length to recognised campgrounds and major tourist attractions.
- (b) Vehicles are not permitted on Skippers Road (Queenstown), the Crown Range Road (Queenstown), Ball Hut Road (Mt. Cook), Ninety Mile Beach (Northland), North of Colville Township (Coromandel Peninsula) and all ski field access roads (from 01 June to 31 October).

The Customer is responsible for all damage if travelling on these roads.

### 14.4 Breach of Road Restriction Rules

The Customer acknowledges and agrees to pay to Mighty a fee of NZ\$300 on each occasion that it is identified by Mighty that a Customer has taken a Vehicle on a Restricted Road.

**14.5** We value your well being, and for safety purposes, Mighty reserves the right, acting reasonably, to restrict Vehicle movements in certain areas due to:

- (a) adverse road or weather conditions;
- (b) the distance to nominated destinations in relation to the length of the hire period; and
- (c) any concerns Mighty, its employees or agents may have regarding driver experience or ability.

Mighty will advise you on pick-up of any travel restrictions known at that time. We strongly recommend that you check for current road restrictions and closures during your rental by visiting the New Zealand Transport Agency's website at [www.nzta.govt.nz](http://www.nzta.govt.nz).

**14.6** The Customer shall not make any alterations or additions to the Vehicle without the prior written consent of Mighty.

**14.7** The Customer will not allow any animals to be carried in the Vehicle, excluding registered guide dogs. Mighty reserves the right to charge the Customer a NZ\$250 cleaning fee for any animal related cleaning.

**14.8** The Customer shall take all reasonable steps to properly maintain the Vehicle and will contact Mighty immediately should any and all Vehicle warning lights indicate any malfunction or potential malfunction.

## 15) MAINTENANCE AND REPAIRS

**15.1** Mighty will reimburse Customers for expenditure up to NZ\$100 reasonably incurred in rectifying any mechanical or equipment failure of the Vehicle. For repairs costing over NZ\$100, Mighty will need to be informed and confirm the repair in advance. Repairs will be approved and reimbursement for expenditure will be made (where applicable) provided the Customer was not responsible for the damage. In all cases, receipts must be submitted for any repair or the claim will not be paid.

**15.2** Unless the Customer has taken the Liability Reduction Option or the Mighty Inclusive

Pack, the Customer will pay for the cost of repairing or replacing tyres damaged during the Rental Period except if the tyre is defective, and inspected and confirmed by a Mighty authorised service centre.

## **16) ON-ROAD ASSISTANCE**

**16.1** Mighty provides 24 hours on-road assistance support. Please contact Mighty on free call; 0800 788 58.

**16.2** Any problems associated with the Vehicle including equipment failure, must be reported to Mighty within 24 hours of the Customer becoming aware of the problem (or as soon as the Customer has access to cellular, telephone or internet coverage to report the problem to Mighty) in order to give Mighty the opportunity to rectify the problem during the rental. A failure to do so may impact any claims for compensation. Nothing in this clause is intended to affect the Customer's rights, or limit or exclude Mighty's liability, under the Consumer Guarantees Act 1993 or the Fair Trading Act 1986.

**16.3** The on-road assistance will cover, free of charge, any technical malfunction of the Vehicle arising from a manufacturing or material fault that directly renders the part concerned unfit for operation during the Rental Period and for which a warranty claim is not excluded in accordance with clause 16.4 below.

**16.4** Claims will be excluded, and the Customer will be charged for any on-road assistance, where the malfunction was caused by the Customer's actions or omissions, or where the fault is not covered by the Vehicle manufacturer's guarantee. This will include any on-road assistance for the following:

- (a) The Vehicle running out of fuel.
- (b) The keys being locked inside the Vehicle or lost.
- (c) Flat batteries caused by incorrect usage of the batteries and or incorrect usage of any equipment that requires the batteries to operate.
- (d) A breakdown caused by wilful neglect.

The charges will comprise, but are not limited to, a call-out fee and the cost of repair (including any replacement parts, if applicable) and must be paid directly by the customer to the applicable service provider.

## **17) VEHICLE AVAILABILITY**

**17.1** Vehicles cannot be requested by make or model, only by Vehicle category.

**17.2** Mighty will endeavour to supply the Vehicle category selected, however should the Vehicle booked be unavailable, Mighty reserve the right to substitute an alternative Vehicle without prior notification. The alternative Vehicle shall be as close a substitute for the booked Vehicle as possible.

**17.3** Should the Customer decide to voluntarily downgrade their Vehicle category from that booked, they will not be entitled to a refund.

## **18) TITLE TO VEHICLE**

The Customer acknowledges that Mighty retains title to the Vehicle at all times. The Customer shall not agree, attempt, offer or purport to sell, assign, sub-let, lend, pledge, mortgage, let on hire or otherwise part with or attempt to part with the personal

possession of or otherwise deal with the Vehicle.

## **19) FOR YOUR PROTECTION**

New Zealand's statutory, no-fault Accident Compensation scheme covers everyone in New Zealand injured in an accident. Accordingly, Mighty does not accept any liability for personal injuries sustained during the rental. Except where such loss or damage is caused by Mighty's (or that of its employees or agents) own negligence or breach of this Agreement, Mighty does not accept liability for any loss or damage to any personal belongings or property of the Customer (or any person or entity related to the Customer). Mighty strongly recommends that the Customer takes out personal travel insurance to cover any injury or loss.

## **20) VEHICLE DAMAGE – LIABILITY AND LIABILITY REDUCTION OPTION**

**20.1** The Customer understands that unless they have purchased the Liability Reduction Option, The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack, they must pay for the first NZ\$3,500 (for the Highball and Double Down) or NZ\$5,000 (for all other campervans) worth of Damage per claim where they are at fault (or the total cost of Damage, if clause 20.3 applies).

**20.2** Where the Customer has purchased the Liability Reduction Option, The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack, their liability for Damage will be zero, unless clause 20.3 applies.

**20.3** The Customer will be responsible for the total cost of any Damage, and the Liability Reduction Option, The Bundle and the Mighty Inclusive Pack (if taken) will be void, if:

- (a) the Customer breaches any of the terms of this Agreement, and that breach is the cause of or contributes to the relevant Damage; or
- (b) the Damage is covered by any of the exclusions set out in clause 21.

**20.4** Damage includes any and all damage to third party property, and any and all damage to the rented Vehicle including windscreens, tyres, towing and recovery costs, theft, fire, break in or vandalism. The costs of any damage will include the cost of repairing the damage, and, where the damage is the Customer's fault, the cost of the daily rental rate for the period the Vehicle is being repaired. A processing fee of NZ\$60 and associated damage assessment fees is applicable per claim.

**20.5** Any amounts payable under this clause 20 must be paid:

- (a) at the time the Vehicle is returned to a Mighty branch; or
- (b) by the due date set out in an invoice issued by Mighty.

**20.6** If the Customer has a complaint in relation to any charges made by Mighty under this clause 20, the Customer is invited to contact Mighty by calling 0800 422 267 or by sending an email to [customer@thlonline.com](mailto:customer@thlonline.com). Mighty takes customer complaints seriously and is committed to dealing with all complaints in a fair, objective, unbiased and timely manner.

**MIGHTY STRONGLY RECOMMENDS OUR CUSTOMERS TAKE THE BUNDLE (IN CONJUNCTION WITH THE LIABILITY**

## **REDUCTION OPTION) OR THE MIGHTY INCLUSIVE PACK.**

## **21) EXCLUSIONS**

The Customer acknowledges that the Liability Reduction Option, The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack will not apply, and that they are responsible for all costs arising out of, or incurred in connection with:

- (a) any damage caused by wilful misconduct (e.g. sitting or standing on the bonnet or roof of the Vehicle) or driving under the influence of alcohol or drugs, or negligence;
- (b) any Damage where the Customer is charged by local authorities for being careless, showing gross negligence or wilfulness in failing to abide by the local road rules;
- (c) retrieving or recovering a Vehicle, which may include, but is not limited to a Vehicle that has become bogged, submerged, caught, trapped, stuck or restricted in any way and/or has been abandoned; in each case in circumstances within the control of the Customer;
- (d) replacing keys, which have been lost, damaged or stolen, or retrieving keys which have been locked in the Vehicle;
- (e) any overhead or underbody damage to the Vehicle, except where the Liability Reduction Option or the Mighty Inclusive Pack is taken;
- (f) any single Vehicle rollover except where The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack has been purchased;
- (g) Damage caused to the Vehicle because total load (kg) has exceeded recommended load as stated in Vehicle manual;
- (h) Damage caused by drivers not identified on the rental agreement and/or drivers that have a licence that has been cancelled or suspended and/or drivers who have a licence that is classified as a learner or probationary licence;
- (i) any Damage caused to the Vehicle due to the incorrect use of snow chains; and
- (j) any Damage associated with the incorrect use of fuel (fuel being diesel or petrol), which includes Bio-Diesel which should not be used, or water or other contamination of fuel.

## **22) CREDIT CARD AUTHORITY**

**22.1** Mighty shall be entitled to retain the details of the credit or debit card provided by the Customer in connection with a booking ("Credit Card") in accordance with the Mighty Privacy Policy and to take any action to recover from the Credit Card the amounts due by the Customer pursuant to this Agreement.

**22.2** The Customer expressly and irrevocably authorizes Mighty to charge to the Credit Card all amounts payable under this Agreement. By way of summary these charges include, but are not limited to, any costs or fines arising under clause 4 (Delivery and return of the Vehicle), clause 7 (Late drop-offs), clause 8 (Rental extension), clause 14 (Use of the Vehicle), clause 16 (On-road assistance), clause 25 (Freedom camping and toll and traffic offences) and clause 31 (Terminating the agreement and repossessing the Vehicle). Mighty will provide the Customer with an itemised bill of the monies to be deducted by Mighty from the Credit Card prior to making such deductions.

**22.3** The Customer is invited to contact Mighty directly if the Customer believes that a fee has

been charged to their Credit Card in error. Mighty will endeavor to resolve any such issue with the Customer as soon as possible.

- 22.4** If the Customer has a complaint in relation to any monies charged by Mighty to the Credit Card under clause 22, the Customer is invited to contact Mighty by calling 0800 422 267 or by sending an email to [customercare@thlonline.com](mailto:customercare@thlonline.com). Mighty takes customer complaints seriously and is committed to dealing with all complaints in a fair, objective, unbiased and timely manner.

### **23) PROCEDURES IN CASE OF ACCIDENT**

If the Customer is involved in a motor vehicle accident whilst on hire, the following procedures should be followed:

#### **(a) At the accident scene the Customer must:**

1. Obtain the names and addresses of third parties and any witnesses.
2. Report the accident to police, regardless of estimated damage costs.
3. Not accept blame or insist the other party is at fault.
4. If possible, photograph damage to all vehicle(s) and registration number(s).
5. Phone Mighty (call 0800 788 558) with the accident's details within 24 hours.

#### **(b) At the branch**

1. The Customer must produce their driver's licence and hand over the police report (if applicable) and any supporting photographs.
2. The Customer is required to pay the cost of any Damage to the Vehicle (if applicable, in accordance with clause 20) and any other amount due by them in respect of any damage arising from an accident, loss or damage:
  - (a) at the time the Vehicle is returned to a Mighty branch; or
  - (b) by the due date set out in an invoice issued by Mighty.
3. If the Customer is at fault, the Customer will pay Mighty the daily rental rate for the period the Vehicle is off fleet for accident repairs.
4. The Mighty Local Host will ensure the Motor Vehicle Accident Report is completed clearly and accurately, and signed by the Customer.

#### **(c) Exchange Vehicle**

1. The availability of an exchange Vehicle is not guaranteed; provision is subject to availability, Customer location, accident liability and remaining hire duration (provided that Mighty will act reasonably when exercising its discretion to provide an exchange Vehicle in such circumstance). Additional charges may be incurred (see below).
2. If an exchange Vehicle is required because of an accident, the Customer is responsible for making their own way to the nearest Mighty branch or pick up location at their own cost.
3. Mighty may offer the Customer the option of paying an "Exchange Vehicle Relocation Fee" to send a driver to deliver the exchange Vehicle to the Customer's location.
4. The Customer will pay for any costs relating to delivery of an exchange Vehicle because of any single Vehicle accident. This charge applies irrespective of whether the Liability Reduction Option,

The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack are taken.

5. If an exchange Vehicle is provided, the Liability Reduction Option, The Bundle (in conjunction with the Liability Reduction Option) or the Mighty Inclusive Pack purchased at the commencement of the Rental Period may, at Mighty's discretion (including where it considers the exchange Vehicle is at risk of damage) be terminated with effect from the date of provision of the exchange Vehicle (and the Customer will not be charged the additional per day charge in respect of the Liability Reduction Option from that date).
6. If Mighty exercises its right to terminate the Liability Reduction Option, or if the Customer did not purchase the Liability Reduction Option at the commencement of the Rental Period for the first Vehicle, the Customer will be responsible for the cost of any Damage up to the first NZ\$3,500 (for the Highball and Double Down) or NZ\$5,000 (for all other campervans) for the exchange Vehicle.

#### **(d) Time frame for settlement of customer Liability claims**

1. Mighty shall use best endeavours to ensure that any money due back to the Customer is forwarded as quickly as possible, however third party claims can take months or even years to resolve. Mighty cannot force the destiny of these claims, and the Customer acknowledges that handling of these claims is up to Mighty's Insurer and the third party, whether they be insured or not.
2. For information regarding outstanding claims please send an email to the Claims Department at [claimsnz@thlonline.com](mailto:claimsnz@thlonline.com).
3. The Customer agrees to provide all reasonable assistance to Mighty in handling any claim including providing all relevant information and attending Court to give evidence.

**Important Note:** Under no circumstances should the Customer attempt to start or drive a Vehicle that has been involved in an accident, damaged by rollover, water submersion or any other means without permission from Mighty.

### **24) CUSTOMER'S RIGHTS UNDER THE CONSUMER LAWS**

**24.1** Customers who are 'consumers' for the purposes of the Consumer Guarantees Act 1993 and the Fair Trading Act 1986 (the Consumer Law) have the benefit of various rights and remedies which cannot be excluded by law. These include (without limitation) guarantees that the Vehicle and services we provide will be:

- (a) of acceptable quality; and
- (b) fit for purpose.

Nothing in this Agreement is intended to affect the Customer's rights under the Consumer Laws. We encourage Customers to familiarise themselves with their rights in more detail by going to [www.consumerprotection.govt.nz](http://www.consumerprotection.govt.nz).

**24.2** Subject to clause 24.3, each party will be liable to and indemnify the other for any loss or damage due to its negligence,

misrepresentation, fraud and wilful act or omission (in the case of Mighty, including by its employees and agents).

**24.3** Neither party will have any liability to the other under this Agreement for any indirect or consequential losses, including loss of profits, business, income or savings (except for any remedies the Customer may have under the Consumer Laws (as referred to in clause 24.1)).

**24.4** If the Customer acquires, or holds itself out as acquiring, the Vehicle rental in trade, the parties agree that it is fair and reasonable that the Consumer Guarantees Act 1993 will not apply.

**24.5** The Customer acknowledges that Data or other features may be provided by third parties and neither Mighty nor any third party provider makes any warranties with regard to the Data or other features and expressly disclaims any implied warranties of merchantability, completeness, accuracy and fitness for a particular purpose. Neither Mighty nor any third party provider will have any liability to you, whether in contract, tort (including negligence) or otherwise, in connection with the Data and the use of the Data (including any loss, damage or misadventure arising from any act or omission of any person in reliance on the Data).

The Customer acknowledges that it is an essential condition of these terms that you accept and use the products, services and Data subject to all limitations of liability contained in these terms.

The Customer acknowledges that Mighty does not investigate or endorse any third party websites or operators that may be accessible through use of our devices, or other products or services. We make no representation or warranty that any information you receive through a third party website is true, accurate, reliable, or authentic. We are not responsible to you for any use, access or reliance on any such third party websites.

### **25) FREEDOM CAMPING AND TOLL AND TRAFFIC OFFENCES**

**25.1** The Customer is liable for an offence committed during the Rental Period involving the use of the Vehicle where the offence was:

- (a) a speeding offence, an offence in respect of failure to comply with the directions given by a traffic signal, or a toll offence where such offences were detected by approved vehicle surveillance equipment;
- (b) an offence for parking in any portion of a road in breach of any bylaw of a road controlling authority or Part 6 of the Land Transport (Road User) Rule 2004; or
- (c) an offence under section 20(1) of the Freedom Camping Act 2001 involving the use of the Vehicle.

**25.2** Notwithstanding the Customer's liability for any offence set out in clause 25.1, if the Customer is in breach of clause 14.1 and exceeds the lower of:

- (i) the posted speed limit; or
- (ii) the maximum speed which the Vehicle is permitted to travel by law,

by more than 5km/h for a continuous duration of longer than 10 minutes, as determined by and notified to the Customer through the

Telematics System, and the Customer receives 3 or more such notifications, the Customer acknowledges and agrees that Mighty may impose a NZ\$300 fee on the Customer to cover the administrative costs involved in monitoring excessive speed and the cost of wear and Damage to the Vehicle as a result of excessive speed.

**25.3** The Customer agrees to pay any infringement fee and costs that may become payable because of an infringement notice served on Mighty for any of the offences set out in clause 25.1(a)-(c), including an administration fee of up to NZ\$60 for associated administration costs. This administration fee will be applicable per offence.

**25.4** Subject to Mighty complying with clause 25.5, the Customer authorises Mighty to debit the Credit Card for any infringement fees and costs, including any administration fee under clause 25.3.

**25.5** All notifications will be sent to the address provided by the Customer within 5 working days of receipt of the infringement or reminder notice (whichever is applicable).

**25.6** The Customer has the right to:

- (a) challenge, complain about, query or object to the alleged offence to which the infringement notice or reminder notice relates, to the issuing enforcement authority.
- (b) seek a court hearing within 56 days from the date of issue of the infringement notice or 28 days from the date of issue of the reminder notice.

## **26) RENTAL CHARGES**

Total charges as set out in your rental agreement are not final. The Customer will pay any shortfall in charges to Mighty and the Customer will receive a refund for any overcharges made by Mighty. Wherever possible, any amendment to charges will be notified to the Customer at conclusion of rental, and the Customer agrees to payment of any such charges at that time.

## **27) ROAD USER CHARGE RECOVERY FEE**

The New Zealand government imposes a road user charge on users of diesel vehicles. The Customer must therefore pay a road user charge recovery fee on return of the Vehicle to Mighty. The road user charge recovery fee payable by the Customer will be calculated on return of the Vehicle based on the kilometres travelled during the hire and the category of Vehicle booked by the Customer. The current road user charge recovery fee can be obtained from the Local Host upon Vehicle collection and is available on the Mighty website.

## **28) PAYMENT OF CHARGES - JOINT AND SEVERAL LIABILITY**

All charges and expenses payable by the Customer under this Agreement are due on demand by Mighty including any collection costs and reasonable legal fees incurred by

Mighty. When the Customer comprises more than one person, each person is liable, jointly and severally for all obligations of the Customer pursuant to this Agreement.

## **29) CREDIT AND DEBIT CARD PAYMENTS**

**29.1** Where a credit card or debit card is presented as payment, the credit or debit card holder will be jointly and severally liable as a Customer.

**29.2** The following credit or debit cards will be accepted: Visa credit or Visa debit card, MasterCard credit or MasterCard debit card, and American Express credit card. A non-refundable 3.1% administration fee will apply to all Visa and MasterCard transactions. A non-refundable 5.4% administration fee will apply to American Express transactions. Credit card administration fees are subject to change.

**29.3** Mighty may process credit or debit card charges pertaining to the rental after the Rental Period.

**29.4** The Customer acknowledges that all transactions under this Agreement are conducted in New Zealand dollars. If a refund is due, Mighty will credit the amount due in full to the Customer's credit or debit card. Mighty does not accept any liability for credit or debit card fees or bank-imposed fees relating to currency conversion or foreign transactions, which may appear as a variation between the total debited and the total refunded.

## **30) PERSONAL CHEQUES, COMPANY CHEQUES AND BANK TRANSFERS**

Personal cheques, company cheques and bank transfers will not be accepted as payment for rental charges at the time of pick up. These must be received by Mighty 28 days prior to commencement of Rental.

## **31) TERMINATING THE AGREEMENT AND REPOSSESSING THE VEHICLE**

**31.1** The Customer acknowledges that Mighty may refuse any rental, terminate this Agreement and/or repossess the Vehicle (and for that purpose enter upon any premises and remove the Vehicle) at any time, without notification to the Customer, and that the Customer will pay the reasonable costs of repossessing the Vehicle, including towing charges if:

- (a) the Customer is in breach of any material term of this Agreement, particularly clauses 14, 20.5 and 34;
- (b) the Customer has obtained the Vehicle through fraud or misrepresentation;
- (c) the Vehicle appears to be abandoned;
- (d) the Vehicle is not returned on the agreed return date or Mighty reasonably believe that the Vehicle will not be returned on the agreed return date; or
- (e) Mighty considers, on reasonable grounds, that the safety of the passengers or the condition of the Vehicle is endangered.

**31.2** Subject to clause 31.3, the Customer understands that in the event of such termination or repossession, the Customer has no right to a refund of any part of the rental charges.

**31.3** If the Customer has a complaint in relation to the termination of this Agreement and or the repossession of the Vehicle by Mighty under clause 31, the Customer is invited to contact Mighty by calling 0800 422 267 or by sending an email to [customer@thlonline.com](mailto:customer@thlonline.com). Mighty takes customer complaints seriously and is committed to dealing with all complaints in a fair, objective, unbiased and timely manner.

## **32) CANCELLATIONS**

If the Customer changes the travel dates of their booking and subsequently cancels:

**32.1** In the case of postponing the travel dates of your booking the original travel dates will be used to calculate the cancellation fees; and

**32.2** In the case of bringing forward the travel dates of your booking the new travel dates will be used to calculate the cancellation fees.

Cancellation fees are as follows:

- If cancelled up to 91 days prior to pick up: No Fee
- If cancelled from 90 to 22 days prior to pick up: 10% of Gross Rental
- If cancelled from 21 to 7 days prior to pick up: 20% of Gross Rental
- If cancelled 6 to 1 days prior to pick up: 50% of Gross Rental
- If cancelled on day of pick up or No Show: 100% of Gross Rental
- If Vehicle is returned early: No refund available

## **33) PROPER LAW**

This Agreement is governed by the laws of New Zealand.

## **34) CUSTOMER WARRANTIES**

The Customer warrants that all information supplied by them to Mighty in connection with this Agreement is true and accurate and the Customer will immediately notify Mighty of any change to the information.

## **35) TRADE CUSTOMERS**

Mighty will have no liability to the Customer under sections 9, 12A, 13 or 14(1) of the Fair Trading Act 1986 if the Customer acquires the Vehicle rental in trade.

## **36) PRIVACY**

Mighty will collect personal information as part of its rental process. Any information collected by Mighty will be handled in accordance with the Mighty Privacy Policy which you can view at [www.thlonline.com/privacy](http://www.thlonline.com/privacy).

FREECALL

**0800 422 267**

## **BRANCH LOCATIONS**

- **Auckland** 36 Richard Pearse Drive, Mangere, Auckland
- **Christchurch** 159 Orchard Road, Christchurch
- **Queenstown** 50 Lucas Place, Frankton, Queenstown

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CAMPERS

[www.mightycampers.co.nz](http://www.mightycampers.co.nz)