

**Finding your way around the small print.**

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Your loan agreement with us is made up of several documents. The document that you sign containing your agreements and acknowledgements (we call this the **Loan Details**); this document containing the terms and condition that apply to all loans (we call this the **General Terms**); and, if section E below is not included or is deleted and you are given a document entitled "**Schedule of Standard fees and Charges – Consumer Credit**", then that document is deemed to be part of your loan agreement with us.

If you are a guarantor and not the borrower – the same documents contain your guarantee.

To help you find your way around this document we have divided it into sections. Some clauses and some sections may not apply to your specific loan. For example, if the Loan Details that you signed indicate that your loan is secured only over personal property, the section in the general terms applicable to mortgages over land is not relevant to that loan.

If you are a guarantor, the section headed Guarantee Terms applies to you. You should also read and understand all other sections because you are guaranteeing that the borrower will comply with the terms in these sections.

Some words that are used in the agreement have a special meaning. These are set out in the Dictionary in clause 27 of Section C at the end of this document.

It's important to us that you understand the nature and extent of your obligations to us when we lend money to you. It's tempting to overlook the small print but we encourage you not to. If you have any concerns or do not understand any of these terms or if you feel you are being pressured into signing the Loan Details, then you should obtain legal advice before you sign.

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**RIGHT TO CANCEL**

You are entitled to cancel the consumer credit contract by giving notice to the creditor.

**Time limits for cancellation**

- If the disclosure documents are handed to you directly you must give notice that you intend to cancel within 5 working days after you receive the documents.
- If the disclosure documents are sent to you by electronic means (for example, email) you must give notice that you intend to cancel within 7 working days after the electronic communication is sent.
- If the documents are mailed to you, you must give the notice within 9 working days after they were posted.

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

**How to Cancel**

To cancel, you must give the creditor written notice that you intend to cancel the contract by-

- giving notice to the creditor or an employee or agent of the creditor; or
- posting the notice to the creditor or an agent of the creditor; or
- emailing the notice to the creditor's email address (if specified on the front of this disclosure statement).

You must also, within the same time, return to the creditor any advance and any other property received by you under the contract.

**What you may have to pay if you cancel**

If you cancel the contract, the creditor can charge you the amount of any reasonable expenses the creditor had to pay in connection with the contract and its cancellation (including legal fees and fees for credit reports, etc). If you cancel the contract the creditor can also charge you interest for the period from the day you received the advance until the day you repay the advance.

**WHAT TO DO IF YOU SUFFER UNFORSEEN HARDSHIP**

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

To apply for a hardship variation, you need to:

- a) make an application in writing; and
- b) explain your reason(s) for the application; and
- c) request one of the following:
  - an extension of the term of the contract (which will reduce the amount of each payment due under the contract); or
  - a postponement of the dates on which the payments are due under the contract (specify the period for which you want this to apply); or
  - both of the above; and
- d) Give the application to the creditor.

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

**FINANCIAL SERVICES PROVIDER - DISCLOSURE STATEMENT**

Avanti Finance Limited is licensed (FSP No. FSP41821) by the Financial Markets Authority ('FMA') and has the status of a Qualifying Financial Entity ('QFE'). We take responsibility for the financial adviser services provided by our QFE advisers, which relate to the following financial products:

1. a consumer credit contract within the meaning of the [Credit Contracts and Consumer Finance Act 2003](#); and
2. a contract of insurance.

FMA's contact details are: Financial Markets Authority, PO Box 1179, Wellington 6140  
PH: 04 472 9830 or 0800 434 566 | Email: [fma@fma.govt.nz](mailto:fma@fma.govt.nz)

You can obtain information about financial advisers from the FMA and can report information about the QFE or its advisers to the FMA. The information provided in this Disclosure Statement is important and should help you decide which financial adviser to choose. You can check the status of the QFE and whether other entities are a member of the QFE group on the register at [www.fspr.govt.nz](http://www.fspr.govt.nz). This disclosure statement is given as at the as at the Statement Date on the second page of this agreement.

**OUR CONTACT DETAILS**

Avanti Finance Limited, Private Bag 11-917, Ellerslie, Auckland 1542  
73 Remuera Road, Newmarket, Auckland  
PH: 09 571 0720 or 0800 800 107 | Email: [info@avantifinance.co.nz](mailto:info@avantifinance.co.nz)

**DISPUTE RESOLUTION**

We are a member of Financial Services Complaints Limited ('FSCL'), which is an approved dispute resolution scheme.

FSCL's contact details are: Financial Services Complaints Limited, PO Box 5967, Wellington 6145  
PH: 04 472 3725 or 0800 347 257 | Email: [info@fscl.org.nz](mailto:info@fscl.org.nz)

## Section A. - Loan Terms

This section applies to all Consumer Credit Contracts.

### 1. Repayment of advances and interest

- 1.1 You must repay by instalments, the total advances (and if we agree to make them, any further advances) together with interest at the times and in the amounts set out in a disclosure statement. You will find the initial disclosure statement in the Loan Details.
- 1.2 Every payment must be for the full amount. You cannot make any deductions or pay a lesser amount because you want to set the payment off against an amount you claim we owe you.
- 1.3 If any amount is payable under this agreement and no time is specified as the time for payment then that amount is payable immediately without the need for demand.
- 1.4 If we obtain judgment for any amount owing to us, you remain liable to pay us interest at the then applicable interest rate (including any default interest rate) from the date of judgment until the date of payment of the sum awarded by the judgement.

### 2. Payment of fees

- 2.1 You must pay us the full amount of all credit fees and charges when they become due.
- 2.2 What we say about payments in clause 1.2 above also applies to payments of credit fees and charges.
- 2.3 Our credit fees and charges are set out in our Schedule of Standard Fees and Charges – Consumer Credit, which forms part of this agreement.

### 3. Payment of default fees and other costs

- 3.1 You must also pay us when we ask you, the following amounts:
  - a) default interest and default fees as set out in a disclosure statement;
  - b) all costs and expenses we incur relating to or in connection with this agreement including:
    - the preparation, signing, registration, administration, variation, release, consent relating to any security agreement, mortgage, security, caveat that we are entitled to take as security under this agreement;
    - any act or attempted act to exercise or enforce or protect any right or remedy we have under this agreement or any security;
    - any court proceedings;
    - any transfer of any security interest to or from us;
    - any dispute with you or a guarantor;
    - anything that we do which you should have done, either under our general rights as a secured lender or under the power of attorney that you have given us or under any security.
- 3.2 You agree that our costs and expenses may be calculated and paid on a full indemnity basis and are payable as liquidated damages to compensate us for loss.
- 3.3 Nothing that we do will waive our rights to require you to pay the default fees, default costs and other costs and expenses set out in this clause 3 so even if we don't ask you for payment when the costs are incurred, we can still ask you for payment at any later date.

### 4. Making payments

- 4.1 Unless we agree otherwise, all payments must be made by way of direct debit authority on your bank account or by way of an automatic payment authority on your bank account.
- 4.2 If any payment or debit from your bank account is reversed or dishonoured, you must make that payment immediately in cash. Any payment by cheque is not deemed to have been made until that cheque has been cleared.
- 4.3 If you make a payment to us on the condition that it is in full satisfaction of a debt, we are not bound by that statement unless we have agreed to the condition in writing before you make the payment. This means that we can bank the payment, apply it to the debt and you will still owe us the balance of the debt despite your condition.

### 5. Your right to prepay in full

- 5.1 You may prepay the outstanding balance in full at any time before it is due.

- 5.2 If you prepay in full, you may also have to pay our Early Repayment Fee which is for our administrative costs arising from the full prepayment or a charge equal to our average administrative costs on a full prepayment.
- 5.3 If you prepay in full, you will also need to pay any legal and other third party costs incurred in providing a discharge or release of any security held. The amount of the legal and third party costs is not ascertainable on the Statement Date.
- 5.4 If the loan is repaid in full or in part early due to the lender's enforcement action taken after you default you may also have to pay the fees specified in clauses 5.2 and 5.3.
- 5.5 We are not obliged to accept any partial prepayment but if we do, we reserve the right to charge an Early Repayment Fee.

### 6. Other things we can do relating to payments

- 6.1 If you are in default, we can apply any payment we receive from you in any way that we determine. This means we can apply it to fees and charges rather than an instalment and if several instalments are overdue, we can apply it to whichever instalment we choose.
- 6.2 If we choose, we can capitalise any overdue payment. This means that we can add the unpaid amount to the outstanding balance. We can also choose to extend the term and change one or all payment amounts. However, this is entirely at our option and you cannot force us to do this.
- 6.3 If you have a claim against us, we may set off your claim against any debt that you owe us.
- 6.4 If we receive any money following the sale of land, we may apply that money to reduce any debt that you owe us in whatever manner we decide – even if the debt due from you is not yet due and despite any claims you or any person claiming from you (for example, a subsequent charge holder) may make in respect of the money we have received.
- 6.5 If you make a payment to your loan account in excess of any scheduled payments, either:
  - a) because you ask us, and we agree, to retain an amount on settlement of the loan advance pending making the advance at a later date; or
  - b) you repay an amount early and you ask us, and we agree, that you may redraw at our discretion all or part of this amount,
 then interest will not accrue on that amount from the date it is received and credit to your account. Any agreement we make pursuant to this clause is at our discretion and may be made subject to such conditions as we may require.

### 7. Changes we can make

- 7.1 Unless a disclosure statement indicates otherwise and so long as we give you notice as required by the credit law, we can change:
  - a. the amount, frequency, time for payment or method of calculation of any payment;
  - b. the amount, frequency, time for payment or calculation of any fee or charge payable under the contract. We will only exercise our power to make a change if it is to protect or further our legitimate business interests and unless there are reasons specific to your loan that require otherwise, any change that we make will be made across all loans of a similar type to your loan; and
  - c. any other term and condition. We will only exercise our power to make a change if it is to protect or further our legitimate business interests and unless there are reasons specific to your loan that require otherwise, any change that we make will be made across all loans of a similar type to your loan.
- 7.2 If one or more of you requests and we agree, we may make a change to this agreement and we will give you notice as required by the credit law.
- 7.3 A change includes inserting a new term or condition in your loan or restructuring your loan.

## 8. Default and acceleration of repayment

- 8.1 If you default under this agreement, we may accelerate repayment of the loan. This means that we can give you notice requiring you to repay the outstanding balance to us even if the time for repayment has not yet arrived.
- 8.2 Our right to accelerate is, however, subject to the terms of the Property Law Act 2007, section 119, in respect of loans secured by a mortgage of land and such other restrictions that are imposed by law (if any).
- 8.3 Default occurs under this agreement if:
- you do not pay us an amount when it is due and payable;
  - you do something you have agreed not to do, or do not do something you have agreed to do either under this agreement;
  - you give us incorrect or misleading or deceptive information in connection with this agreement;
  - you have acted fraudulently in respect of this agreement;
  - any of the events set out in paragraphs a., b., c., or d. occur under any other agreement you have with us or under any security that you have given or agreed to give to us and whether or not you are a borrower or a guarantor;
  - an insolvency event happens; or
  - you default under any other agreement to any other person and that person has the right to accelerate any payments or exercise any rights over any personal or real property of any borrower or guarantor; or
  - any of the above events happens to a guarantor and for the purposes of this clause, "this agreement" includes each guarantee given in connection with this agreement.

## 9 Further Advances

- 9.1 If you ask us to make further advances to you and we agree, then those further advances:
- are governed by this agreement and these terms and conditions;
  - are secured to us by each security interest and mortgage that you give us;
  - and the details regarding repayment of those further advances will be set out in a change disclosure statement.
- 9.2 If you have applied to us in writing for a further advance then you agree that the application signed by you, this agreement and change disclosure statement to be given to you will be sufficient to record your obligation to repay the further advances without the need for any further documentation.
- 9.3 If there is a guarantor, then any application for a further advance must be consented to by each guarantor. When consenting to the application each guarantor will be acknowledging that the guarantee applies to the further advance.
- 9.4 Just because we provide for further advances doesn't mean that we must make them if you apply for one. We have the right not to approve any further advance or to make any further advance on such additional terms and conditions as we think fit.

## 10 Change Disclosure

- 10.1 If we make a further advance or if we change the terms of your loan in such a way that we are required by the credit law to disclose the details of that change, then we will give you a change disclosure statement.
- 10.2 A change disclosure statement will form part of your loan agreement after it has been given to you.
- 10.3 If you have consented to receiving electronic disclosure we may complete disclosure of the change disclosure statement electronically.

## 11 Notices and communication

- 11.1 If you have consented to electronic disclosure verbally, in this agreement or in any other document then any information, statement or document may be disclosed by electronic means to the email address specified in this agreement or to any other address that you specify now or in the future and we may use that address to communicate with you.
- 11.2 If you provide us with a mobile phone number then we may use that number to contact you by text message, phone call or otherwise.

- 11.3 Any notice, demand, letter or document for service is to be served in accordance with section 83ZQ of the Credit Contracts and Consumer Finance Act 2003:
- unless the notice is required to be served in accordance with section 353 of the Property Law Act 2007, in which case the provisions of that section will apply; and
  - despite that Act not being relevant to the specific collateral.
- 11.4 Unless otherwise required by law, you will be deemed to have been served:
- if the notice, demand, letter or document is handed to any person in apparent occupation of the address of any of you or of the land to be mortgaged or by attaching the document to an external door at such address;
  - if your address is a flat or apartment or room in a building and if the lender or its agents are unable to obtain access to such flat, apartment or room because of the security system of the building or for some other reason, then:
    - if the document is posted at the letterbox corresponding to such flat, apartment or room; or
    - if there is no such letterbox, if the document is affixed to what appears to be the principal external entry to the building for the purposes of obtaining access to the address provided by you; or
    - if the document is given to any building manager or receptionist for the building and directed to be given to you.
- 11.5 You agree to maintain a landline telephone connection and agree that we can leave our name and telephone number with anyone who answers that phone or with anyone who you tell us is your contact person.
- 11.6 You must give us 3 working days' notice before you change your name, your address, or your landline telephone number.
- 11.7 If you go overseas for any period, each other borrower or guarantor remaining in New Zealand is hereby appointed as your agent to receive service on your behalf of any notice to you from us under the Property Law Act 2007. If we are unable to give notice to a borrower or a guarantor, then we may use this clause to give notice or serve notice on the available other borrower or guarantor.
- 11.8 If there is no other borrower or guarantor remaining in New Zealand then you must appoint another person as your agent to receive service on your behalf.

## 12 Information

- 12.1 You irrevocably authorise any person to give us such information as we may request as part of our administration and enforcement of the loan.
- 12.2 You irrevocably authorise us to give any third-party details of the loan or any associated loan application or any financial dealings that the lender may have with you provided we are acting in accordance with our privacy policy when we provide this information.
- 12.3 You promise that all information we are given to enable us to decide whether to lend to you is true and correct. If it is not true and correct, you will be in default and the acceleration provisions of clause 8 will apply.

## 13 No release

- 13.1 You agree that you will not be released from this agreement or your obligations reduced if it transpires that you lacked the legal capacity to contract or if any security is or becomes void or unenforceable in full or in part.

## 14 Appointment of Lender as Attorney:

- 14.1 To enable the lender to obtain the benefits under this agreement, you (and if more than one of you, each of you jointly and severally) irrevocably appoints the lender and any one director of the lender severally to be your attorney to:
- do anything which you agree to do;
  - do anything and to sign any document which the attorney thinks desirable to protect the interests of the lender under this agreement.
- 14.2 This power shall inure until the money has been paid to the lender in full.
- 14.3 By signing this agreement you ratify anything done by an attorney under this clause and further indemnify any person acting in reliance upon the power.
- 14.4 If the lender assigns the benefit of this agreement the assignee shall have the same rights and powers under this clause as does the lender and each person named as a Borrower irrevocably appoints the assignee his attorney accordingly.

**Section B. – Security Terms**

This section applies to your Consumer Credit Contracts if the Loan Details record your loan is secured by a mortgage over land or a security interest over personal property or both.

**15. Money lent to purchase security property**

- 15.1 If you are borrowing money from us to purchase any security property, you must apply that money to that purchase and we may pay the loan money directly to the seller of the property.
- 15.2 You authorise and request us to pay or apply any advance to you to the person named or for the purposes set out in this agreement or otherwise in writing by you.
- 15.3 We may impose such conditions on the payment or on the application of the money as it sees necessary to protect any security interest it may have.

**16. Agreement to mortgage land**

- 16.1 The owner of the land specified in a disclosure statement agrees to grant a mortgage over that land on the following terms and conditions:
  - a. you will, at our request, authorise and instruct a lawyer of our choice to act to register an "All Obligations" mortgage instrument as set out in clause 17.1, such authority and instruction to include a stated priority limit for the purposes of section 92(1) of the Property Law Act 2007 of such amount, together with interest and costs, as we may deem necessary to secure all amount owing or that we anticipate may become owing to us under all loans and guarantees that may be or become secured by the mortgage including such margin as we consider prudent;
  - b. we may include in the priority sum a reference to a specified principal amount being the balance advanced to you as at the date of the registration of the mortgage or the balance agreed to be advanced to you as at that date.
  - c. in addition, you irrevocably authorise your attorney, appointed under clause 14 of this agreement, to authorise and instruct a lawyer to register a mortgage on the terms set out above at any time and without the need to first request you to do so, such authority and instruction may include a stated priority limit as set out in clause 16.1(a);
- 16.2 We may lodge a caveat against any land that you own and have mortgaged in accordance with clause 16.1 to give notice of our interest under the agreement to mortgage specified in that clause.

**17. All obligations mortgage**

- 17.1 The mortgage you agree to grant under clause 16.1 is given as security for all your financial obligations to us whether as borrower or as a guarantor, both now and in the future. The covenants, conditions and powers that apply to each mortgage that you give or agree to give us are those:
  - a. implied in mortgages of land by Part 1 of Schedule 2 of the Property Law Act 2007 (the "implied covenants"); and
  - b. set out in memorandum 2017/4341, the text of which is set out in the schedule to these General Terms.
- 17.2 If there is any conflict between any of the provisions of this agreement and memorandum 2017/4341 and the implied covenants, the provisions of this agreement and Memorandum 2017/4341 shall take precedence and the implied covenants are deemed to be varied, amended or negated accordingly.
- 17.3 if we agree in writing with respect to any loan that it is to be unsecured, then the provision of this clause 17 do not apply to that loan only.

**18. Prior and subsequent charges**

- 18.1 Each person agreeing to grant a mortgage under clause 16.1 promises us that there are no security interests in any land over which the mortgage is to be secured to any other person, or if there are, that these have been disclosed to us.
- 18.2 If we consent to any mortgage having priority over the mortgage you agree to give us, you must comply in all respect and perform all your obligations under the prior mortgage.
- 18.3 You agree not to grant any mortgage having priority after our mortgage without our prior written consent. If we consent to any mortgage having priority behind the mortgage you agree to give us and to procure the subsequent mortgagee to enter into that we retain priority on the terms that we require.

**19. Security Interest in Personal Property**

- 19.1 If any personal property collateral is detailed in the disclosure statement then you must do the following things:
  - a. store all goods that are part of the collateral at the address of the owner shown in the disclosure statement;
  - b. care for and maintain the collateral;
  - c. repair any damage to the collateral;
  - d. replace with other goods of a similar nature and value any of the goods that may be destroyed or lost or may cease to exist;
  - e. the security interest granted by this agreement includes a security interest over all goods acquired by you under clause 19.1 d.;
  - f. comply with all laws relating to its ownership and use;
  - g. allow us to inspect any collateral at the address of the owner shown in the disclosure statement provided we first give you 24 hours written notice; and
 you **must not do** any of the following things:
  - h. anything that could adversely affect your rights of ownership in the collateral;
  - i. dispose of the collateral by way of sale, or gift or lease;
  - j. allow someone else to have possession of the collateral;
  - k. destroy, damage, endanger or disassemble the collateral;
  - l. conceal or hide the collateral from us;
  - m. grant any other security of the collateral or allow any lien to be created over it;
  - n. take the collateral out of New Zealand; and
  - o. use the collateral for any dangerous or illegal activity or for any purpose for which it was not intended.
- 19.2 If any collateral is a motor vehicle then, in addition to the above, you must:
  - a. not use it in any race or competitive activity;
  - b. not obtain any personalised registration plate or remove or alter any serial number without our prior written permission.
- 19.3 If you install or fix anything to any collateral then that thing becomes part of the collateral and subject to the security interest.
- 19.4 We have the right to take possession of any collateral if this is required to enable us to perfect our security interest.
- 19.5 If any collateral has been acquired for business purposes, the Consumer Guarantees Act 1993 does not apply.
- 19.6 You waive your right to receive a verification statement following registration of any security interest.
- 19.7 We may, at all reasonable times, either personally or by agents, enter upon your premises to inspect the collateral.
- 19.8 If you fail to do anything that you agree to do under this agreement then we may, but are not required to, do that covenanted act or thing.
- 19.9 If we incur any cost or make a payment as a result of our actions under clause 19.8, that cost or the amount of that payment is repayable to us on demand and is secured under any security interest you give to us.

**20. Rights over personal property on default**

- 20.1 If you default under this agreement we may, without giving you any notice, unless we are required to do so by statute, seize the collateral and then sell the collateral.
- 20.2 We may sell by auction or otherwise in any manner as we were the unencumbered owner subject to any applicable obligations under the Personal Property Securities Act 1999 and under Part 3A of the Credit Contracts and Consumer Finance Act 2003.
- 20.3 Without restricting the generality of the power to sell, we also have the right to buy in, give credit and allow payment over time.
- 20.4 Our receipt, or the receipt of our agent will be sufficient discharge to any purchaser for the purchase money and no purchaser shall be bound to investigate the propriety or regularity of any such sale or be affected by any notice express or constructive that such sale is improper or irregular.

- 20.5 To enable us to sell, you irrevocably give us the right and licence for our agents to enter any premises and if necessary to break into any building where the collateral may be situated or where you are for the purpose of searching for and seizing the collateral.
- 20.6 We are not liable in any way to you or to 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 the collateral and you indemnify us against such damage or loss.

## 21. You grant us a power of attorney

- 21.1 Each borrower and each guarantor, jointly and severally, irrevocably appoints the lender and any one director of the lender severally to be their attorney to:
- do anything which a borrower or a guarantor agrees to do;
  - do anything and to sign any document which the attorney thinks desirable to protect the interests of the lender under this agreement.
- 21.2 Without limiting the powers in 21.1, an attorney may:
- execute any document:
    - for the purposes of registration of any interest under the Land Transfer Act 1952; or
    - perfect title in any collateral; or
    - perfect any security interest created under this agreement; or
    - vest, or enable to vest, and collateral in us or our nominee or any purchaser; or
    - facilitate the realisation of any collateral to secure the full benefit of our rights under this agreement; and do all things and sign all further instruments that may be required to assure us of valid and binding legal interests in the land or any collateral.
  - act on behalf of each borrower or guarantor to notify any insurance company of the lender's interest in any insurance policy and deal with any claims and receive any payments from any insurance company on behalf of the insured.
- 21.3 This power of attorney will remain until all money secured has been paid to us in full.
- 21.4 Each borrower and each guarantor ratifies anything done by an attorney under this clause and further indemnifies any person acting in reliance upon the power.

- 21.5 If we assign the benefit of this agreement the assignee will have the same rights and powers under this clause as we have and each borrower and each guarantor irrevocably appoints the assignee his or her attorney accordingly.

## 22. Insurance over all property

- 22.1 All secured property must be insured at all times against fire, accident, theft, flood, storm and earthquake and any other thing that we may require to protect our interest in the secured property.
- 22.2 In the case of buildings on any secured property this insurance must be for full replacement value if this is possible or for a sum insured amount that is acceptable to us in all respects and adjusted annually in accordance with construction inflation.
- 22.3 In the case of goods, this insurance will be for the full insurable value of the goods.
- 22.4 The insurance must be in our name as well as the name of the owner. In the event of any claim, all payments under the policy are to be paid to us and you hereby authorise any insurance company to make all payments to us and confirm that receipt by us is receipt by the insured under the policy.
- 22.5 You must pay all premiums when they are due and you must not do anything that would result in the insurance being cancelled or invalidated.
- 22.6 If any goods subject to a security interest are destroyed or damaged, all money we receive under an insurance policy will be applied at our option either in or towards (a) replacing or repairing the goods, or (b) paying any amount due to us under this agreement even if the time for payment has not yet arrived.

## 23. Our rights to protect our interests

- 23.1 If any payment is required to be made in relation to any secured property, either because you have not done something or because you have done something you must not do, then we may, but are not obliged to, make that payment.
- 23.2 You indemnify us against any expense we might incur or any loss we may suffer because you do something you say you won't or you don't do something you say you will in relation to any secured property. This indemnity includes paying us any goods and service tax we might incur and all costs on a full indemnity basis.
- 23.3 Any amount that you owe us under this clause 23 may be added to the outstanding balance and will accrue interest.

## Section C. – Miscellaneous Terms

This section applies to all Consumer Credit Contracts.

### 24 Miscellaneous

- 24.1 If a provision of this agreement is or becomes illegal, invalid or unenforceable under any law then the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of another provision of this agreement will not be affected.
- 24.2 If we fail to exercise or delay the exercise of any of our rights under this agreement or any security, then that doesn't mean that we have waived our rights and it doesn't stop us from exercising them at any time in the future, or stop us exercising any other rights we may have.
- 24.3 We may receive a commission on any insurance included in this agreement or subsequently required.
- 24.4 You warrant and undertake that all information you have provided to us is true and correct in all respects. For the purposes of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT):
- unless you have advised us otherwise and we have accepted, you warrant and undertake:
    - that you are entering into this agreement in your own right as the sole persons with a beneficial interest in the agreement and in all property given as security;
    - no information has been withheld and all information you have given us is correct to enable us to determine your status under AML/CFT;
    - you will provide such further information as we may reasonably request during the term of this loan to enable us to comply with our obligations under AML/CFT;
  - if any warranty given under (a) is incorrect; if you fail to provide information under (a)(iii) when requested; or if we determine on reasonable grounds that your status under AML/CFT has changed and as a result your ability to meet your obligations under this agreement is impaired then you will be deemed to have given us incorrect or misleading or deceptive information and pursuant to clause 8.3 default will have occurred under this agreement.

### 25 Assignment

- 25.1 We may assign or transfer our rights or all or part of our rights under this agreement or under any security at any time and without your consent. Anyone to whom we transfer or assign our rights will have the same rights against you under this agreement as if it were named in this agreement as the lender. This applies whether you are a borrower or a guarantor.
- 25.2 We may disclose, on a confidential basis, to any potential assignee, transferee or other person with whom we anticipate entering into contractual relations in connection with this agreement, and information about you whether or not that information was obtained in confidence and whether or not that information is publicly available.

### 26 Loan accounts and certificates

- 26.1 Entries that we make in the accounts that we maintain are to be conclusive evidence of the existence and amounts of your obligations recorded in our accounts.
- 26.2 Any certificate that we give of an interest rate or amount payable under this agreement is to be conclusive evidence for all purposes including for any proceedings.

### 27 Dictionary - Meaning of words and expression

- 27.1 In this agreement we use a number of words and expressions that have a special meaning. These are:
- "change disclosure statement"** means a statement that we give you when we agree to make a further advance or otherwise make a change under this agreement.
- "credit fees and charges"** means the charges that you are required to pay us, other than the total advances and interest, as set out in a disclosure statement and the Schedule of Standard Fees and Charges – Consumer Credit, which is published by Avanti from time to time.
- "credit law"** means the Credit Contracts and Consumer Finance Act 2003.
- "default interest"** and **"default fees"** are set out in a disclosure statement.
- a **"disclosure statement"** means either the initial disclosure statement contained in this agreement or a change disclosure statement.

**"further advances"** means the amount shown as further advances in a change disclosure statement.

**"guarantor"** means the person shown as guarantor in this agreement and the attached guarantee and includes his or her executors, administrators and successors in title.

**"initial disclosure statement"** means the pages attached to this agreement that outlines key information about your credit contracts and which is required to be given to you by section 17 of the credit law.

an **"insolvency event"** happens if you are a company and:

- there is any change in the control of the company or any beneficial or legal interest in the shares of the company are held by any person who does not hold those shares at the date of this agreement;
- you become insolvent or are unable to pay your debts within the meaning of section 278 of the Companies Act 1993;
- a resolution is passed or an order made for the appointment of a receiver, liquidator, provisional liquidator or statutory manager is appointed;

or if you are a natural person and:

- any of you die;
- become bankrupt;
- change your name without our consent; or
- commit an act of bankruptcy,
- and/or if you are in business and you cease or threaten to cease to carry on that business.

**"land"** includes an interest in land.

**"land to be mortgaged"** means the land described as such in the initial disclosure statement.

**"outstanding balance"** means the sum of all total advances, further advances, interest, costs and charges, default interest and default charges and any other money that you owe us under this agreement owing at any time.

**"own"** includes having an interest in and **"owner"** has a corresponding meaning.

**"person"** includes an organisation as defined in the PPSA.

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

**"secured property"** means all collateral that is subject to the security interest that you agree to give us and all land over which you agree to give us a mortgage.

**"the money secured"** means all money, including the initial unpaid balance and default or other interest, and default and other fees and charges, and disbursements and other money, which you must pay to us under this agreement or under any collateral or subsequent loan agreement.

**"total advances"** means the amount shown as total advances in the initial disclosure statement

**"working day"** means any day other than a Saturday, Sunday or a national public holiday.

**"you"** includes each and every guarantor.

- 27.2 In this agreement the following interpretation is to apply unless the context requires otherwise:

- each gender shall include other genders;
- all obligations on your part are joint and several;
- any expression not described or defined in this agreement shall have the meaning ascribed to it in the Personal Property Securities Act 1999 or the Credit Contracts and Consumer Finance Act 2003;
- the singular includes the plural and the plural include the singular; and

a reference to a party to this agreement is a reference to that party and their executors, administrators and successors in title.

The covenants, conditions and powers implied in mortgages over land by Part 1 of Schedule 2 of the Property Law Act 2007 (the “**implied covenants**”) are hereby varied, amended or negated as follows.

**1. Extent of the Security**

The party giving this mortgage mortgages to the mortgagee all of its right title and interest in the land and assigns to the mortgagee absolutely all of its right title and interest (present, future, legal and equitable) in the land proceeds.

**2. Payment of principal amount and interest**

- a) For the purposes of clause 1(1) of the implied covenants, the “**principal amount**” secured by the mortgage means and includes
- i. all moneys which are now or at any time in the future owing by the borrower or the guarantor under each loan agreement, credit sale agreement, or guarantee (each a “**secured agreement**”) between each borrower and each guarantor both existing at the time of the registration of the mortgage or at any time thereafter;
  - ii. all advances, reasonable costs incurred and expenditure made for the protection, maintenance, preservation or repair of any charged property or for the enforcement of any security interest under this mortgage and any other amounts contemplated by section 87 of the Property Law Act 2007; and
  - iii. each payment or performance of an obligation:
    1. by a party giving this mortgage or, if there is more than one, any one or more of them;
    2. by any accommodated person, in respect of any secured agreement.
- b) Despite the provisions of clause 1(a), moneys may be excluded from the expression “principal amount” if, and only if the secured agreement indicates that the moneys owing under that agreement are to be unsecured.
- c) In this mortgage the following expressions have the following meaning:
- i. The expression “**party giving this mortgage**” includes each borrower or guarantor who owns the land the subject of this mortgage regardless of how they may be described in the mortgage or any other instrument and any person who accepts, subject to this mortgage, a transfer, assignment, or transmission of the land the subject of this mortgage and the covenants contained and implied in this mortgage will bind all such persons jointly and severally as the principal party giving this mortgage.
  - ii. an “**accommodated person**” means each person who acquires a benefit under a secured agreement being a person who has received financial accommodation from the mortgagee at the request of, at the direction of or on account of the party giving this mortgage.
  - iii. “**land proceeds**” means:
    1. all moneys payable to the party giving this mortgage arising:
      - a. from the cultivating, harvesting, selling or otherwise utilising of trees, timber, logs or crops to be grown or growing on the land now at any time in the future;
      - b. from any profit à prendre or forestry right;
      - c. out of the ownership, use or occupation of the land or any agreement relating to its ownership use or occupation including any sale proceeds, any rents, any damages and any proceeds of any insurance including insurance in respect of loss of earnings or income; and
    2. any resource consent issued in respect of the land pursuant to the Resource Management Act 1991.
- d) Without limiting the generality of the foregoing, includes all moneys owing in respect of:
- i. loans, credits, advances or other financial services or facilities made or provided to the party giving this mortgage or to any one or more of them or any obligations owing by any one or more of them as guarantors;
  - ii. any bailment, hire purchase instrument, conditional purchase instrument or similar instrument entered into by the mortgagee with the party giving this mortgage or with any one or more of them;
  - iii. any debt assigned (whether absolutely or by way of security) to the mortgagee;
  - iv. any guarantee, indemnity, bond, letter of credit or other obligation provided by the party giving this mortgage to or in favour of the mortgagee or provided by the mortgagee for or on account of the party giving this mortgage or any one or more of them;
  - v. any moneys owing prior to the date of this mortgage for which the mortgagee has agreed to forbear from suing.
- e) Moneys are to be regarded as being included in “the secured moneys”:
- i. whether the liability for such moneys is matured or not matured, actual or contingent, or liquidated or not liquidated;
  - ii. whether such moneys are also secured by any other security;
  - iii. whether any instrument or arrangement relating to such moneys expressly refers to this mortgage;
  - iv. whether the liability for such moneys arises by instrument (express or implied), by operation of law or otherwise; and
  - v. whether such moneys are owing by any party giving this mortgage jointly with or otherwise in combination with any person who is not a party giving this mortgage.
- f) For the purposes of clause 1(3) of the implied covenants, the “agreed rate” means the highest rate payable to the mortgagee under all instruments recording any part of the principal amount.

**3. Obligations in respect of mortgaged land**

Clause 4 of the implied covenants is hereby amended by inserting the following provision:

*“The mortgagor must not create or allow to be created or allow to remain any instrument, charge or other security interest in the land without the prior written consent of the mortgagee. The mortgagee may give or withhold its consent at its discretion or give its consent subject to conditions, for example requiring a deed or memorandum of priority to be entered into to ensure that this mortgage has the priority agreed between the mortgagor and the mortgagee.*

*This mortgage secures further advances by way of financial accommodation up to the stated priority limit in the mortgage instrument.”*

**4. Power to call up amounts secured**

The service of a notice under section 119 of the Property Law Act 2007 will be deemed to be the notice referred to in clause 11(1) of the implied terms to the intent that upon expiry of such notice, without remedy, the principal amount, interest, and other amounts for the time being secured by the mortgage will be due and payable without the need for any further notice of acceleration.”

**5. Power to appoint receiver**

At any time after default, the mortgagee may upon expiry of any applicable notice period required by law give written notice to the mortgagor appointing any person to be a receiver of the income of the land or any part of the land.

## **In relation to any receivership pursuant to this mortgage**

- a) the receiver will be deemed to be the agent of the mortgagor who will be solely responsible for the receiver's acts or defaults whether occurring in relation to the purposes and matters mentioned in this clause or otherwise;
- b) the mortgagee may from time to time in writing remove any receiver and appoint a substitute;
- c) the receiver may demand, recover (by action or otherwise) and issue receipts for the income of the land or any part thereof and may exercise any other powers conferred on the receiver by law;
- d) the receiver will be entitled, by way of remuneration, to a commission at such rate as is specified in the receiver's appointment and if no rate is so specified then at the rate of 6 per cent of the gross amount of all money received;
- e) the receiver may, out of the money received, make any payment on account of any money secured by any prior instrument or charge, may repair and maintain any buildings, improvements or effects (whether affixed to the land or not), may keep such buildings, improvements or effects insured against such risks as the receiver considers appropriate, may pay all management expenses and may do anything which the receiver considers necessary or expedient in order to procure continued receipt by the receiver of the income of the land;
- f) the receiver must apply all money received subject to the claims of all secured and unsecured creditors (if any) ranking in priority to any charge created by this mortgage:
  - i. first in payment of all costs, charges and expenses (including tax and legal costs as between solicitor and client) of and incidental to the appointment of the receiver and the exercise by the receiver or the mortgagee of all or any of the powers under the general security agreement including the receiver's reasonable remuneration;
  - ii. second in payment of preferential claims (if any) payable by the receiver under the provisions of section 30 of the Receiverships Act 1993;
  - iii. third in payment to the mortgagee of all the secured moneys; and
  - iv. fourth in payment of any residue to those entitled to any surplus; and
- g) neither the appointment of a receiver nor the exercise of any of the powers contained in this mortgage will be an entry into possession of the land by the mortgagee.

**SCHEDULE OF STANDARD FEES AND CHARGES APPLIED TO CONSUMER CONTRACTS FOR PERSONAL LOANS, CAR LOANS AND BRIDGING LOANS**

 Effective 16<sup>th</sup> October 2017

**LOAN APPLICATION AND ACCOUNT MAINTENANCE**

<b>LOAN ESTABLISHMENT FEE</b>	
A fee is charge for processing and approving a new loan application or a loan top-up, as disclosed in the individual loan contract.	
Secured Loan up to \$50,000	\$325
Secured Loan greater than \$50,000	\$595
Unsecured Loan up to \$10,000	\$195
Unsecured Loan greater than \$10,000	\$245
Loan Top up Unsecured	\$125
Loan Top up Secured	\$195
Plus Caveat/Mortgage registration (including a change from a caveat to a mortgage) where Avanti undertakes registration	\$226
<b>LOAN ADMINISTRATION FEE</b>	
A monthly fee to cover the administration of a loan and processing payments	\$10 per month
<b>PREPAYMENT FEE</b>	
Debited to account when a loan is settled in full before its final payment date	\$95
Release of property security. Based on actual third party costs or \$226 per security	\$226
<b>LOAN RESTRUCTURE FEE</b>	
Charged when we restructure an existing loan to assist a customer who is having difficulty in maintaining current payments or wishes to restructure the loan term	\$125

**DEFAULT FEE AND COLLECTIONS**

<b>ARREARS MANAGEMENT FEE</b>	
If your loan is in arrears at any time during a month an arrears Management fee becomes payable	\$30 per month
<b>REPOSSESSION WARNING NOTICE</b>	
Debited to the loan when a pre-possession notice is issued	\$45
<b>REPOSSESSION FEE</b>	
Debited to the loan after we effect repossession of goods secured to the loan	\$150
<b>ISSUANCE OF FINAL NOTICE AND DEMAND FOR PAYMENT</b>	
Debited to the loan after we issue a final notice and demand for payment before issuing a Property Law Act Notice.	\$45
<b>ISSUANCE OF PROPERTY LAW ACT NOTICE</b>	
Debited to the loan after we issue a default notice is accordance with Property Law Act 2007	\$150
<b>ISSUE COURT PROCEEDING</b>	
Debited to the loan when we issue court proceedings	\$150
<b>RECOVERY COSTS</b>	
We will charge you any costs by third parties relating to your loan (e.g Repossession agent, Property Valuations, Court fees). Copies of invoices are available on request.	

**DEFAULT INTEREST**

<b>DEFAULT INTEREST</b>	
If you do not pay an amount when due we will charge interest at the default interest rate on the amount which is due and unpaid while the default continues.	The annual interest rate at the time of default plus 20% per annum.

**Default – Third Party Charges**

In the case of our enforcement of the loan or security we will charge your account for all the costs and disbursements we incur from any court, any tribunal, our solicitor (on a solicitor client basis), any debt collection agency, any process server, any valuer, any auctioneer, any of our agents and for any dealings with other persons in respect of your loan, the security and/or our enforcement. In addition, we will charge you the cost of doing anything which you have failed to do and which we have done (refer to clause 3 of the Term and Conditions)

NOTE: Fee for Non-Consumer Loans available on application