

Our ref DRK/017392  
Your ref

[Date]

Lismore Community Trust  
2 Port Ramsay  
Isle of Lismore  
Oban  
Argyll  
PA34 5UN

Dear Sirs

**Licence to Occupy – Lismore Schoolhouse, Isle of Lismore, Oban, Argyll**

On behalf of and as instructed by the Licensors we offer to allow the Licensees to occupy and use the Property on the following conditions:

1. **Definitions and interpretation**

1.1 In the Licence:

**"Date of Entry"** means the date of acceptance of this offer

**"Date of Termination"** means the date upon which the Licence terminates;

**"Interest"** means interest on the sum in question at 4% per annum above the base rate from time to time of Clydesdale Bank plc from the date that such sum is due for payment or, if there is no such date specified, the date of demand for such sum until such sum is paid;

**"Licence"** means the licence to occupy the Property constituted by this offer and all duly executed letters following on from it;

**"Licensees"** means Lismore Community Trust, incorporated under the Companies Acts (Registered Number SC376707) and having their Registered Office at 2 Port Ramsay, Isle of Lismore, Oban, Argyll PA34 5UN;

**"Licensors"** means Argyll and Bute Council, a local authority constituted under the provisions of the Local Government etc. (Scotland) Act 1994 and having its Chief Office at Kilmory, Lochgilphead, Argyll, PA31 8RT;

**"Parties"** means the Licensors and the Licensees;

**"Permitted Use"** means use as an office for the development of the Lorn Island communities and their sustainability, in conjunction with the Lorn Islands Partnership's project officer and consultant and as a community meeting place, on condition that any revenue generated by the Trust for such use must be used by the Trust to meet the management and maintenance costs of the Property;

**"Property"** means those parts of Lismore Schoolhouse, Isle of Lismore, Oban, Argyll shown shaded blue on the plan annexed and signed as relative hereto, together with a right of access over the common access area shown shaded green on the said plan, declaring for the avoidance

of doubt that the licensors will retain exclusive possession of the part shown shaded red on said plan and will share access over the said common access area shown green on said plan:

**"Working Day"** means any day on which clearing banks in Glasgow are open for normal business.

1.2 In the Licence, unless otherwise specified or the context otherwise requires:

- 1.2.1 any reference to one gender includes all other genders;
- 1.2.2 words in the singular only include the plural and *vice versa*;
- 1.2.3 any reference to the whole is to be treated as including reference to any part of the whole;
- 1.2.4 any reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and words importing individuals include corporations and *vice versa*;
- 1.2.5 any reference to a Clause, is to the relevant Clause of the Licence;
- 1.2.6 any reference to a statute or statutory provision includes any subordinate legislation which is in force from time to time under that statute or statutory provision;
- 1.2.7 any reference to any statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment;
- 1.2.8 any phrase introduced by the words "including", "include", "in particular" or any similar expression is to be construed as illustrative only and is not to be construed as limiting the generality of any preceding words;
- 1.2.9 a document will be duly executed only if it is executed in such manner as meets the requirements of Section 3 of the Requirements of Writing (Scotland) Act 1995; and
- 1.2.10 where at any one time there are two or more persons included in the expression "Licensees" obligations contained in the Licence which are expressed to be made by the Licensees are binding jointly and severally on them and their respective executors and representatives whomsoever without the necessity of discussing them in their order.

1.3 The headings in the Licence are included for convenience only and are to be ignored in construing the Licence.

## 2. **Licence**

2.1 Subject to due compliance by the Licensees with their obligations under the Licence, the Licensors will permit the Licensees to occupy and use the Property for the Permitted Use.

2.2 The Licensees will occupy the Property as mere licensee only and acknowledge that possession of the Property is retained by the Licensors subject to the rights created by the Licence.

2.3 The Parties agree that the Licence is not a lease and does not confer any tenancy rights on the Licensees.

## 3. **Duration**

3.1 The Licence will commence on the Date of Entry and will continue for a an initial period of Five years from the Date of entry and month to month after that until and unless earlier terminated by either Party on delivering to the other Party not less than six week's written notice to the effect that they are terminating the Licence at the expiry of the period specified in the notice (which for

the avoidance of doubt may be within the said initial period of Five years) unless earlier terminated in accordance with the provisions of Condition 12 hereof.

3.2 At the Date of Termination, the Licensees will:

- 3.2.1 remove from the Property with their whole equipment and other items, without the need for any notice from the Licensors, and
- 3.2.2 leave the Property in a condition consistent with full compliance with their obligations under the Licence.

#### 4. **Payments**

4.1 No licence fee is payable by the Licensees to the Licensors for the grant of the Licence or their occupation and use of the Property.

4.2 The Licensees will pay for the duration of the Licence:

- 4.2.1 all rates, taxes, duties, levies, charges, assessments, impositions and outgoings whatsoever imposed on or payable in respect of the Property or on its owner or occupier;
- 4.2.2 all insurance premiums payable under the insurances effected by the Licensors in relation to the Property (including any additional premiums payable by reason of the Permitted Use);
- 4.2.3 all costs incurred by the Licensors in procuring the remedy of any breach of any obligation of the Licensees under the Licence.

4.3 All sums payable under the Licence, are exclusive of Value Added Tax, which, if payable, is payable in addition in return for a valid Value Added Tax invoice.

4.4 If:

any sums due by the Licensees are not paid within ten Working Days after the due date

then the Licensees will pay to the Licensors Interest on the outstanding money.

#### 5. **Use**

5.1 The Licensees will use the Property for the Permitted Use and for no other purpose.

5.2 The Licensors give no warranty that:

- 5.2.1 the Property is suitable for the Permitted Use; or
- 5.2.2 the Permitted Use is or will remain the permitted use of the Property within the provisions of the planning or other relevant legislation from time to time.

5.3 The Licensees will not do or permit to be done upon or in connection with the Property anything which would be a legal nuisance or cause of damage to the Licensors or the other occupiers of any neighbouring premises or both.

5.4 The Licensees will comply with:

- 5.4.1 all statutes, bye-laws and other regulations affecting the Property or the Licensees' use of the Property;
- 5.4.2 all obligations, restrictions, reservations and other conditions in the titles of the Property; and

- 5.4.3 all reasonable regulations which may be issued from time to time by the Licensors or their agents in relation to the Property, including in respect of health and safety, risk management and security.

## 6. **Indemnity and insurance**

- 6.1 The Licensees will indemnify and keep indemnified the Licensors on demand from all liability in respect of:
  - 6.1.1 any injury to or death of any person;
  - 6.1.2 damage or loss which may be suffered by any persons by reason of or arising out of the use of the Property by the Licensees;
  - 6.1.3 any breach by the Licensees of their obligations under the Licence; and
  - 6.1.4 local authority rates and other costs associated with the occupancy of the Property.
- 6.2 The Licensees will take out insurance cover:
  - 6.2.1 such as is necessary to give full indemnification to the Licensors in respect of the matters referred to at Clause 6.1; and
  - 6.2.2 against public liability in at least the sum of £5M for each and every claim

and, in both cases, will produce written evidence of such insurance to the Licensors on demand.
- 6.3 The Licensees will not do anything which vitiates or makes void or voidable any insurance policy for the Property effected by the Licensors, or causes monies otherwise payable under such policy to be irrecoverable or refused or withheld, or an increased premium or loading to be payable in respect of such policy.
- 6.4 Should the use or non-use of the Property cause any increase in the cost of insuring any adjacent premises of the Licensors the Licensees will on demand from time to time pay to the Licensors the amount of any such increase.

## 7. **Alienation**

- 7.1 The Licence is personal to the Licensees and the Licensees will not (either wholly or partially) assign, sub-let, part with or share occupation or otherwise deal in any way with their interest in the Licence.
- 7.2 The Licensors will be entitled to assign their interest under the Licence.

## 8. **Condition**

- 8.1 The Licensees will:
  - 8.1.1 at their own cost, repair and maintain the Property in good repair and condition so that it is at all times in at least its present condition as evidenced by the photographic record of condition to be agreed by the Licensors and Licensees prior to the Date of Entry and, when necessary, but only in so far as required to maintain the Property in such condition, renew and rebuild the Property (other than damage caused by risks against which the Licensors have effected insurance except to the extent their insurance has been invalidated by the Licensees or those for whom they are responsible); subject always to the requirement prior to carrying out any such works, that the Licensee obtains the agreement of the Licensor to the nature, scope and arrangements of and for all works to be carried out and
  - 8.1.2 leave the Property in such condition at the Date of Termination;

all to the satisfaction of the Licensors (acting reasonably).

- 8.2 If the Licensees fail to carry out any works to the Property for which they are responsible in terms of the Licence after a written demand has been made by the Licensors, the Licensors may carry out such works (without prejudice to their other rights including their rights to terminate the Licence) and the Licensees will pay to the Licensors on demand the whole proper costs incurred by the Licensors in so doing, together with Interest.

- 8.3 The Licensors will have no liability to repair, maintain, renew or replace the Property.

9. **Alterations**

- 9.1 The Licensees will not carry out any alterations or additions to the Property without the prior written approval of the Licensors (which will not be unreasonably withheld or delayed in respect of internal non-structural alterations only).

- 9.2 To the extent requested by the Licensors, the Licensees will remove any alterations and additions carried out by them and reinstate the Property at the Date of Termination to the condition they were in before such alterations and/or additions were made.

10. **Access**

When taking access to the Property, the Licensors will, and will procure that any other parties exercising such rights of access will:

- 10.1 cause minimum interference reasonably practicable with the Licensees' use of the Property and
- 10.2 make good to the Licensees' satisfaction (acting reasonably) any damage caused to the Property and the Licensees' fixtures and fittings.

11. **Registration**

The Licensors will:

- 11.1 register the Licence in the Books of Council and Session for registration for preservation and execution;
- 11.2 order two extracts; and
- 11.3 deliver one of the extracts to the Licensees (or their solicitors on their behalf) as soon as reasonably practicable following receipt of the extracts.

12. **Early termination**

If:

- 12.1 any sums due under the or any part of them are not paid on the due dates, or
- 12.2 Council approval of the proposed licence is refused by the Council,
- 12.3 The Licensors having operational requirements which involve use of the Property by parties other than the Licensees and which are incompatible with the Licensees' continued use of the Property,
- 12.4 the Licensees fail to implement any of their other obligations under the Licence, or
- 12.5 the Licensees:

- 12.5.1 go into liquidation, receivership or administration;
- 12.5.2 sign a trust deed for creditors, are sequestrated or enter into a voluntary arrangement;
- 12.5.3 become insolvent or apparently insolvent; or
- 12.5.4 are wound up or dissolved

then, in each case, the Licensors may, at their option, at any time by notice in writing to the Licensees terminate the Licence with effect from the date specified in the notice, which shall be no later than two weeks after the date of the notice, but reserving to the Licensors their right of action in respect of any antecedent breach of the Licensees' obligations.

### 13. **Notices**

13.1 Any notice, demand, request or certificate required under the Licence must be in writing and may be delivered personally, or sent by post to the relevant Party using the relevant details specified in Clause 13.3.

13.2 Any notice, demand, request or certificate will be deemed to be received:

- 13.2.1 if delivered personally, (with proof of delivery) at the time of delivery; [and]
- 13.2.2 if sent by recorded delivery post, 48 hours after the date of posting; [and]
- 13.2.3 in the case of fax, at the time when the sender's fax machine confirms transmission;]

Provided that if, in the case of personal delivery, such delivery [or transmission] occurs outwith normal business hours on a Working Day or on a day which is not a Working Day, delivery will be deemed to occur on the next Working Day.

13.3 The details referred to in Clause 13.1 are:

Lismore Community Trust

Address: 2 Port Ramsay, Isle of Lismore, Oban, Argyll, PA34 5UN

For the attention of: Company Secretary - Mrs Christine Wilson

Argyll and Bute Council

Address: Kilmory, Lochgilphead, Argyll, PA31 8RT

For the attention of: Charles Reppke, Head of Governance and Law

or such other address, or person as may be notified in writing from time to time by the relevant Party to the other Party for the purposes of this Clause.

### 14. **No Liability**

The Licensors are not liable to the Licensees for any loss, injury or damage which the Licensees may sustain from a deficiency in any part of the Property or the death of or injury to any person or for damage to any property or for any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by the Licensees in the exercise or purported exercise of the rights conferred on the Licensees under the Licence.

### 15. **Formal Documentation**

15.1 Neither the Licensees nor the Licensors will be bound by any acceptance of this offer or any other letter purporting to form part of the Licence or any amendment or variation of the Licence unless it is duly executed.

- 15.2 The Licence represents the entire agreement between the Parties relating to the licence of the Property and supersedes any previous agreements between the Parties relating to it. Neither of the Parties has been induced to enter into the Licence on account of any prior warranties or representations made which are not embodied in the Licence and no representation, warranty or undertaking of any description in respect of the Property, whether in relation to title, state of repair, compliance with statutes or other matters, the existence of local authority or other proposals or orders, or otherwise, is given in the Licence except insofar (if at all) as expressly stated in the Licence.

16. **Costs**

- 16.1 Each of the Parties will bear their own costs and expenses in connection with the preparation and completion of the Licence.
- 16.2 The Licensees will pay within five Working Days after written demand the costs of registering the Licence in the Books of Council and Session and obtaining the extracts.

17. **Proper Law and Prorogation**

The Licence and the rights and obligations of the Licensors and the Licensees are governed by and are to be construed in accordance with the law of Scotland and the Licensors and the Licensees are deemed to have agreed to submit to the non-exclusive jurisdiction of the Scottish courts.

18. **Consent to Registration**

The Parties consent to registration of the Licence for preservation and execution.

19. **Time Limit**

This offer unless previously withdrawn is open for written acceptance reaching us here no later than [ ] on [ ] failing which it will be deemed to have been withdrawn.

Yours faithfully