

## Personal Loan Agreement

### SECTION 1: KEY INFORMATION STATEMENT

**Disclosure date:** [disclosedate] (this is the effective date of this key information statement).

#### Important

This section of the document sets out key information about this *loan agreement*. You should read it thoroughly. If you do not understand anything, you should seek independent advice. You should keep a copy of this loan agreement in a safe place.

The law gives you a limited right to cancel this *loan agreement* (see below for further details). Note that strict time limits apply.

You are protected by responsible lending laws. Because of these protections, the recommendations given to you by us, the lender, about this loan are not regulated financial advice. This means that the duties and requirements imposed on people who give financial advice do not apply to these recommendations. This includes a duty to comply with a code of conduct and a requirement to be licensed.

**Lender:** (referred to as "we" or "us") **Avanti Finance Limited** (CN 659638) (FSP41821)

Trading As:	Avanti Finance
Address:	33 Broadway, Newmarket, Auckland 1023 Private Bag 11917, Ellerslie, Auckland 1542
Phone:	0800 808 003 or (09) 571 9594
Fax:	(09) 571 2406
Email:	info@avantifinance.co.nz

You may send notices and other formal communications to us by:

- writing to us at our postal address; or
- sending an email to the address specified.

**Borrower(s):**  
(referred to as  
"you")

**[borrower(s)]**

Residential Address:

Postal Address:

Phone:

Email:

By providing an email address, you consent to receiving all communications from us, including disclosure information required by law, in electronic form to this email address or any other email address specified by you. See also clause 18 of the *general terms*.

## Loan Details

### Loan amount

*(this is the amount you owe as at the disclosure date, being the date on which we expect to make the loan to you, and this is also the total amount of all advances to be made to you under this loan agreement).*

[\$amount] made up of:

**Loan Advance**                    \$

**Establishment Fee**            \$

*These fees or charges form part of the principal amount owing on which interest accrues as described below.*

### Key time limit

If the *loan* is not made to you within 21 days of the *disclosure date*, then our obligation to lend to you under this *loan agreement* ends.

### Loan purpose

[loanpurpose]

## Payments

You are required to make each payment of the amount specified and by the time specified.

Timing of payments	Number of payments	Amount of each payment	Total amount of payments
<b>Frequency:</b> [frequency]	[#] regular payments One (1) final payment	<b>Regular payments:</b> \$	[\$total amount]
<b>First payment date:</b> [date]		<b>Final payment:</b> \$	
<b>Final payment date:</b> [date]		These amounts include accrued interest and monthly loan administration fees.	

Your *scheduled payments* may change if we do not make the *loan* to you on the *disclosure date* or if there is any other relevant change after the *disclosure date* in accordance with this *loan agreement* (for instance, a change to any regular fees payable under this *loan agreement*). If that is the case, we will provide an update as required in accordance with applicable law.

## Interest

### Annual interest rate

[rate]% per annum fixed for the whole loan term.

If you do not make a payment on time under this loan agreement, a default interest rate may apply - see below for further information.

### Total interest charges

This is the total amount of the interest charges payable under this loan agreement.

[\$totalinterestcharges]

## Method of charging interest

Interest charges are calculated by multiplying the *principal amount owing* at the end of each day by a daily interest rate. The daily interest rate is calculated by dividing the *annual interest rate* by 365.

Unpaid accrued interest is charged to your *account* on the last day of each calendar month. If you do not pay interest when it is charged to your *account*, that interest will then form part of the *principal amount owing* on which interest accrues.

## Credit fees and charges

The credit fees and charges that are or may become payable under, or in connection with, this *loan agreement* (other than interest charges and initial fees or charges included in the *loan amount* above) are set out in the *fees schedule*.

This *loan agreement* allows us to vary these fees and charges (but we will only do so on reasonable grounds and in accordance with applicable law, including all legal requirements to ensure that our credit fees are not unreasonable).

## Continuing disclosure

We are required to provide you with regular statements that give you information about your *account*. Statements will be provided at least every six months.

## What could happen if you fail to meet your commitments

### Security Interest

This is an [securitytype] loan.

## Default interest charges and default fees

If you do not make a payment on time under this *loan agreement*, and while the payment default continues, you must pay default interest charges. However, we will not charge you default interest on any amount that has become payable early ("accelerated" under clause 12.1 (a) of the *General Terms*) because another default has happened under this *loan agreement*.

The *default interest rate* is set out in the *fees schedule*, and is charged on the amount in default from the time the payment was due until it is paid and is calculated by multiplying the amount in default at the end of each day (both before and after judgment) by a daily default interest rate. The daily default interest rate is calculated by dividing the annual *default interest rate* by 365.

Unpaid accrued default interest is charged to your *account* on the last day of each calendar month. If you do not pay default interest when it is charged to your *account*, that default interest will then form part of the *principal amount owing* on which interest accrues.

If a default happens under this *loan agreement* or in the event of the enforcement of this *loan agreement* or any *related agreement*, the default fees and charges set out in the *fees schedule* are payable.

This *loan agreement* allows us to vary these fees and charges (but we will only do so on reasonable grounds and in accordance with applicable law, including all legal requirements to ensure that our default fees are not unreasonable).

## Prepayment

If you pay the *total amount owing* in full before the final payment is due (full prepayment), you may also have to pay our administrative costs relating to the prepayment, as set out in the *fees schedule*.

This *loan agreement* allows us to vary these fees and charges (but we will only do so on reasonable grounds and in accordance with applicable law, including all legal requirements to ensure that our credit fees are not unreasonable).

If you pay any part of the *total amount owing* before its scheduled *payment date* (part prepayment), the amount you prepay will not be credited to your *account* immediately but instead will be held and applied to your *scheduled payments* as they fall due. This means that the part prepayment will not reduce your interest costs.

## Right to cancel

You are entitled to cancel this *loan agreement* by giving notice to us.

## Time limits for cancellation

You are entitled to cancel this *loan agreement* by giving notice to us.

You must give notice that you intend to cancel this *loan agreement* within:

- a. 5 working days of receipt, if this *loan agreement* is handed to you in person;
- b. 7 working days of the date this *loan agreement* is emailed to you; or
- c. 9 working days of the date this *loan agreement* is posted to you.

Saturdays, Sundays and public holidays are not counted as working days.

## How to cancel

To cancel, you must give us written notice that you intend to cancel this *loan agreement* by:

- a. handing notice to us or our employee or agent;
- b. posting the notice to us or our agent; or
- c. emailing the notice to our email address (as specified on the front of this *loan agreement*).

You must also return to us any advance and any other property received by you under this *loan agreement*.

## What you may have to pay if you cancel

If you cancel this *loan agreement*, we can charge you:

- a. the amount of any reasonable expenses we had to pay in connection with this *loan agreement* and its cancellation (including legal fees and fees for credit reports etc); and
- b. interest for the period from the day you received the advance until the day you repay the advance.

## What to do if you suffer unforeseen hardship

If you are unable reasonably to keep up your payments or other obligations because of illness, injury, loss or employment, the end of a relationship, or other reasonable cause, you may be able to apply to us for a hardship variation.

To apply for a hardship variation, you need to:

- a. make an application in writing;
- b. explain your reason(s) for the application;
- c. request one of the variations outlined in the following paragraph; and
- d. give the application to us.

The variations you may request are:

- an extension to your loan term (which will reduce the amount of each payment due under this *loan agreement*); or
- a postponement of the dates on which payments are due under this *loan agreement* (specify the time period for which you want this to apply); or
- both of the above.

Do this as soon as possible. If you leave it for too long, we may not have to consider your application.

## Dispute Resolution

If you have a complaint, please let us know. We'll do our best to put it right for you and to learn from what you tell us. You can contact us using our contact details on the front of this *loan agreement* or by emailing [complaints@avantifinance.co.nz](mailto:complaints@avantifinance.co.nz).

More information about how we deal with complaints is available on our website [www.avantifinance.co.nz](http://www.avantifinance.co.nz).

We also belong to the following independent dispute resolution scheme.

**Name of dispute resolution scheme:** Financial Services Complaints Limited ('FSCL')

It is free to make a complaint to this independent dispute resolution scheme. This scheme can help you to resolve any disagreements you have with us.

**Contact details of dispute resolution scheme:**

<b>Business address:</b>	Level 4, 101 Lambton Quay, Wellington 6011
<b>Postal address:</b>	PO Box 5967, Wellington 6140
<b>Phone:</b>	0800 347 257 or (04) 472 3725
<b>Email:</b>	<a href="mailto:info@fscl.org.nz">info@fscl.org.nz</a>
<b>Website:</b>	<a href="http://www.fscl.org.nz">www.fscl.org.nz</a>

## Registration on Financial Service Providers

**Register registration name:** Avanti Finance Limited

**Registration number:** FSP41821

## SECTION 2: SIGNING

[borrower]

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*Date*

*Signature*

In the presence of:

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(witness name)

(witness signature)

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(witness occupation)

(witness address)

## SECTION 3: GENERAL TERMS

### 1. What must happen before we lend

- 1.1 We only have to lend to you under this *loan agreement* if:
- (a) we have received all documentation or information that we have reasonably requested and each such document or information is satisfactory to us;
  - (b) you have complied with any other condition that we have reasonably requested that you satisfy;
  - (c) no default has happened, or could occur when we lend to you, under this *loan agreement*;
  - (d) nothing has happened since you applied for this *loan agreement* which, in our reasonable opinion, has led or could lead to a deterioration in your financial circumstances (or the financial circumstances of any *guarantor*); and
  - (e) nothing has happened since you applied for this *loan agreement* which, in our reasonable opinion, has led or could lead to a material deterioration in the market for finance (whether global or local) that we consider changes our risk for this *loan agreement*.
- 1.2 You must make sure that all representations that you or any *guarantor* make to us and all information and documents that you or the *guarantor*, or any other person acting with your or the *guarantor*'s knowledge or permission, give to us in connection with this *loan agreement* are and remain complete, accurate and not misleading and have not been given fraudulently.
- 1.3 Even if our requirements above are met, our obligation to lend to you under this *loan agreement* ends if we do not do so within the key time limit specified in the *key information statement*.
- 1.4 You may not reborrow any amounts that have been repaid under this *loan agreement*.

### 2. What and when you must pay

- 2.1 You must repay all amounts you borrow from us and you must pay us when due all other amounts payable in accordance with this *loan agreement* (including interest charges, default interest charges, credit fees, default fees and any other amounts as described in the *key information statement* and/or set out in the *fees schedule*). We can apply amounts we receive from you to pay outstanding interest, fees and other charges before we apply those amounts to reduce outstanding principal.
- 2.2 You must make *scheduled payments* in the amounts, on the *payment date*s and in accordance with the *payment frequency* specified in the *key information statement*.
- 2.3 On or before the final *payment date*, you must pay the *total amount owing*.
- 2.4 If a payment (e.g. a monthly scheduled payment) is due on the 29th, 30th or 31st of a month, and a particular month does not have that date, you must make that payment on the last *working day* of that month. For the avoidance of doubt, the payment you must make on the last *working day* of a month in accordance with this clause will not include any charge for interest that has not yet accrued at that time.
- 2.5 Despite any other provision of this *loan agreement*, if a payment is due on a date which is not a *working day*, you may make the payment on the next *working day*.
- 2.6 You can prepay the *total amount owing* in full or in part at any time. See the *key information statement* for more information.

### 3. How to pay

- 3.1 One of the documents you sign and give to us before we will lend to you is a direct debit authority. By giving us a direct debit authority, you authorise us to debit amounts you owe us in connection with this *loan agreement* directly from a bank *account* you have with a financial institution.

You must not cancel any direct debit authority you give us or close the bank *account* referred to in any direct debit authority unless you first give us another direct debit authority acceptable to us

You must also ensure there is enough money in the bank *account* to meet each direct debit.

- 3.2 It is, however, your obligation to make all payments to us on time. If a direct debit fails or is reversed for any reason then you must pay us by direct credit to the bank *account* we tell you to pay (and you must also give us another direct debit authority acceptable to us if we reasonably request).



- 3.3 A payment is not made until it has been received by us and credited to your *account*. It is important that you quote your *loan agreement* number when making the deposit.
- 3.4 Except to the extent required by law, each payment to us in connection with this *loan agreement* must be made in full:
- (a) free of any restriction or condition; and
  - (b) free and clear of and without any deduction or withholding for or on *account* of tax or on any other *account*, whether by way of set-off, counterclaim or otherwise.

#### 4. How the loan is applied

- 4.1 You promise to use the *loan amount* (less fees) for the *loan* purpose stated in the *key information statement*.
- 4.2 You authorise and request us to pay or apply the *loan amount* (less fees) to you or to any other person agreed by you, or otherwise as we reasonably consider necessary for the *loan* purpose stated in the *key information statement*.
- 4.3 Without limitation, if you are borrowing money from us to purchase an asset or to refinance an existing *loan*, then you must apply that money to that purchase or refinance (as the case may be) and we may pay the *loan amount* (less fees) directly to the seller of that asset or existing lender (as the case may be).
- 4.4 You authorise and request us to pay or apply any fees or charges comprised in the *loan amount* to the person charging those fees.
- 4.5 We may impose such conditions on the payment or on the application of the *loan amount* as we reasonably consider necessary to protect any *security interest* given to us in connection with this *loan agreement* or for the purposes of AML/CFT compliance.

#### 5. Instructions from one borrower

- 5.1 Where there are two or more of you we are authorised by each of you to act on the instructions of any one of you without the need to obtain confirmation or instructions from any other *borrower*. Each of you is bound by instructions given to us by any other *borrower*.
- 5.2 However, we may (at our discretion) decline to act or delay acting on any instructions where there is a dispute or inconsistency in instructions.

#### 6. Lending to trustees

- 6.1 If you or any *guarantor* enters into this *loan agreement* or any *related agreement* as a trustee of any trust (each a trustee), the trustee confirms that:
- (a) all of the trustees of the relevant trust have unanimously resolved to enter into the relevant document;
  - (b) the relevant document is for the benefit of the trust; and
  - (c) the trustee has the right to be fully indemnified out of trust property for obligations incurred under the relevant document.
- 6.2 Each trustee is liable under this *loan agreement* and each *related agreement* in the trustee's own right and as trustee of the trust. This means that we can recover against the trustee's personal assets as well as the trust assets (but see clause 6.4 below).
- 6.3 Each trustee agrees not to change a trustee, terminate the trust, or change any terms of the trust without our prior written consent.
- 6.4 If any trustee is named in this *loan agreement* as a limited liability trustee then, despite what we say in clause 6.2 above, we agree that the liability of the limited liability trustee under this *loan agreement* and each *related agreement* is not personal and unlimited but will be limited to the assets of the trust.
- (a) the right of a limited liability trustee to be indemnified from the trust property has been lost, or the trust has not received a benefit for the transaction between us and the trustee, or a limited liability trustee has otherwise acted improperly in respect of the trust, or a limited liability trustee has given us incomplete, inaccurate, misleading or fraudulent information in connection with this *loan agreement*; and
  - (b) as a result, we are unable to recover the amount from the trust property, then the limitation of liability under clause 6.4 above does not apply and the limited liability trustee is liable personally under this *loan agreement* and each *related agreement*.

#### 7. Guarantee

- 7.1 This clause applies if a *guarantor* is named in the *key information statement*.

- 7.2 Each *guarantor* absolutely, unconditionally and irrevocably guarantees to pay to us all or any part of the *total amount owing* that you do not pay when due and to perform all or any part of your other obligations under this *loan agreement* and each *related agreement* that you do not perform when due, in each case immediately on demand.
- 7.3 As a separate promise that is independent of the guarantee, each *guarantor* absolutely, unconditionally and irrevocably promises to pay us all or any part of the *total amount owing* (on a full indemnity basis) that is not paid when due for any reason and to perform all or any part of your other obligations under this *loan agreement* and each *related agreement* that you do not perform when due for any reason, in each case immediately on demand. Each *guarantor* is liable under this *loan agreement* as a principal debtor and not as a surety. We may enforce a *guarantor*'s obligations under this *loan agreement* and each *related agreement* without first taking action to enforce against you or any other *guarantor*.
- 7.4 No *guarantor*'s liability or obligations are released or otherwise affected by any matter or thing which (but for this clause) might operate to release or affect the liability or obligations of, or otherwise provide a defence to, any *guarantor*, whether or not that matter or thing occurs with the *guarantor*'s knowledge or consent, including:
- (a) any further advance or other financial accommodation made or given by us to you;
  - (b) any fluctuations in the amount you owe to us from time to time;
  - (c) any amendment (however fundamental) to this *loan agreement* or any *related agreement* or other agreement, or to any of our rights against you or any other *guarantor*;
  - (d) any time, waiver or other concession given by us to you or any other *guarantor*;
  - (e) any of our rights against you or any other *guarantor* being unenforceable for any reason;
  - (f) any release (in whole or part) of any other agreement;
  - (g) you or any other *guarantor* becoming *insolvent*;
  - (h) anything we do or fail to do, whether in the exercise of our rights under this *loan agreement* or any *related agreement* or otherwise; or
  - (i) anything else, other than our agreement in writing that the obligations of the *guarantor* have been released.
- We have no liability to any *guarantor* in respect of any of these matters or things, even if that *guarantor*'s rights are prejudiced as a result.
- 7.5 Until we have received the *total amount owing* in full and all or your other obligations under this *loan agreement* and each *related agreement* have been performed in full, no *guarantor* may:
- (a) take, accept or hold any guarantee or *security interest* from you or any other *guarantor*;
  - (b) take steps to recover (whether directly, or by set-off, counterclaim or otherwise), accept money or other property, or exercise or enforce rights in respect of amounts you or any other *guarantor* owe the *guarantor*; or
  - (c) take, accept, hold or claim any right to contribution, reimbursement or indemnity from you or any other *guarantor*.
- 7.6 The guarantee given to us by each *guarantor* under this clause is:
- (a) in addition to, and enforceable independently of any other guarantee, security or other agreement; and
  - (a) a continuing guarantee, and the obligations of each *guarantor* in connection with it remain in full force and effect until we agree in writing that the *guarantor*'s obligations have been released.

## 8. Security interest over secured assets

- 8.1 This clause applies if the *key information statement* states that this is a secured *loan* with a *security interest* given over any *secured asset*. In respect of each *secured asset*, the relevant *asset owner* agrees to comply with all obligations of the *asset owner* under this *loan agreement* and each other *related agreement*.
- 8.2 In respect of each *secured asset*, the relevant *asset owner* gives us security over the *secured asset* to secure all of the *asset owner*'s obligations under this *loan agreement* and any *related agreement* (including payment of the *total amount owing*).
- 8.3 In respect of each *secured asset*, the relevant *asset owner* must:
- (a) ensure that the relevant *asset owner* is the sole legal and beneficial owner of the *secured asset*;
  - (b) store the *secured asset* at the address of the *asset owner* shown in the *key information statement* or any updated address subsequently provided by the *asset owner*;
  - (c) care for and maintain the *secured asset* in good condition (including ensuring that, where applicable, it is serviced by qualified personnel according to the manufacturer's requirements);
  - (d) repair any damage or defect to the *secured asset*;
  - (e) replace with another asset of a similar nature and value any *secured asset* that may be destroyed or lost or may cease to exist;

- (f) comply with the terms of each insurance policy applicable to the *secured asset*;
  - (g) ensure all log books, service records and other information required by law are correct and complete;
  - (h) pay all fines, infringement notices and charges relating to the *secured asset* and/or its use;
  - (i) comply with all other laws relating to the ownership and use of the *secured asset*; and
  - (j) allow us (or our agents) at all reasonable times to inspect any *secured asset* at the address of the *asset owner* shown in the *key information statement* or any updated address subsequently provided by the *asset owner*, provided we first give the *asset owner* 24 hours' written notice.
- 8.4 In respect of each *secured asset*, the relevant *asset owner* must not:
- (a) do anything that could adversely affect the *asset owner*'s rights of ownership in the *secured asset*;
  - (b) dispose of the *secured asset* by way of sale, gift or lease;
  - (c) allow someone else to have possession of the *secured asset*;
  - (d) change or modify any part of the *secured asset* or allow any accession to attach to the *secured asset*;
  - (e) allow the *secured asset* to become an accession or fixture to any asset that is not a *secured asset*;
  - (f) destroy, damage, endanger or disassemble the *secured asset*;
  - (g) conceal or hide the *secured asset* from us;
  - (h) grant any other *security interest* over the *secured asset* or allow any lien to be created over it;
  - (i) take the *secured asset* out of New Zealand; or
  - (j) use the *secured asset* for any dangerous or illegal activity, or in a negligent or reckless manner, or for any purpose for which it was not intended.
- 8.5 If a *secured asset* is a motor vehicle then, in addition to the above, the relevant *asset owner* must not:
- (a) allow any registration, licence or warrant of fitness to expire or lapse;
  - (b) use it in any race or competitive activity; or
  - (c) change the registration plate, obtain any personalised registration plate or remove or alter any serial number without our permission.
- 8.6 We have the right to take possession of any *secured asset* if we reasonably believe that the *secured asset* has been or will be destroyed, damaged, endangered, disassembled, removed, concealed, sold, or otherwise disposed of contrary to the provisions of this *loan agreement* or any *related agreement*.
- 8.7 Each *asset owner* agrees to use best endeavours to procure the consent of any third party on whose land or premises any *secured asset* is reasonably believed to be situated for us to enter that land or premises for the purpose of exercising any of our rights under this *loan agreement* or any *related agreement*.
- 8.8 Each *asset owner*:
- (a) waives that *asset owner*'s right to receive a copy of a verification statement confirming registration of a financing statement or financing change statement relating to any *security interest* given to us in connection with this *loan agreement*;
  - (b) agrees that nothing in sections 114(1)(a), 133 and 134 of the *PPSA* will apply to this *loan agreement* or to any *security interest* given to us in connection with this *loan agreement*; and
  - (c) waives that *asset owner*'s rights under sections 116, 120(2), 121, 125, 129 and 131 of the *PPSA*.
- 8.9 Each *security interest* given to us in connection with this *loan agreement* is:
- (a) in addition to, and enforceable independently of any other guarantee, security or other agreement; and
  - (b) a continuing security, and the obligations of each *asset owner* in connection with that *security interest* remain in full force and effect until we agree in writing that the *asset owner*'s obligations have been released.

## 9. Insurance over secured assets

- 9.1 This clause applies if the *key information statement* states that this is a *secured loan* with a *security interest* given over any *secured asset*.
- 9.2 In respect of each *secured asset*, the relevant *asset owner* must ensure that the *secured asset* is insured (with a reputable insurer acceptable to us) at all times against:
- (a) fire, accident, theft, vandalism, flood, storm and earthquake and any other thing that we may reasonably require to protect our interest in the *secured asset*, for full replacement value if possible or otherwise for a sum insured amount that is the full insurable value of the *secured asset* and acceptable to us in all respects; and
  - (b) if the *secured asset* is a motor vehicle, public liability for such amount as we reasonably require.
- 9.3 The insurance must be in the name of the relevant *asset owner* and must note our interest as secured party.

- 9.4 The relevant *asset owner* must pay all premiums when they are due and must not do anything that would result in the insurance being cancelled or invalidated. The relevant *asset owner* must provide us with confirmation of the insurance if we request it at any time.
- 9.5 The relevant *asset owner* must notify us of any loss or damage to a *secured asset* or other event giving rise to a claim under the insurance policy for the *secured asset*.
- 9.6 We can ask the insurance company to pay out any claim directly to us. The relevant *asset owner* hereby authorises any insurance company to make all payments to us and confirms that receipt by us is receipt by the insured under the policy.
- 9.7 We can require the relevant *asset owner* to use (or we can use) the proceeds of any insurance claim at our option either in or towards (a) replacing or repairing the *secured asset*, or (b) paying the *total amount owing* even if the time for payment has not yet arrived.

## 10. We can do things on behalf of you and each guarantor

- 10.1 You and each *guarantor* (each an appointor) appoint us to be the appointor's agent to take any steps that we reasonably consider necessary to do any of the following where the appointor has failed to do so:
- (a) perfect the appointor's title in any *secured asset*;
  - (b) perfect any *security interest* given to us under this *loan agreement* or any *related agreement*;
  - (c) arrange or maintain insurance in respect of each *secured asset* as required under this *loan agreement* or any *related agreement*;
  - (d) notify any insurance company of our interest in any insurance policy and make, discuss, deal with or settle any claims with the insurance company or any other party in connection with any damage or destruction to a *secured asset* and receive any payments from any insurance company on behalf of the appointor;
  - (e) pay all fines, infringement notices and charges relating to any *secured asset* and/or its use; or
  - (f) ensure that any *secured asset* that is a motor vehicle is continuously licensed as required under this *loan agreement* or any *related agreement*.
- 10.2 For the avoidance of doubt, we cannot acquire any property on an appointor's behalf or take a *security interest* in any of the appointor's property using this appointment, and we will only act as the appointor's agent if (and to the extent that) it is reasonable for us to do so in all the circumstances and permitted by applicable law.
- 10.3 If we make any payments on behalf of an appointor or incur any costs under this clause, these amounts will be charged in accordance with the *fees schedule*.
- 10.4 This appointment is (subject to applicable law) irrevocable and will remain in place until the *total amount owing* has been paid to us in full.

## 11. When a default happens

- 11.1 A default happens under this *loan agreement* if:
- (a) you or any *guarantor* do not pay on time any amount due under this *loan agreement* or any *related agreement*, unless the non-payment is caused solely by a payment system failure which is beyond the control of the payer and we receive payment within 2 *working days* of its due date; or
  - (b) you or any *guarantor* fail to comply in a material respect with any other promise or obligation in this *loan agreement* or any *related agreement*; or
  - (c) you, any *guarantor* or another person acting with your or a *guarantor*'s knowledge or permission gives us false or misleading information in a material respect in connection with this *loan agreement* or any *related agreement*; or
  - (d) we reasonably believe you, any *guarantor* or another person acting with your or a *guarantor*'s knowledge or permission has acted fraudulently in connection with this *loan agreement* or any *related agreement*; or
  - (e) you or a *guarantor* die or become *insolvent*; or
  - (f) a default happens under any other *loan* or security agreement with us or with any other lender; or
  - (g) an event occurs which we believe on reasonable grounds materially and adversely affects our interest in any *secured asset* or our ability to recover the *total amount owing* when due; or
  - (h) we believe on reasonable grounds that we can no longer provide the *loan* or the *account* due to AML/CFT requirements.
- 11.2 You must notify us immediately on becoming aware that a default has happened under this *loan agreement*.

## 12. What can happen following a default

- 12.1 Subject to applicable law, if a default happens under this *loan agreement*, we may do any or all of the following:
- (a) at any time, by notice to you, declare all or any part of the *total amount owing* to be immediately due for payment to the extent it is not already due for payment (i.e. "accelerate" that amount) and we may then sue you and/or any *guarantor* to recover the *total amount owing*;
  - (b) take steps to enforce any *security interest* given to us in connection with this *loan agreement*;
  - (c) cancel the *loan* (if the *loan amount* is undrawn), which means that we will not make the *loan* to you; and/or
  - (d) exercise any other rights given to us by law or in this *loan agreement* or any *related agreement*.

## 13. Rights in respect of secured assets following a default

- 13.1 This clause applies if the *key information statement* states that this is a secured *loan* with a *security interest* given over any *secured asset*.
- 13.2 If a default happens under this *loan agreement* we may (subject to applicable law):
- (a) take possession of any *secured asset*;
  - (b) sell any *secured asset* by auction or otherwise; and/or
  - (c) exercise any other rights in respect of, and deal with, the *secured asset* as if we were the unencumbered owner of that *secured asset*.
- 13.3 For the purposes described above, each relevant *asset owner* irrevocably gives us (and our agents) the right and licence to enter any premises, whether or not occupied, where a *secured asset* is reasonably believed to be situated.
- 13.4 Subject to applicable law, we are not liable in any way to you, any *guarantor* or any third party for any damage or loss which occurs in the process of entry into any premises or during or as a result of the seizure and subsequent sale of any *secured asset*.

## 14. Severability

- 14.1 If any provision of this *loan agreement* is illegal, void or unenforceable, then, subject to applicable law, this *loan agreement* is to be read as if that provision were varied to the extent necessary to comply with applicable law or, if necessary, omitted.

## 15. Further information

- 15.1 We may require you or any *guarantor* to provide information at any time about their financial position.
- 15.2 You and each *guarantor* agree to provide us with such further information as we may reasonably request at any time to enable us to comply with our obligations under *AML/CFT*.
- 15.3 You and each *guarantor* must give us at least 14 days' prior written notice of any change of name or contact details.

## 16. How we may exercise our rights

- 16.1 Subject to applicable law, we may exercise a right or remedy or give or refuse our consent in any way we reasonably consider appropriate, including by imposing conditions and we are not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy.
- 16.2 If we do not exercise a right or remedy fully or at a given time, we can still exercise it later. We only waive our any right or remedy if we do so in writing.
- 16.3 Our rights and remedies under this *loan agreement* are in addition to other rights and remedies provided by law independently of it.
- 16.4 Our rights and remedies may be exercised on our behalf by any of our employees or by any other person we authorise.

## 17. Assignment and disclosure

- 17.1 You and each *guarantor* agree that we may assign, transfer or otherwise deal with our rights and obligations under this *loan agreement* and each *related agreement* in any way we reasonably consider appropriate, without your or any *guarantor*'s further specific consent (and, subject to applicable law, without notice).



17.2 Your rights and obligations, and the rights and obligations of each *guarantor*, under this *loan agreement* and each *related agreement* may not be assigned or transferred without our written consent.

## 18. Notices and other communications

18.1 Notices, certificates, consents, approvals and other formal communications in connection with this *loan agreement* and each *related agreement* (communications) must be in writing (which includes email).

18.2 Unless otherwise agreed or required by applicable law, communications to you or any *guarantor* must be given by:

- (a) handing the communication to you or the *guarantor* (as the case may be) personally;
- (b) writing to you or the *guarantor* (as the case may be) at the postal address of you or the *guarantor* (as the case may be);
- (c) if you have or the *guarantor* has (as the case may be) consented to receiving electronic communications, sending an email to the email address of you or the *guarantor* (as the case may be); or
- (d) any other means permitted by applicable law,

in the case of (b) and (c) using the contact details provided in the *key information statement* or any updated details subsequently provided by you or the *guarantor* (as the case may be) or any other details we reasonably believe to be the applicable contact details.

18.3 Unless otherwise agreed or required by applicable law, communications to us must be given by:

- (a) writing to us at our postal address; or
- (b) sending an email to our email address,

in each case using our contact details provided in the *key information statement* or any updated details subsequently provided by us.

18.4 A communication is taken to be given:

- (a) in the case of a communication given personally - on the date it is given; or
- (b) in the case of a communication sent by post - on the fourth *working day* after the day on which it is posted; or
- (c) in the case of a communication sent by any form of electronic transmission - on the second *working day* after the day on which the electronic communication is sent.

18.5 We may also communicate informally, and you and each *guarantor* consent to us doing so using any other contact details that you have provided to us, or via our website, customer portal, or media channels as we reasonably consider appropriate.

## 19. Variations

19.1 Except for any change made in accordance with clause 19.2 below, any variation of any term of this *loan agreement* must be in writing and agreed between:

- (a) you and us;
- (b) in the case of any change to this clause 19.1, clause 7 and any other clause of this *loan agreement* that applies to a *guarantor*, each *guarantor*; and
- (c) in the case of any change to clause 8, clause 9, clause 13 and any other clause of this *loan agreement* that applies to an *asset owner*, each *asset owner*.

19.2 We may vary any of the following terms of this *loan agreement* without seeking your or any *guarantor*'s consent (but we will only do so on reasonable grounds and in accordance with applicable law):

- (a) the *default interest rate*;
- (b) how or when any interest charge under this *loan agreement* is calculated or charged;
- (c) any fee or charge specified in the *fees schedule* (including the introduction of a new fee or charge);
- (d) how or when any fee or charge under this *loan agreement* is calculated or charged; and/or
- (e) your *scheduled payments*, if we do not make the *loan* to you on the *disclosure date* or there is any other relevant change after the *disclosure date* in accordance with this *loan agreement* (for instance, a change to any regular fee payable under this *loan agreement*).

19.3 We will give notice of any variation as required in accordance with applicable law.

## 20. Appointment of agent for service in New Zealand

20.1 By signing this *loan agreement* each of you and each *guarantor* appoints each other *borrower* and *guarantor* to be the appointing party's agent for the service of notices under this *loan agreement* and each *related agreement* during any period when the appointing party is out of New Zealand.

## 21. Counterparts

21.1 This *loan agreement* can be signed in one or more counterparts, which together constitute the same document

## 22. Privity

22.1 We can enforce our rights under this *loan agreement* even if we have not signed it.

## 23. Applicable law

23.1 This *loan agreement* is governed by the law in force in New Zealand.

23.2 We, you and each *guarantor* submit to the non-exclusive jurisdiction of the courts of New Zealand.

## 24. Meaning of words

24.1 These meanings apply in this *loan agreement*:

**account** means the *account* that we establish for recording all transactions relating to this *loan agreement*.

**AML/CFT** means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and associated regulations and guidance materials published by the Department of Internal Affairs or such other supervisor from time to time.

**annual interest rate** means the per annum interest rate specified in the *key information statement*.

**asset owner** means, in respect of each *secured asset*, the person named in the *key information statement* as the *asset owner* and includes each *asset owner*'s executors, successors and administrators. If there is more than one *asset owner*, *asset owner* means each *asset owner* separately and jointly.

**default interest rate** means the per annum *default interest rate* specified in the *key information statement* (as updated from time to time, if we have updated it in accordance with clause 19).

**disclosure date** means the *disclosure date* specified in the *key information statement*.

**fees schedule** means the *fees schedule* provided together with the rest of this *loan agreement* (as updated from time to time, if we have updated it in accordance with clause 19).

**general terms** means the section in this *loan agreement* named "*general terms*".

**guarantor** means each person named in the *key information statement* as a *guarantor* and includes each *guarantor*'s executors, successors and administrators. If there is more than one *guarantor*, *guarantor* means each *guarantor* separately and jointly.

**insolvent** means committing an act of bankruptcy as set out in sections 17-28 of the Insolvency Act 2006, being adjudicated bankrupt, or filing an application for bankruptcy with the Official Assignee (as defined in the Insolvency Act 2006).

**key information statement** means the section in this *loan agreement* named "*key information statement*".

**loan** means all amounts that we agree to lend to you under this *loan agreement*.

**loan agreement** means this personal *loan agreement* including the *key information statement*, the *fees schedule* and the *general terms*.

**loan amount** means the *loan amount* specified in the *key information statement*.

**payment date** means each *payment date* specified in the *key information statement*.

**payment frequency** means the frequency for payments specified in the *key information statement*.

**PPSA** means the Personal Property Securities Act 1999.

**principal amount** owing means, at any time, the outstanding and unpaid *principal amount* owing under this *loan agreement* (being, initially, the *loan amount*).

**related agreement** means any separate security agreement, guarantee or other agreement or document at any time relating to your obligations (or the obligations of any *guarantor*) under or in respect of this *loan agreement*.

**scheduled payments** mean the *scheduled payments* specified in the *key information statement* (as updated from time to time, if we have updated them in accordance with clause 19).

**secured asset** means each *secured asset* specified in the *key information statement*.

**security interest** means an interest in personal or other property that secures payment or performance of an obligation and includes a *security interest* as defined in section 17 of the PPSA.

**total amount owing** means, at any time, the *principal amount* owing at that time, plus all accrued but unpaid interest charges, default interest charges, costs, expenses and other amounts payable under this *loan agreement*.

**we** and **us** means Avanti Finance Limited and includes our successors, assigns and transferees.

**working day** means a day other than a Saturday or Sunday or national public holiday in New Zealand.

**you** and **borrower** means each person named in the *key information statement* as a *borrower* and includes your executors, successors and administrators. If there is more than one of you, you means each of you separately and jointly.

24.2 In this *loan agreement* :

- (a) a reference to:
- a thing includes the whole and each part of it;
  - this *loan agreement* or any other document (or section, clause or term of this *loan agreement* or any other document) includes any variation or replacement of it;
  - law means common law, principles of equity, and laws made by parliament (and laws made by parliament include regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of them);
  - the words including or such as when introducing an example do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
  - the word person includes an individual, a firm, a body corporate, an unincorporated association or an authority;
- (b) the singular includes the plural and vice versa;
- (c) headings are for convenience only and do not affect the interpretation of this *loan agreement*; and
- (d) the *key information statement* prevails over any other section of this *loan agreement* in the event of inconsistency.