

Appendix NJ2

British Waterways Board (1)

and

Ladies Bridge Moorings Limited (2)

and

**Lease
Moorings at Cocklebury Farm, Wilcot**

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SCHEDULE ONE THE PROPERTY

SCHEDULE TWO ASCERTAINMENT OF YEARLY RENT

SCHEDULE THREE PERMITTED USE OF THE PROPERTY

THIS LEASE dated

10th JANUARY

2006

BETWEEN:

- (1) **BRITISH WATERWAYS BOARD** of Willow Grange, Church Road, Watford, Hertfordshire WD17 3QA (the Landlord);
- (2) **LADIES BRIDGE MOORINGS LIMITED** (CRN: 05086449) whose registered office is at 1 Long Street, Tetbury, Gloucestershire GL8 8AA (the Tenant); and
- (3) _____

IT IS AGREED as follows:

1. **GRANT**

- 1.1 The Landlord grants to the Tenant a Lease of the property as described in Schedule 1 Part 1 (the Property) for a term of 9 years from and including 25 December 2005 reserving a yearly rent ascertained in accordance with Schedule 2 (the Yearly Rent)
- 1.2 The grant is made subject to:
 - (a) the matters set out in Schedule 1 Part 2; and
 - (b) the reservations set out in Schedule 1 Part 3.

2. **TENANT'S COVENANTS**

The Tenant hereby covenants with the Landlord as follows: Rents:

- 2.1 To pay without deduction:
 - (a) The Yearly Rent by equal quarterly installments in advance on 25 March 24 June 29 September and 25 December each year (a proportionate amount being paid for any broken period) TOGETHER with Any Value Added Tax charged on the Yearly Rent if so demanded by the Landlord; and
 - (b) all rates and taxes and other outgoings which are levied periodically in respect of the Property.
- 2.2 As if it were rent to pay without deduction:
 - (a) by way of reimbursement any payments that are made by the Landlord in respect of any of the outgoings referred to at Clause 2.2.1(b):

- (b) the Landlords reasonable charges for exercising their rights under Clause 3 and a fair proportion according to user of the cost of maintaining repairing or renewing the Waterway Wall and/or bank between the points marked A and D on the plan and all party walls services and other matters used by the tenant in common with the Landlord; and
- (c) interest on any arrears of Yearly Rent or any other sum due to the Landlord under this Lease for the period from the day it falls due until that of payment at a rate equal to four per centum over the base rate of Midland Bank plc for the time being in force.

2.3 Repairs:

To put and keep in a good state of repair tidiness cleanliness and decoration the whole of the Property including the Waterway Wall (if any) and/or bank referred to in Clause 7(b).

2.4 Nuisance:

To ensure that boats using the moorings at the Property do not protrude into the canal more than three metres from the face of the canal bank and that the moorings extend for no more than 300 metres along the canal bank.

2.5 Yielding Up:

When this Lease ends to yield up to the Landlord the Property with all additions improvements and fixtures in the state required by Clause 2.3 but excluding:

- (a) any structures for which permissions under the Town & Country Planning legislation have been granted for a limited period; and
- (b) such apparatus as the Landlord may specify.

2.6 Statutory and other Requirements:

- 2.6.1 To comply with all legislation delegated legislation bye-laws and the requirements of any competent authority in relation to the Property or its use and in particular and without any rights to claim reimbursement from the Landlord to execute any necessary work even if the authority requires it to be carried out by the Landlord.
- 2.6.2 Before making any application for a planning decision in respect of the Property to obtain the written consent of the Landlord (which shall not be unreasonably withheld) and on obtaining the decision to give written particulars to the Landlord.
- 2.6.3 On receiving notice of any proposal which may affect the Landlords interests in the Property to give written particulars to the Landlord.

2.7 Use:

- 2.7.1 To use the Property for the purposes specified in Schedule 3 and not to use or permit it to be used for any other purpose.

2.7.2 Not to moor boats between points A-B shown on the attached plan.

2.8 Advertisements:

Not to exhibit or allow to be exhibited any sign or advertisement at the Property except a notice in a form and position approved in writing by the Landlord giving the name and business of the Tenant and essential notices of warning or direction.

2.9 Alterations

Except so far as is necessary to comply with this Lease not to make any alterations or additions to the Property.

2.10 Assignment:

Not to assign charge sublet part with or share possession of the whole or any part of the Property nor to suffer or permit any such disposition or parting with or sharing of possession except by way of an assignment of the whole and except in compliance with the following conditions:

- (a) the Landlord's written consent (which shall not be unreasonably withheld) shall be first obtained;
- (b) if the Landlord so requires any assignee shall enter into direct covenants with the Landlord to observe the provisions of this Lease providing in the case of a limited company suitable guarantors; and
- (c) written notice of any devolution of the title of the Tenant or permitted disposition shall be given to the Landlord within twenty eight days of its taking effect and if so required there shall be produced to the Landlord any relevant documents.

2.11 Easements and Encroachments:

2.11.1 Not to give any third party any acknowledgements that the Tenant enjoys the access of light or air to the Property by the consent of such third party.

2.11.2 If any third party does or threatens to do anything prejudicial to the enjoyment of light or air to the Property to inform the (Landlord in writing).

2.11.3 To take such steps as the Landlord may reasonably require to prevent and not to allow any encroachment on the Property or the acquisition of any right of light or air passage drainage or other easement affecting it and to give written notice to the Landlord of any such encroachment or easement.

2.12 Excavations and Nuisances:

2.12.1 That no earth clay or other substance shall be excavated on the Property except so far as may be reasonably required for the proper performance of the obligations imposed on the Tenant by this Lease.

2.12.2 That no act shall be done on the Property which may endanger the safety or stability of the Landlord's other property or of any neighbouring property.

2.12.3 That no inflammable dangerous or explosive substance liquid or gas shall be stored or placed on the Property except such as is reasonably required in the ordinary course of the permitted use of the Property or for the proper performance of the obligations imposed on the Tenant by this Lease.

2.12.4 That nothing shall be done on the Property which may be or become a public or private nuisance or a danger annoyance or disturbance to the Landlord or their tenants or traders or to neighbouring property or persons.

2.13 Costs:

To pay to the Landlord their reasonable estate management and legal expenses and charges in connection with:

- (a) this Lease
- (b) proceedings taken or contemplated under the Law of Property Act 1925 sections 146 and 147 or any statutory modification or re-enactment of them; and
- (c) any application for consent under Clause 2.10 or to the making of alterations to the Property whether or not the application is granted.

3. RIGHT OF LANDLORD TO DO WORKS

If the Tenant does not do any work which it is the Tenant's obligation to carry out under this Lease the Landlord may enter the Property and do the work.

4. PROVISIO FOR RE-ENTRY

The Landlord may (without any other of their rights against the Tenant's being affected) repossess the Property and this Lease shall then end in any of the following events:

- (a) any rent or other sum due under Clause 2.1 being unpaid for twenty one days after its becoming due whether or not a formal demand has been made;
- (b) a breach by the Tenant of any of the provisions of this Lease;
- (c) the Tenant entering into a composition with creditors or becoming bankrupt or (in the case of a limited company) going into liquidation (except voluntary liquidation for the purpose of amalgamation or reconstruction with a substantial paid up capital) or the goods of the Tenant being taken in execution; or
- (d) the Landlord giving to the Tenant written notice expiring at any time:
 - (i) of three months duration; or
 - (ii) of three days duration if the Minister in charge of any government department has certified that possession of the whole or any part of the Property is urgently required for carrying out repairs (whether to the Property or elsewhere) which are needed for the proper operation of the Landlords undertaking in which case the notice shall include a copy of the certificate and Landlord and Tenant Act 1954 Part II shall not apply to this Lease.

5. TERMINATION

The Tenant may terminate this Lease by giving written notice to the Landlord of six months duration expiring at any time.

6. QUALIFICATION OF COVENANT FOR QUIET ENJOYMENT

It shall be neither a breach of the implied covenant for quiet enjoyment nor a derogation from the Landlords grant for:

- (a) the Landlord to carry on their undertaking and exercise their statutory powers; or
- (b) water from the Landlords waterways to seep into flood or erode the Property.

7. DECLARATIONS

For the avoidance of doubt it is declared that this Lease excludes:

- (a) any rights that might otherwise be implied under the Law of Property Act 1925 section 62;
- (b) any part of the adjoining Waterway and its bed other than the Waterway wall and/or bank;
- (c) the following rights in regard to the Waterway:
 - (i) of mooring along that part of the Waterway lying outside Points B-D on the attached plan;
 - (ii) of fishing;
 - (iii) of discharging anything into it except unpolluted surface water drainage naturally from the Property; and
 - (iv) of taking water from it.

8. NOTICES

- 8.1 Any written notice to be given to the Landlord shall be effectively served if addressed to the Landlord and served on the Landlords Estates Manager South West Business Unit Harbour House West Quay The Docks Gloucester GL1 2LG or otherwise as the Landlord may direct in writing.
- 8.2 Any written notice to be given by the Landlord shall be effectively served if sent through the post either in a registered letter or by the recorded delivery services to the addressees last known home or place of business in the United Kingdom or in the case of a company to the Secretary at the company's registered office.
- 8.3 Any requirement to give a particular length of notice shall be satisfied by notice for a period of not less than the stated length.

9. LANDLORD & TENANT ACT 1954

- 9.1 If this Lease ends before the Property has been occupied for five years for the purpose of the business carried on by the Tenant or other occupier there shall be no right to compensation under Landlord & Tenant Act 1954 sections 37 and 59.

10. EFFECTIVE DATE OF LEASE

This Lease shall be effective for all purposes from the date hereof.

11. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

It is hereby agreed and declared that no person who is not a party to this Lease shall be entitled in his own right to enforce any term of the Lease pursuant to the Contracts (Rights of Third Parties) Act 1999.

12. SURETY COVENANT

- 12.1 The Surety agrees to compensate the Landlord for any loss incurred as a result of the Tenant's failure to comply with any obligation in this Lease and further agrees in the event of disclaimer by any liquidator or trustee in bankruptcy of the Tenant or a forfeiture of this Lease to accept (if the Landlord so requires) a new Lease of the Property in the same form as this Lease but at a rent ascertained in accordance with Schedule 2 as at the start of the new Lease.
- 12.2 The Surety agrees that its obligation remain fully effective even if the Landlord gives the Tenant further time in which to comply with an obligation or does not insist on strict compliance with the terms of this Lease.

IN WITNESS whereof the parties hereto have executed this instrument as a Deed the day and year first before written.

SCHEDULE 1

The Property

Part 1

The Property (which expression where the context so admits includes all additions or improvements made after the beginning of the term) comprises the land measuring 313 metres in length between points A-D on the attached plan and adjoining the Kennet & Avon Canal (the Waterway) at Cocklebury Farm Wilcot Wiltshire and which forms part of the land edged red on the attached plan and includes 300 metres of moorings excepting all mines and minerals and any right of support from mines and minerals.

Part 2

The grant is made subject to all easements quasi easements licences wayleaves and rights whether public or private affecting the Property.

Part 3

The grant is made subject to the following reservations:

1. The right for water sewage gas electricity and other services to pass over or under the Property including the right to enter it for the purpose of maintenance and laying new services with all appropriate pips poles cables and other works which may be necessary or convenient provided that on the exercise of any of these rights reasonable steps are taken to minimise interference with the Tenant's use of or damage to the Property and that any damage in fact caused is made good.
2. The right during the six months before this Lease ends for the Landlord to fix at the Property a notice for its re-letting or sale and for those authorised by the Landlord to inspect the Property at reasonable times.
3. The right for the Landlord, subject to the same proviso as that at 1 above to enter the Property:
 - (a) To carry out any work which may in the opinion of the Landlord be necessary for the proper operation of their undertaking or the management of any adjoining property of the Landlord;
 - (b) To make any inspection which may in the opinion of the Landlord be in the interests of good estate management; and

(c) To enforce their bye-laws.

4. The right to stop up or otherwise affect any easement or privilege whether now in existence or not which the Tenant may during the term enjoy (otherwise than 'by virtue of the Landlord's express grant or licence in writing) over any adjoining land as appurtenant to the Property.
5. The right for the Landlord to use their neighbouring land as the Landlord think fit and carry out works on it notwithstanding that the access of light or air to the Property may be affected.

SCHEDULE 2

Ascertainment of Yearly Rent

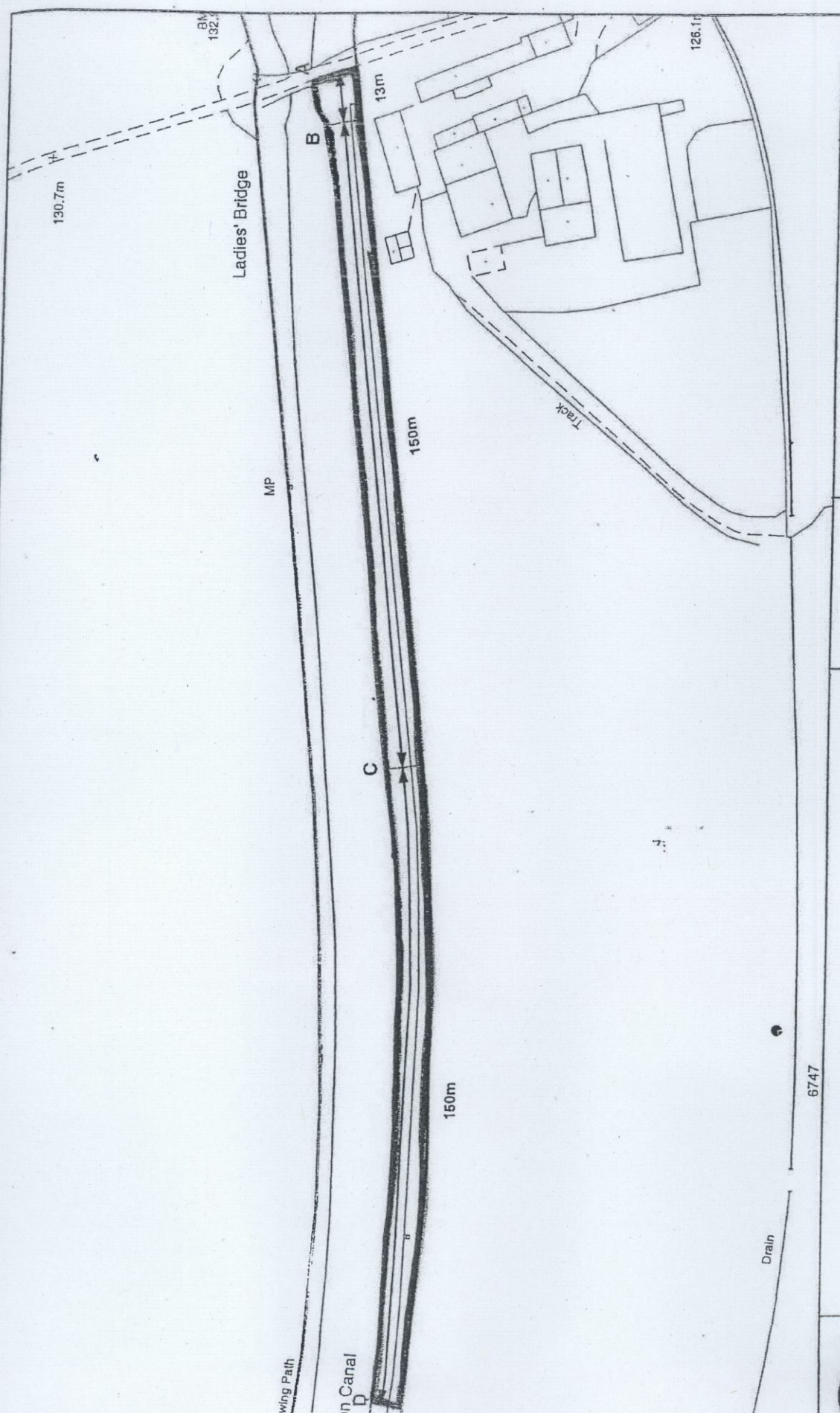
In this Schedule:-

"the Base Figure"	means 193.6 based 1987 = 100
"the Increase"	the amount, if any, by which the Index for two months preceding each anniversary of the commencement of the Term exceeds the Base Figure
"the Index"	the 'all items' index figure of the Index of Retail Prices published by the Department of Employment or any successor Ministry or Department
"Review Date"	25 December 2008 and every three years thereafter
"Review Period"	the period starting on the Review Date

1. The Yearly Rent shall be _____ but subject to the increases detailed as clause 2 and 3 below (the Yearly Rent)
2. The Yearly Rent will be automatically reviewed on each anniversary of the commencement of the Term by reference to the Increase in the Index as at two months preceding that day PROVIDED THAT if such calculation produces a lower yearly rent than that currently payable then the Yearly Rent shall not decrease but shall remain the same
- 3.1 In addition to the increase detailed at clause 2 above the Yearly Rent will be reviewed on the Review Dates in accordance with this clause 3
- 3.2 The Yearly Rent shall be reviewed on each Review Date to the greater
 - a) of the Yearly Rent payable immediately before the relevant Review Date (or which would then be payable but for any abatement or suspension of the Yearly Rent or restriction to collect it) and
 - b) the open market rent agreed or determined pursuant to this clause
- 3.3 Such revised rent may be agreed at any time between the Landlord and the Tenant or (in the absence of agreement determined not earlier than the Review Date either at the option of the Tenant or the Landlord) by an independent valuer (acting not as an arbitrator but as an expert whose decision shall be final) or by an arbitrator. Such valuer or arbitrator shall be nominated in the absence of agreement by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors on the application of the Landlord made not earlier than six months before the Review Date
- 3.4 To make the determination the valuer or arbitrator shall:
 - a) Ascertain the rent at which the Property might reasonably be expected to be let without premium in the open market as between a willing lessor and will lessee as at the Review Date for a term equal in length to that created by this Lease excluding the amount of the Yearly Rent but including the rent review provisions

and on the assumption that the Tenant has observed and performed all the covenants imposed on the Tenant by this Lease but disregarding

- i) Any effect on rent of the occupation of the Property by the Tenant
 - ii) Any goodwill which has become attached to the Property since the beginning of the term by reason of the carrying on at it of the business of the Tenant
 - iii) Any effect on rent of any improvement carried out by the Tenant during the currency of this Lease otherwise than in pursuance of any obligation to the Landlord
 - b) Determine as the revised rent the rent so ascertained
- 3.5 Any arbitration shall be conducted in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it for the time being in force
- 3.6 In the case of determination by a valuer:
- a) The fees and expenses of the valuer including the cost of this appointment shall be borne equally by the Landlord and the Tenant who shall otherwise bear their own costs and if one party pays the whole that party may recover half from the other
 - b) The valuer shall afford to each of the parties an opportunity to make representations
 - c) If the valuer dies delays or becomes unwilling or incapable of acting or if for any other reason the President for the time being of the Royal Institution of Chartered Surveyors or the person acting on his behalf in his absolute discretion thinks fit he may by writing discharge the valuer and appoint another in this place
- 3.7
- a) If the revised rent payable from the Review Date has not been agreed by the Review Date then rent shall continue to be payable at the rate last payable and on the revised rent being ascertained the Tenant shall pay to The Board any shortfall between the rent paid and the revised rent for the period starting on the Review Date and ending on the day before the quarter day following the ascertainment of the revised rent
 - b) for the purpose of (4)(c)(i) the revised rent shall be deemed to have been ascertained on the date when it has been agreed between the parties in writing in the form of a memorandum specifying the particulars of such agreement or (as the case may be) the date of the determination by the valuer or the award of the arbitrator
- 3.8 Whenever the revised rent in respect of the Review Period has not been agreed between and the Tenant before the Review Date and have not made any application to the President for the time being of the Royal Institution of Chartered Surveyors the Tenant may serve on the Landlord notice in writing containing a statement that it is intended to operate this provision and a proposal as to the amount of such revised rent being not less than the rent payable immediately before the beginning of the Review Period and provided such statement is contained in the notice the amount so proposed shall be deemed to have been agreed by the parties as the revised rent for the Review Period and (4)(c)(i) shall apply accordingly unless the Landlord makes such application within three months after service of notice by the Tenant



OS Ref:

1:1,250

Drawn by: David Gibbs

Date: 14/06/2002

Cocklebury Farm



6747

SCHEDULE 3

Permitted Use of the Property

(1)	(2)
Part of the Property	Use
That part of the property lying between the points Marked B-D on the attached plan	The mooring of pleasure boats and a maximum of two hire boats all of which must display valid current craft licences at all times Subject to the Tenant obtaining all necessary consents from the Landlord and all necessary consents from the Local Authority including planning permission the mooring of one security boat

EXECUTED as a DEED by)
LADIES BRIDGE MOORINGS LIMITED)
acting by:

Director

Secretary

SIGNED as a DEED by

in the presence of

)
)
)

Witness

Name

Address

Occupation

SIGNED as a DEED by

in the presence of

)
)
)

Witness

Name

Address

Occupation