



Registration of a Charge

Company Name: **BW LEASING LIMITED**

Company Number: **11034172**



Received for filing in Electronic Format on the: **16/07/2021**

XA8UW9WZ

Details of Charge

Date of creation: **16/07/2021**

Charge code: **1103 4172 0009**

Persons entitled: **LOMBARD NORTH CENTRAL PLC**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **JANICE WILSON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11034172

Charge code: 1103 4172 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th July 2021 and created by BW LEASING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th July 2021 .

Given at Companies House, Cardiff on 17th July 2021

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

CHARGE OVER SUB-HIRE AGREEMENTS

THIS CHARGE OVER SUB-HIRE AGREEMENTS is dated 16/7/21 and made between:

- (3) B W Leasing Ltd (Company Number 11034172) whose registered office is at RUTLAND HOUSE, MINERVA BUSINESS PARK, LYNCH WOOD, PETERBOROUGH, PE2 6PZ, Fax No. (the "Chargor"); and
- (4) LOMBARD NORTH CENTRAL PLC (Company No. 00337004) of PO Box 520, Rotherham, S63 3BR ("Lombard").

BACKGROUND:

- (A) Lombard has agreed, subject to certain terms and conditions, to make available to the Chargor certain Goods funding facilities (the "Facilities").
- (B) It is a condition precedent to the availability of the Facilities that the Chargor shall have executed and delivered this Deed to Lombard.

IT IS AGREED as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1 In this Deed:

"Event of Default" means any event or circumstance described as an event of default in any Finance Document and any event or circumstance which constitutes a breach by the Chargor of its obligations under this Deed or any other Finance Document.

"Finance Documents" means each Hire Agreement, this Deed and any other document designated as such by Lombard.

"Goods" means any motor vehicles or asset the subject of a Hire Agreement

"Hire Agreements" means each and every agreement entered into by Lombard and the Chargor for the hire to the Chargor of goods (whether or not incorporating an option for the Chargor to purchase such goods).

"Loss" means any loss, demand, liability, obligation, claim, action, proceeding, penalty, fine, damage, adverse judgement, order or other sanction, fee and out-of-pocket cost and expense (including any fee and out-of-pocket cost and expense of any legal counsel).

"Secured Obligations" means any and all of the monies, obligations and liabilities (whether or not for the payment of money and including any obligation to pay damages for breach of contract) whether actual or contingent which are now or may at any time hereafter be or become due together with all interest accruing on such monies and liabilities, owing or incurred by the Chargor to Lombard on any current or other account or otherwise in any manner whatsoever including pursuant to or in connection with any Finance Document and/or all other obligations hereby secured in all cases whether alone or jointly with any other person, and in whatever style, name or form, and whether as principal or surety and/or in any capacity whatsoever.

"Secured Property" means all the right, title, interest and benefit of the Chargor (present and future, actual and contingent) in and to the Sub-Hire Agreements including: (a) the right to receive all and any monies due or to become due to the Chargor under or pursuant to the Sub-Hire Agreements; (b) all claims in respect of any breach of or default under the Sub-Hire Agreements (including any claim for damages other than claims of the Chargor for damages which the Chargor has suffered personally); (c) any right of the Chargor to rescind or terminate the Sub-Hire Agreements; (d) any right of the Chargor to compel performance and otherwise exercise all rights and remedies under the Sub-Hire Agreements; and (e) any right of the Chargor to give and receive notices, reports, requests and consents, to make demands, to

exercise discretions and to exercise all options and elections, pursuant thereto or in connection therewith.

"Security Interest" means any mortgage, charge, pledge lien or other security interest securing any obligation of any person or any other agreement having similar effect.

"Security Period" means the period beginning on the date of this Deed and ending on the day on which all of the Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

"Sub-Hire Agreements" means any agreement entered into by the Chargor with another person for the sub-hire of any Goods to such other person.

1.2 In this Deed:

- (a) any reference to:
 - (i) a Finance Document or any other agreement or instrument is a reference to that Finance Document or that other agreement or instrument as amended or novated;
 - (ii) a "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
 - (iii) the Chargor or Lombard shall, where the context permits, include such person's successors and permitted assigns and any persons deriving title under such person;
 - (iv) a provision of law is a reference to that provision as amended or re-enacted;
 - (v) a clause is a reference to a clause of this Deed;
- (b) words importing the plural include the singular (and vice versa);
- (c) the *ejusdem generis* rule shall not apply and accordingly the interpretation of general words shall not be restricted by being preceded by words including a particular class of acts, matters or things or by being followed by particular examples; and
- (d) section and clause headings are for ease of reference only.

2. **CHARGE AND ASSIGNMENT**

- 2.1 The Chargor shall discharge the Secured Obligations when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by Lombard.
- 2.2 In consideration of Lombard agreeing to make the Facilities available to the Chargor and as a continuing security for the due and punctual, payment, repayment, satisfaction, performance and discharge of the Secured Obligations, the Chargor, with full title guarantee, hereby charges by way of first fixed charge and assigns and agrees to assign absolutely to Lombard the Secured Property.
- 2.3 The Chargor shall forthwith upon demand by Lombard give notice to each other party to the Sub-Hire Agreements in such form as may be required by Lombard and shall, as soon as possible thereafter, procure that such notice is duly acknowledged by each other party to the Sub-Hire Agreements in such form as may be required by Lombard and further procure that such acknowledgement is received by Lombard.
- 2.4 Notwithstanding the foregoing, the Chargor shall remain liable to perform all the obligations to be performed by it in respect of the Sub-Hire Agreements and shall discharge fully its obligations thereunder as they become due and Lombard shall not have any obligation of any kind whatsoever thereunder or be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations thereunder and the Chargor hereby indemnifies and agrees to keep indemnified Lombard from and against any such liability.

- 2.5 (a) At the expiry of the Security Period, the Chargor shall be entitled (at its own cost and expense) to have the Secured Property released and transferred to it by Lombard.
- (a) Notwithstanding any discharge, release or settlement from time to time between Lombard and the Chargor, if any security, disposition or payment granted or made to Lombard in respect of the Secured Obligations by the Chargor or any other person is avoided or set aside or ordered to be surrendered, paid away, refunded or reduced by virtue of any provision, law or regulation relating to administration, bankruptcy, insolvency, liquidation, winding-up, composition or arrangement for the time being in force or for any other reason, Lombard shall be entitled thereafter to enforce this Deed as if no such discharge, release or settlement had occurred.

3. CONTINUING AND INDEPENDENT SECURITY

- 3.1 This Deed and the security hereby created shall remain in full force and effect by way of continuing security and in particular shall not be, nor be considered as, satisfied by any intermediate discharge or payment on account of any liabilities or any settlement of accounts between the Chargor and Lombard.
- 3.2 This Deed and the security hereby created shall be in addition to and not in substitution for or derogation of any other security (whether given by the Chargor or otherwise) now or from time to time hereafter held by Lombard in respect of or in connection with the Secured Obligations.
- 3.3 Lombard need not before exercising any of the rights, powers or remedies conferred upon it by this Deed or by law:
- (a) take action or obtain judgment against the Chargor or any other person in any court;
 - (b) make or file any claim or prove in a bankruptcy, winding-up or liquidation of the Chargor or of any other person; or
 - (c) enforce or seek to enforce the recovery of the monies and liabilities hereby secured by any other security.

4. REPRESENTATIONS AND WARRANTIES

- 4.1 The Chargor represents and warrants to Lombard that:
- (a) **No Default:** no Event of Default has occurred and is continuing;
 - (b) **Sole legal and beneficial owner:** the Chargor is and will remain the sole, absolute legal and beneficial owner of the Secured Property;
 - (c) **Legal and binding obligations:** the obligations of the parties to the Sub-Hire Agreements are legal, valid and binding and enforceable in accordance with their terms;
 - (d) **Security Interest:** no Security Interest exists with respect to the Secured Property (other than as created by this Deed) and the Chargor shall not create, or permit to subsist, any Security Interest over the Secured Property or sell, transfer or otherwise dispose of any of the Secured Property or enter into any other preferential arrangement having a similar effect;
 - (e) **Third party right:** it has not granted in favour of any other person any interest in or any option or other rights with respect to any of the Secured Property.

- 4.2 The Chargor also represents and warrants to and undertakes with Lombard that the representations and warranties in clause 4.1 will be true and accurate throughout the Security Period with reference to the facts and circumstances from time to time then existing.

5. TAXES AND OTHER DEDUCTIONS

- 5.1 All payments to be made by the Chargor under this Deed shall be made in full in immediately available sterling without any set-off or counterclaim whatsoever, free and clear of any taxes, deductions or withholdings save as required by law.
- 5.2 If at any time the Chargor is required to make any deduction or withholding in respect of taxes or otherwise from any payment due under this Deed for the account of Lombard, the sum due from the Chargor in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, Lombard receives on the due date for such payment (and retains, free from and clear of any taxes or otherwise) a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and the Chargor shall indemnify Lombard against any Loss incurred by it by reason of any failure of the Chargor to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment.

6. COSTS, CHARGES AND EXPENSES

- 6.1 The Chargor shall from time to time on demand pay to or reimburse Lombard and indemnify Lombard for any Loss suffered or incurred by Lombard in connection with:
- (a) the preparation, execution and registration of this Deed and any other documents required in connection herewith;
 - (b) the exercise of any of its powers under this Deed, in suing for or seeking to recover any sums due under this Deed or any Sub-Hire Agreement or otherwise preserving or enforcing its rights under this Deed or any Sub-Hire Agreement;
 - (c) the non-performance or non-observance of any of the undertakings or agreements on the part of the Chargor contained in this Deed;
 - (d) the perfection, preservation, attempted preservation or enforcement of the security created by this Deed and/or the Secured Property;
 - (e) the defence of any claim brought against Lombard in respect of this Deed; or
 - (f) releasing or re-assigning this Deed upon the expiry of the Security Period,
- and, until payment of the same in full, any such Loss shall be secured by this Deed.
- 6.2 Lombard may retain and pay out of any money in the hands of Lombard all sums necessary to effect the indemnities contained in this clause 6 and all sums payable by the Chargor under this clause 6 shall form part of the monies hereby secured.

7. UNDERTAKINGS

The Chargor hereby undertakes and agrees with Lombard throughout the Security Period that it will:

- (a) **No Security Interest:** not create or attempt to or agree to create or permit or suffer to exist any Security Interest over any part of the Secured Property (other than as created by this Deed);
- (b) **Third party right:** not grant in favour of any other person any interest in or any option or other right in respect of any of the Secured Property;
- (c) **No Disposal:** not sell or agree to sell, transfer or assign, any part of the Secured Property or deal with or otherwise dispose of the Secured Property (except as expressly provided for under this Deed);

- (d) **Copies of Notices:** give to Lombard upon request, copies of all notices, requests and other documents sent or received with respect to the Sub-Hire Agreements;
- (e) **Information:** give to Lombard such information regarding the Secured Property as Lombard may require;
- (f) **Enforcement:** do or permit to be done every act or thing which Lombard may from time to time require for the purpose of enforcing the rights of Lombard under this Deed and will allow its name to be used as and when required for that purpose;
- (g) **No Depreciation to Security:** not do or cause, permit or suffer to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value of Lombard's security under this Deed;
- (h) **No Amendment:** forthwith upon demand by Lombard, not amend or vary or agree to amend or vary the Sub-Hire Agreements, waive any of its rights under the Sub-Hire Agreements, release any party from any of its obligations under the Sub-Hire Agreements or consent to any act or omission which would otherwise constitute a breach of the Sub-Hire Agreements;
- (i) **Performance:** punctually pay and perform all of its duties, obligations and liabilities under the Sub-Hire Agreements and shall not transfer any of its duties, obligations or liabilities thereunder;
- (j) **Assigned Payments:** [forthwith upon demand by Lombard,] direct any debtor in respect of any part of the Secured Property to pay all monies arising from or in connection with the Secured Property to such account or accounts as Lombard may from time to time direct;
- (k) **Assigned Rights:** [forthwith upon demand by Lombard,] will not exercise any right, discretion or power conferred on it by the Sub-Hire Agreements unless and until requested in writing to do so by Lombard whereupon the Chargor agrees that it will do so; and
- (l) **Notification of Breach:** [forthwith upon demand by Lombard,] notify Lombard of any breach by any party to the Sub-Hire Agreements.

8. ENFORCEMENT

- 8.1 The security created by this Deed shall become enforceable immediately upon and at any time following the occurrence of an Event of Default.
- 8.2 At any time following the occurrence of an Event of Default, Lombard may, at any time or times thereafter and without further notice or restriction:
 - (a) exercise any and all rights of the Chargor under or in connection with the Sub-Hire Agreements or otherwise in respect of the Secured Property;
 - (b) perform and exercise any rights of the Chargor under the Sub-Hire Agreements as if it were a party thereto in place of the Chargor and for those purposes do all such things and execute all such documents as the Chargor may have done;
 - (c) sell to any person all or any part of its right, title and interest in and to the Secured Property upon such terms as Lombard shall determine;
 - (d) collect, receive or compromise and give a good discharge for any and all monies and claims for monies due and to become due for the time being comprised in the Secured Property;
 - (e) settle, discharge, compound, release or compromise any claims whatsoever in connection with the Secured Property or in any way relating to the security created by this Deed,

and otherwise put into force and effect all rights, powers and remedies available to it, at law or otherwise, as assignee of the Secured Property.

- 8.3 Lombard may exercise its power of sale under this Deed in such a way as it in its absolute discretion may determine and shall not in any circumstances be answerable for any Loss occasioned by any such sale or resulting from any postponement thereof.
- 8.4 Lombard shall not be liable to account to the Chargor in any circumstances for any Loss arising from or connected with the realisation of the Secured Property or for any act, neglect, default or omission of any nature whatsoever in connection therewith for which any assignee may be liable as such.
- 8.5 Upon any sale by Lombard of any part of the Secured Property, the purchaser shall not be bound to see or enquire whether the power of sale of Lombard has arisen, the sale shall be deemed for all purposes hereof to be within the power of Lombard and the receipt of Lombard for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of sale or be in any way answerable therefor.

9. APPLICATION OF PROCEEDS

All monies received by Lombard under this Deed shall be applied in or towards satisfaction of the Secured Obligations in such order of priority as Lombard in its absolute discretion may determine (subject to the prior discharge of all liabilities having priority thereto by law) and, subject to any such determination, in the following order of priority:

- (a) in payment of any Loss incurred by Lombard in connection with the exercise of any power hereunder, the preserving or attempting to preserve this security or the Secured Property and of all outgoings paid by Lombard; and
- (b) in or towards reduction of the remaining Secured Obligations in such manner as Lombard shall determine.

10. SUSPENSE ACCOUNT

Lombard may place and keep any monies received under this Deed, before or after the insolvency of the Chargor, to the credit of a suspense account in order to preserve the rights of Lombard to sue or prove for the whole amount in respect of claims against the Chargor or any other person.

11. SET-OFF

Lombard may at any time without notice, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any obligation it owes to the Chargor in whatever currency and set-off any sum in respect of such obligation in or towards satisfaction of the Secured Obligations.

12. POWER OF ATTORNEY

- 12.1 The Chargor, by way of security, irrevocably appoints Lombard and any persons deriving title under it jointly and severally to be its attorney (with full power of substitution) and in its name or otherwise on its behalf and as its act and deed to sign, seal, execute, deliver, perfect and do all deeds, instruments, acts and things which may be required or which Lombard shall think proper or expedient for carrying out any obligations imposed on the Chargor under this Deed or for exercising any of the powers conferred by this Deed or for giving to Lombard the full benefit of this security and so that this appointment shall operate to authorise Lombard to do on behalf of the Chargor anything it can lawfully do by an attorney including giving notice to each other party to the Sub-Hire Agreements. The Chargor ratifies and confirms and agrees to ratify and confirm any deed, instrument, act or thing which such attorney or substitute may execute or do.
- 12.2 Lombard may delegate to any person all or any of the rights or powers conferred on it by this Deed or by law.

13. FURTHER ASSURANCES

- 13.1 The Chargor agrees that at any time and from time to time upon the written request of Lombard it will promptly and duly execute and deliver any and all such further instruments and documents as Lombard may deem desirable for the purpose of obtaining the full benefit of this Deed and of the rights and powers granted in this Deed.
- 13.2 The obligations of the Chargor under this clause 13 shall be in addition to and not in substitution for the covenants for further assurance deemed to be included in this Deed by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

14. MISCELLANEOUS

- 14.1 Time shall be of the essence under this Deed but no failure or delay on the part of Lombard to exercise any power, right or remedy under this Deed shall operate as a waiver thereof, nor shall any single or partial exercise by Lombard of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy.
- 14.2 The remedies provided in this Deed are cumulative and are not exclusive of any remedies provided by law.
- 14.3 Any amendment or waiver of any provision of this Deed and any waiver of any default under this Deed shall only be effective if made in writing and signed by Lombard.
- 14.4 Any statement of account signed as correct by Lombard showing any amount due under any Finance Document shall, in the absence of manifest error, be conclusive evidence of the amount so due.
- 14.5 If any provision of this Deed is prohibited or unenforceable in any jurisdiction such prohibition or unenforceability shall not invalidate the remaining provisions hereof or affect the validity or enforceability of such provision in any other jurisdiction.
- 14.6 Lombard may assign and/or transfer any or all of its rights and obligations under this Deed. The Chargor shall not assign or transfer any of its rights or obligations under this Deed.
- 14.7 This Deed and the security hereby created shall bind and shall inure for the benefit of each of the parties hereto and each of their respective successors and permitted assigns.
- 14.8 A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- 14.9 Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Deed.
- 14.10 This Deed may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party hereto may execute this Deed by signing any such counterpart.

15. NOTICES

- 15.1 Any communication to be made under or in connection with this Deed shall be made in writing and may be made by letter or fax.
- 15.2 The address and fax number of the Chargor for any communication or document to be made or delivered under or in connection with this Deed is as set out at the beginning of this Deed or any substitute address or fax number as the Chargor may notify to Lombard in writing by not less than 14 days' notice.

16. GOVERNING LAW AND JURISDICTION

- 16.1 This Deed is governed by English law.
- 16.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed (a "Dispute")).

- 16.3 Each of the parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- 16.4 Clauses 16.2 and 16.3 are for the benefit of Lombard only. As a result, Lombard shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Lombard may take concurrent proceedings in any number of jurisdictions.

This Deed has been entered into as a deed on the date stated at the beginning of this Deed.

SIGNATURES

The Chargor

EXECUTED as a deed)
for and on behalf of)
B.W. LEAVING LTD)
by *P.A. DARTON-WRISH*)
and by *SARAH RAMSON*)

Director

Director / Secretary

OR

EXECUTED as a deed)
for and on behalf of)
)
)

Director

In the presence of

Witness full name:

Address:

Date:

Lombard

EXECUTED as a deed)
for and on behalf of)
LOMBARD NORTH CENTRAL PLC)
by its authorised attorney)

Signature

In the presence of

Witness signature – Lombard Employee