

## Vehicle Loan Agreement - Consumer

### Welcome to Avanti Finance

This is your loan pack. It includes the following documents, which need to be read, signed and returned.

#### 1. Vehicle Loan Agreement – Consumer

The loan agreement has four different sections:

##### Section 1: Key information statement

This section sets out key information about the loan agreement, including what we're required to tell you by law (such as your loan amount and the payments you have to make, as well as other important information about your rights and responsibilities).

##### Section 2: Fees schedule

This section details our current schedule of fees and charges that apply to your loan.

##### Section 3: Privacy authorisation & signing

This is where you sign. By signing, you accept the terms of the loan agreement and authorise the collection and use of your personal information in accordance with our privacy policy located at [www.avantifinance.co.nz/privacy](http://www.avantifinance.co.nz/privacy)

##### Section 4: General terms

This section sets out more information about the loan agreement.

#### 2. Direct Debit Form

This form authorises us to debit directly from your bank account the amounts you owe us in accordance with your loan agreement. You need to complete your bank account details and sign the form.

#### 3. Introducer Certificate

- This certificate needs to be signed by the person who referred you to us for your loan (for example, a financial adviser, broker or car dealership). It confirms that our required processes have been followed in relation to the loan and any credit-related insurance.
- You need to sign the acknowledgement section of this certificate. The certificate includes a loan and credit-related insurance fact sheet.
- If you are taking out credit-related insurance, please ensure you have first been given a copy of the full terms of that insurance policy as those terms do not form part of this loan pack. The policy (and its terms) relating to your credit-related insurance are between you and the insurance provider.

If you have any questions, please contact us on 0800 808 003.

# Vehicle Loan Agreement - Consumer



## Section 1: Key Information Statement

**Disclosure date:** [Disclosure Date] (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 there is something you don't understand, you should seek independent advice. Please keep a copy of this *loan agreement* in a safe place.

The law gives you a limited right to cancel this *loan agreement* (further details are included in this *loan agreement*). Note that strict time limits apply. You're 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.

### Contact details:

#### Lender: (referred to as "we" or "us")

**Name:** Avanti Finance Limited  
(company number 659638) (FSP41821)

**Trading name:** Avanti Finance

**Physical address:** 30 Daldy Street, Auckland Central,  
Auckland 1010

**Postal address:** Private Bag 11917, Ellerslie, Auckland  
1542

**Phone number:** 0800 808 003

**Email address:** [info@avantifinance.co.nz](mailto: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")

**Name:** [Borrower Name]

**Residential address:** [Borrower Residential Address]

**Postal address:** [Borrower Postal Address]

**Phone number:** [Borrower Phone Name]

**Email address:** [Borrower Email address]

*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

The "initial unpaid balance" you owe as at the *disclosure date* is \$nil (unless the *settlement date* is the same as the *disclosure date*, in which case the "initial unpaid balance" is the *loan amount*). You don't owe anything until the *settlement date*.

**Settlement date:** [Settlement Date] (this is when we expect to make the *loan* to you)

**Loan amount:** \$[Loan Amount] (this is the amount we will lend to you on the *settlement date*)

**made up as follows:**

**Loan advance** \$[Total Loan Advance]

calculated as follows:

the *secured vehicle* purchase price \$[secured vehicle purchase price]

plus on road costs \$[plus on road costs]

plus accessories purchase price \$[plus accessories purchase price]

less deposit \$[less deposit]

less trade-in \$[less trade-in]

**Establishment fee** \$[establishment fee]

**Dealer fee** \$[Dealer fee]

**PPSR fee** \$[PPSR fee]

The fees or charges listed above form part of the *principal amount owing* on which interest accrues.

**Loan purpose**

Personal vehicle purchase.

**Key time limit**

Our obligation to lend to you ends if the *loan* is not made to you within 30 days of the *disclosure date*.

**Total Advances**

The *loan amount* specified above is the total amount of all advances to be made by us under this *loan agreement*, except for any fees and charges that are subsequently charged to your *account* in accordance with this *loan agreement*.

## Special Conditions

[Special Conditions]

## Payments

You are required to make *scheduled payments* as follows to pay off the *loan* (including accrued interest and monthly account fees charged to your *account*).

### Timing and number of payments:

Payment frequency: [frequency] First payment date: [date]

Number of payments: [#] regular of payments and one final payment Final payment date: [date]

### Amount of each payment and total amount of payments:

Regular payments: \$[regular payment] **Total amount of payments:** \$[Total amount of payments]

Final payment: \$[final payment]

Your *scheduled payments* may change if there is any change to the *settlement date* or if there is any other relevant change after the *disclosure date* in accordance with this *loan agreement* (for instance, if there is a change to any regular fee payable under this *loan agreement* or if you make a part prepayment that is credited to your *account* ahead of your *scheduled payments* (see under "prepayment" below for more information)). If that is the case, we will provide disclosure as required in accordance with applicable law.

You must also pay us immediately when due any other amount you owe us under this *loan agreement* at any time (for instance, if a default happens under this *loan agreement*).

If a 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.

## 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:** \$[total interest charge] **This is the total amount of the interest charges payable under this *loan agreement*.**

### 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 and on your *final payment date*. 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).

## 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 (Prepayment administration fee) and any Prepayment fee to compensate us for any loss resulting from the full prepayment, as set out in the *fees schedule*. We may have suffered a loss if our current interest rate is lower than the interest rate applying to this *loan agreement*. We calculate any Prepayment fee using a statutory procedure prescribed in regulation 9 of the Credit Contracts and Consumer Finance Regulations 2004.

If you pay any part of the *total amount owing* before its scheduled *payment date* (**part prepayment**), we may decline to accept the part prepayment (in which case we will refund it to you as soon as practicable). **If we opt to accept the part prepayment, the amount you prepay may not be credited to your account immediately: we may instead opt to hold the part prepayment and apply it to your scheduled payments as they fall due. This means that a part prepayment may not reduce your interest costs.** If we opt to credit a part prepayment to your *account* ahead of your *scheduled payments*, we will do so as soon as practicable after receipt of the payment and we will provide disclosure about your future *scheduled payments* (and interest costs) as required in accordance with applicable law.

**Please contact us on 0800 808 003 before making any full prepayment or part prepayment so that we can discuss it with you.**

## Continuing disclosure

We will provide you with regular statements that give you information about your *account* at least every six months.

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

### Security Interest

This is a secured loan. See clause 8 of the *general terms* for more information. If you fail to meet your commitments under this *loan agreement*, we may be entitled to repossess and sell any *secured vehicle*.

### Secured vehicle

<b>Registration number:</b>	[Registration Number]	<b>New/Demo/Used:</b>	[New/Demo /used]
<b>Description:</b>	[Vehicle Description]	<b>Body Style:</b>	[Body Style]
<b>VIN:</b>	[VIN]	<b>Odometer:</b>	[Odometer]
<b>Dealer/Private sale:</b>	[Dealer/Private Sale]		

### Nature of security interest

Our *security interest* over each *secured vehicle* secures all of your obligations under this *loan agreement* and must be a first-ranking and exclusive *security interest*. If you fail to meet your commitments under this *loan agreement*, we are under no obligation to recover the *total amount owing* by exercising our rights over any *secured vehicle*. If we do exercise such rights and sell any *secured vehicle* and the net sale proceeds are insufficient to repay the *total amount owing*, then you and each *guarantor* will remain liable for the *total amount owing* after the net sale proceeds are applied. It is a default under this *loan agreement* if, among other things, you give a *security interest* over any *secured vehicle* to anyone else, or if you sell, lease or otherwise part with possession of any *secured vehicle*. See clause 11 of the *general terms* for more information about defaults. We can then exercise our rights under clauses 12 and 13 of the *general terms* and the *secured vehicle* would be liable to repossession.

### Default interest charges

If you do not make a payment on time under this *loan agreement*, 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 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.

### Default fees

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.

### Changes to default interest and default fees

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).

### Right to cancel

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

#### Time limits for cancellation

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 the 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 repay each advance made to 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 an 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.

<b>Dispute resolution scheme:</b>	Financial Services Complaints Limited ('FSCL')	<b>Website:</b>	<a href="http://www.fscl.org.nz">www.fscl.org.nz</a>
<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>Business address:</b>	Level 4, 101 Lambton Quay, Wellington 6011		
<b>Postal address:</b>	PO Box 5967, Wellington 6140		

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.

### Registration on Financial Service Providers Register

<b>Registration name:</b>	Avanti Finance Limited
<b>Registration number:</b>	FSP41821

## SECTION 2: FEES SCHEDULE

The following fees and charges are or may become payable under, or in connection with, your *loan agreement* (in addition to interest charges and initial fees or charges included in the *loan amount*). Unless otherwise specified, all fees and charges are payable at the time incurred. If you do not pay any administration or restructure fee at that time, it will become part of the *principal amount owing* and, if it remains unpaid, it may attract default charges. We may 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). Our latest fees and charges can be viewed at [www.avantifinance.co.nz/rates-fees](http://www.avantifinance.co.nz/rates-fees)

Loan administration fees		
<b>Account fee</b>	A monthly fee to cover the administration of a loan and processing payments. This fee is included in your <i>scheduled payments</i> . This fee is charged to your <i>account</i> on the first day of each calendar month.	\$(Account Fee per month)
<b>Prepayment administration fee</b>	Charged to cover our administrative costs when a loan is settled in full before its final <i>payment date</i> . (note that you may also be charged Prepayment fee as described below).  <i>In addition to the above Prepayment administration fee, you may also be charged:</i>	\$(Prepayment Administration fee)
<b>Prepayment fee</b>	May be charged to cover our loss resulting from differences in interest rates when a loan is settled in full before its final <i>payment date</i> . We calculate any Prepayment fee using a statutory procedure prescribed in regulations.	

Loan restructure fees		
<b>Loan restructure fee</b>	Charged to cover our administrative costs when we restructure an existing loan.	\$(Loan restructure fee)
<b>Third-party correspondence / authorisation</b>	Fee to cover the processing and entering of authorized third-party details and/or correspondence with third-parties.	\$(Third-party correspondence)

Default fees and collections		
<b>Arrears management fee</b>	Charged to cover our administrative costs if your loan is in arrears for five or more days during any month.	\$(arrears management fee)
<b>Payment dishonour fee</b>	Charged if one or more scheduled payments is dishonoured during the month and your account is in arrears at the end of the month.	\$(payment dishonour fee)
<b>Repossession administration fee</b>	Charged to cover our costs if we effect repossession of a <i>secured vehicle</i> .	\$(repossession administration fee)
<b>Issue court proceedings</b>	Charged to cover our costs if we issue court proceedings.	\$(issue court proceedings)

Recovery and enforcement fees		
<b>Enforcement and other costs</b>	Charged if we make any payments or incur any costs for doing anything on your behalf where you have failed to do so under your <i>loan agreement</i> (e.g. arranging insurance) and for any other costs or expenses we reasonably incur in connection with exercising or enforcing our rights under your <i>loan agreement</i> or any <i>related agreement</i> following a default. Copies of invoices are available on request.	Actual cost
<b>Third party recovery costs</b>	Payable when we incur any third-party costs (e.g. debt collection agent, repossession agent, court fees, legal fees, process server, valuer, auction fees) in connection with exercising or enforcing our rights following a default. Copies of invoices are available on request.	Actual cost

Default interest		
<p>If you do not pay an amount when due, then we will charge interest at the <i>default interest</i> rate on the amount which is due and unpaid while the default continues. However, we will not charge you default interest on any amount that has become payable early because another default has happened under this <i>loan agreement</i>.</p> <p>The <b>default interest rate</b> is the <i>annual interest rate</i> plus 10% p.a.</p> <p>Unpaid accrued default interest is charged to your <i>account</i> on the last day of each calendar month.</p>		

### SECTION 3: PRIVACY AUTHORISATION AND SIGNING

#### Privacy authorisation

By signing this *loan agreement*, you (which for these purposes includes each individual signing this *loan agreement*, including each *guarantor* who is an individual) authorise us to collect, use, store and share personal information in accordance with our privacy policy, which you can find at [www.avantifinance.co.nz/privacy](http://www.avantifinance.co.nz/privacy)

#### The information we collect

Our privacy policy includes a full list of the personal information which we may collect from you. That information includes (but is not limited to)

- information about your identity, like your name (and any previous or other names you are or have been known by), age, gender, identification, biometric data and image;
- your contact details, like your address and or current whereabouts, telephone number and email address (including any arrival and departure records held in New Zealand); and
- financial information, like your income, expenses and liabilities and banking history; your credit score; information about your past and current bank accounts, including bank statements; and information about your employment and type of work you do.

#### Who we collect your personal information from and share it with

Our privacy policy also includes a full list of the people and organisations from whom we may request and collect your personal information, and with whom we may share it

Those people and organisations include (but are not limited to)

- any registered bank or other credit provider in New Zealand;
- your past and present employers;
- your past and present service providers, including your telecommunications providers;
- government agencies and services, including NZ Customs Service, the Ministry of Justice, Department of Corrections, New Zealand Police, the Ministry of Social Development (including Work and Income), Immigration New Zealand, Inland Revenue Department, Kainga Ora (and related agencies), NZTA's Driver Check service, Housing New Zealand Corporation, Office of the Privacy Commissioner and the Commerce Commission; and
- credit reporting agencies and other third parties that provide services to us eg mailing houses.

Borrower

#### READ THIS FIRST

We recommend that you consider obtaining independent legal advice before signing this *loan agreement* and any *related agreement*. You must carefully read this *loan agreement* (including the following *general terms*) and any *related agreement*. By signing this *loan agreement*, you:

- accept its terms and acknowledge the receipt of valuable consideration in our agreement to lend to you; and
- confirm that you authorise us to collect, use, store and share your personal information in accordance with our privacy policy.

Executed and delivered as an agreement by:

Name:

[Borrower Name]

Date

Signature

## SECTION 4: 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*; and
  - (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*).
- 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*).
- 2.2 You must make *scheduled payments* in the amounts, on the *payment dates* 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 You can prepay the *total amount owing* in full or in part at any time. **Please contact us before making any full prepayment or part prepayment so that we can discuss it with you.**
- 2.6 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 (Prepayment administration fee) and any Prepayment fee relating to the full prepayment, as set out in the *fees schedule*. We calculate any Prepayment fee using a statutory procedure prescribed in regulations.
- 2.7 If you pay any part of the total amount owing before its scheduled *payment date* (*part prepayment*), we may decline to accept the part prepayment (in which case we will refund it to you as soon as practicable). **If we opt to accept the part prepayment, the amount you prepay may not be credited to your account immediately: we may instead opt to hold the part prepayment and apply it to your scheduled payments as they fall due. This means that a part prepayment may not reduce your interest costs.** If we opt to credit a part prepayment to your *account* ahead of your *scheduled payments*, we will do so as soon as practicable after receipt of the payment and we will provide disclosure about your future *scheduled payments* (and interest costs) as required in accordance with applicable law.

### 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 your bank account. You can cancel a direct debit authority or close the relevant bank account, but you must first set up another direct debit authority or other arrangement acceptable to us (acting reasonably).
- 3.2 It is your obligation to make all payments to us on time. You must ensure there is enough money in your bank account to meet each direct debit or other payment. 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 or put in place another payment arrangement acceptable to us (acting reasonably).
- 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.
- 3.5 All payments made to your *account* will be applied by us to meet any default fees or charges and overdue payments before being applied to reduce your remaining *total amount owing*.

### 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*. 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).
- 4.3 You authorise and request us to pay or apply any fees or charges comprised in the *loan amount* to the person charging those fees.

### 5. Instructions from one borrower

- 5.1 Where there are two or more of you, you each authorise us 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 This clause applies if you or any *guarantor* enters into this *loan agreement* or any *related agreement* as a *trustee*.
- 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 6.3 below).
- 6.3 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.

- 6.4 If
- (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 6.3 above does not apply and the limited liability trustee is liable personally under this *loan agreement* and each *related agreement*.
- 6.5 Each trustee agrees not to change a trustee, terminate the trust, or change any terms of the trust without our prior written consent.
- 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.
- 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
  - (b) 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 vehicles**
- 8.1 In respect of each *secured vehicle*, you agree to comply with all your obligations under this loan agreement and each other *related agreement*.
- 8.2 In respect of each *secured vehicle*, you give us security over the *secured vehicle* to secure all of your obligations under this *loan agreement* and any *related agreement* (including payment of the *total amount owing*).
- 8.3 In respect of each *secured vehicle*, you must:
- (a) ensure that you are the sole legal and beneficial owner of the *secured vehicle*;
  - (b) store the *secured vehicle* at the address shown in the *key information statement* or any updated address subsequently provided by you;
  - (c) care for and maintain the *secured vehicle* 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 vehicle*;
  - (e) replace with another asset of a similar nature and value any *secured vehicle* that may be destroyed or lost or may cease to exist;
  - (f) comply with the terms of each insurance policy applicable to the *secured vehicle*;
  - (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 vehicle* and/or its use;
  - (i) comply with all other laws relating to the ownership and use of the *secured vehicle*; and
  - (j) allow us (or our agents) at all reasonable times to inspect any *secured vehicle* at your address shown in the *key information statement* or any updated address subsequently provided by you, provided we first give you 24 hours' written notice.
- 8.4 In respect of each *secured vehicle*, you must not:
- (a) do anything that could adversely affect your rights of ownership in the *secured vehicle*;
  - (b) dispose of the *secured vehicle* by way of sale, gift or lease;
  - (c) allow someone else to have possession of the *secured vehicle*;
  - (d) change or modify any part of the *secured vehicle* or allow any accession to attach to the *secured vehicle*;
  - (e) allow the *secured vehicle* to become an accession or fixture to any asset that is not a *secured vehicle*;
  - (f) destroy, damage, endanger or disassemble the *secured vehicle*;
  - (g) conceal or hide the *secured vehicle* from us;
  - (h) grant any other *security interest* over the *secured vehicle* or allow any lien to be created over it;
  - (i) take the *secured vehicle* out of New Zealand;
  - (j) use the *secured vehicle* for any dangerous or illegal activity, or in a negligent or reckless manner, or for any purpose for which it was not intended;
  - (k) allow any registration, licence or warrant of fitness for the *secured vehicle* to expire or lapse;
  - (l) use the *secured vehicle* in any race or competitive activity; or
  - (m) change the registration plate, obtain any personalised registration plate or remove or alter any serial number of the *secured vehicle* without our permission.

- 8.5 We have the right to take possession of any *secured vehicle* if we reasonably believe that the *secured vehicle* 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*.
- 8.6 You agree to use best endeavours to procure the consent of any third party on whose land or premises any *secured vehicle* 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*.
- 8.7 You:
- waive your 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*;
  - 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
  - waives your rights under sections 116, 120(2), 121, 125, 129 and 131 of the *PPSA*.
- 8.8 Each *security interest* given to us in connection with this *loan agreement* is:
- in addition to, and enforceable independently of any other guarantee, security or other agreement; and
  - a continuing security, and your obligations in connection with that *security interest* remain in full force and effect until we agree in writing that your obligations have been released.
- 9. Insurance over secured vehicles**
- 9.1 In respect of each *secured vehicle*, you must ensure that the *secured vehicle* is insured (with a reputable insurer acceptable to us) at all times against:
- fire, accident, theft, vandalism, flood, storm and earthquake and any other thing that we may reasonably require to protect our interest in the *secured vehicle*, for full replacement value if possible or otherwise for a sum insured amount that is the full insurable value of the *secured vehicle* and acceptable to us in all respects; and
  - public liability for such amount as we reasonably require.
- 9.2 The insurance must be in the name and must note our interest as secured party.
- 9.3 You must pay all premiums when they are due and must not do anything that would result in the insurance being cancelled or invalidated. You must provide us with confirmation of the insurance if we request it at any time.
- 9.4 You must notify us of any loss or damage to a *secured vehicle* or other event giving rise to a claim under the insurance policy for the *secured vehicle*.
- 9.5 We can ask the insurance company to pay out any claim directly to us. You hereby authorise any insurance company to make all payments to us and confirms that receipt by us is receipt by the insured under the policy.
- 9.6 We can require you 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 vehicle*, or (b) paying the *total amount owing* even if the time for payment has not yet arrived.
- 10. We can do things on your behalf**
- 10.1 You appoint us to be your agent to take any steps that we reasonably consider necessary to do any of the following where you have failed to do so:
- perfect your title in any *secured vehicle*;
  - perfect any *security interest* given to us under this *loan agreement* or any *related agreement*;
  - arrange or maintain insurance in respect of each *secured vehicle* as required under this *loan agreement* or any *related agreement*;
  - 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 vehicle* and receive any payments from any insurance company on your behalf;
  - pay all fines, infringement notices and charges relating to any *secured vehicle* and/or its use; or
  - ensure that any *secured 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 your behalf or take a *security interest* in any of your property using this appointment, and we will only act as your 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 your behalf 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:
- 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
  - the *secured vehicle* is not insured as required by clause 9 (or any insurance is cancelled or invalidated); or
  - 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* and, if such failure is capable of remedy, it is not remedied within 15 days after you or the relevant *guarantor* (as the case may be) receive notice of the failure from us; or
  - 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
  - we believe on reasonable grounds that 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
  - you or a *guarantor* die or become *insolvent*; or
  - a default happens under any other *loan* or security agreement with us or with any other lender; or
  - the *secured vehicle* suffers a "total loss" event; or
  - the *secured vehicle* is "at risk" (meaning that we believe on reasonable grounds that the *secured vehicle* 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 other event occurs which we believe on reasonable grounds materially and adversely affects our interest in any *secured vehicle* or our ability to recover the *total amount owing* when due; or
  - 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:
- 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*;
  - take steps to enforce any *security interest* given to us in connection with this *loan agreement*;
  - 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 vehicles**
- 13.1 If a default happens under this *loan agreement* we may (subject to applicable law):
- take possession of any *secured vehicle*;
  - sell any *secured vehicle* by auction or otherwise; and/or
  - exercise any other rights in respect of, and deal with, the *secured vehicle* as if we were the unencumbered owner of that *secured vehicle*.
- 13.2 For the purposes described above, you irrevocably gives us (and our agents) the right and licence to enter any premises, whether or not occupied, where a *secured vehicle* is reasonably believed to be situated.
- 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 You and each *guarantor* agree to provide us with such further information as we may reasonably request at any time:
- in relation to your or the *guarantor's* financial position; and/or
  - to enable us to comply with our obligations under *AML/CFT*.
- 15.2 You and each *guarantor* must give us at least 14 days' prior written notice of any change of name or contact details.
- 16. How rights may be exercised**
- 16.1 If a party does not exercise a right or remedy fully or at a given time, that party can still exercise it later. A party only waives any right or remedy if that party does so in writing.
- 16.2 All rights and remedies under this *loan agreement* are in addition to other rights and remedies provided by law independently of this *loan agreement*.
- 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:
- handing the communication to you or the *guarantor* (as the case may be) personally;
  - 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);
  - 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
  - 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:
- writing to us at our postal address; or
  - 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:
- in the case of a communication given personally - on the date it is given; or
  - in the case of a communication sent by post - on the fourth *working day* after the day on which it is posted; or
  - in the case of a communication sent by any form of electronic transmission - on the day on which the electronic communication is sent.
- Nothing in this clause 18.4 limits the time at which any disclosure is treated as having been made under and for the purposes of applicable law. For instance, under applicable law, disclosure may be treated as having been made when a statement 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 this *loan agreement* must be in writing and agreed between:
- you and us; and
  - 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*.
- 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):
- the *default interest rate*;
  - how or when any interest charge under this *loan agreement* is calculated or charged;
  - any fee or charge specified in the *fees schedule* (including the introduction of a new fee or charge);
  - how or when any fee or charge under this *loan agreement* is calculated or charged; and/or
  - your *scheduled payments*, if there is any change to the *settlement date* or there is any other relevant change after the *disclosure date* in accordance with this loan agreement (for instance, if there is a change to any regular fee payable under this *loan agreement* or if you make a part prepayment that is credited to your *account* ahead of your *scheduled payments*).
- 19.3 We will give notice of any variation as required in accordance with applicable law.
- 20. Counterparts**
- 20.1 This *loan agreement* can be signed in one or more counterparts, which together constitute the same document.
- 21. Privity**
- 21.1 We can enforce our rights under this *loan agreement* even if we have not signed it.
- 22. Applicable law**
- 22.1 This *loan agreement* is governed by the law in force in New Zealand.
- 22.2 We, you and each *guarantor* submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 23. Meaning of words**
- 23.1 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*.

**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 section in this *loan agreement* named "*fees schedule*" (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*" (as updated from time to time, if we have updated it in accordance with clause 19).

**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*" (as updated from time to time, if we have updated it in accordance with clause 19).

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

**loan agreement** means this vehicle loan agreement – consumer, including the *key information statement*, the *fees schedule*, the *general terms* and the privacy authorisation and signing section.

**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 vehicle** means each *secured vehicle* specified in the *key information statement* and any replacement for that vehicle and all present and after-acquired accessions to, documents of title for, and proceeds of, any such vehicle.

**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*.

**settlement date** means the settlement date specified in the *key information statement* (or any other settlement date we agree with you).

**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* (less, in the context of a full prepayment, any rebate due to you in respect of consumer credit insurance financed under this *loan agreement* and arranged by us).

**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.

23.2 In this *loan agreement*:

- (a) 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;
- (b) 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);
- (c) 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
- (d) the word person includes an individual, a firm, a body corporate, an unincorporated association or an authority;
- (e) the singular includes the plural and vice versa;
- (f) headings are for convenience only and do not affect the interpretation of this *loan agreement*; and
- (g) the *key information statement* prevails over any other section of this *loan agreement* in the event of inconsistency.