



## LOAN AGREEMENT LOANS OUT FROM IWM

Loans Out Agreement number:

This Agreement is made on: **[date]** between the Trustees of the Imperial War Museum (**IWM**), a body corporate established under Section 1 of the Imperial War Museum Act 1920, whose registered address is Lambeth Road, London SE1 6HZ and **the Borrower** named below in this Part 1.

### Part 1: Loan Details

#### Borrower's Details

Name	
Address	
Contact name	
Telephone	
Email address	

#### Loan Venue Details

Loan Venue		
Loan Purpose		
Exhibition Period	Start date:	End date:
Loan Period	Start date:	End date:

#### Item Details

Total number of Items		Total value (£)	
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*See the Schedule for information on each of the Items.*

This Agreement is subject to the Terms and Conditions, which are attached at Part 2, and the Schedule. If there is any inconsistency between the terms set out in this Part 1 and the Terms and Conditions in Part 2, the terms in Part 1 will prevail.

## Part 2: Terms and conditions of loans out from IWM

### 1. Definitions

1.1 Unless the context otherwise states or requires: (i) capitalised words used and defined in Part 1 shall have the meaning given to them there when used in these Terms and Conditions and (ii) the following terms shall have the following meanings:

<b>Agreement</b>	means the agreement formed between the IWM and the Borrower comprising Part 1, this Part 2, the Schedule and any other documents expressly incorporated by reference;
<b>GIS</b>	means the UK Government Indemnity Scheme, as administered by the Arts Council, England ( <b>ACE</b> ) on behalf of the Department for Culture, Media and Sport ( <b>DCMS</b> );
<b>GIS Guidelines</b>	means the Government Indemnity Scheme Guidelines for National Institutions, as may be updated and reissued from time to time;
<b>Items</b>	means the Item or Items detailed in the Schedule to be lent by IWM; and
<b>Value</b>	means the estimated value for insurance purposes, in Pounds Sterling, that each Item might reasonably be expected to fetch at open market sale at start of the Loan Period, as indicated in the Schedule.

1.2 Any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; reference to one gender includes a reference to the other gender; and condition headings do not affect the interpretation of this Agreement.

1.3 References in this Agreement to **You** shall be references to the Borrower, and the term **Your** shall be construed accordingly.

### 2. Purpose of Loan Agreement

2.1 IWM agrees to loan the Items to You in accordance with this Agreement for the Loan Purpose at the Loan Venue in the manner and form set out in Part 1 of this Agreement. The Items shall be on loan to You during the Loan Period and on display during the Exhibition Period.

2.2 Subject to clause 2.3, the Items will remain the property of IWM at all times during the Loan Period. The Items shall be at Your risk on a nail to nail basis during the Loan Period.

2.3 Where IWM notifies You that the Items fall within the category of 'historic loans' and their legal owner cannot be traced, or where the Items have been abandoned by their owner, the parties acknowledge that IWM's ability to loan the Items to the Borrower is subject always to the superior rights of the legal owner and, accordingly, IWM reserves the right to demand the return of the Items at any time during the Loan Period should the legal owner request that such Items are returned.

2.4 You will not lend, transfer or divest yourself of the Items or allow or authorise any removal of the Items from the Loan Venue without prior written permission from IWM.

### **3. Warranties**

- 3.1 You warrant, covenant and agree that You have no reasonable cause to believe that any item with which the Items shall be exhibited was stolen, illegally exported or illegally imported from its country of origin, as defined in the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970.
- 3.2 IWM warrants that it will comply with all requirements, legal or otherwise, relating to any export or import of the Items and that it has no reasonable cause to believe that any Item was stolen, illegally exported or illegally imported from its country of origin as defined in the Convention.
- 3.3 Subject always to clause 2.3, IWM warrants that it is the legal owner of the Items and that it has the right to lend the Items to You; and that any information provided as to the provenance of the said Items is true to the best of its knowledge and belief.
- 3.4 Subject always to clause 2.3, each party warrants that it has the right and authority to enter into this Agreement and that it is not constrained by any existing agreement or arrangement from entering into this Agreement or from granting any of the rights granted under the terms of this Agreement.
- 3.5 If You are a non-UK borrower, and where Your Government allows, You warrant that You have obtained immunity or exemption from seizure for the Items and that all conditions required to be met pursuant to any such legislation for the Items to be immune from seizure during the Loan Period have been met and You shall provide written evidence to IWM to that effect. Where this cannot be provided You warrant that in the event of any third party claim, You will make every effort to ensure that the Items are returned to IWM.

### **4. General Conditions of Loan**

- 4.1 You will take all necessary steps to answer all requests for information from IWM, which will include but not be restricted to the provision of relevant facilities reports (including UKRG and AAM) environmental data, display plans, design briefs, etc. in such a way as to facilitate IWM's loan of the Items to You.
- 4.2 Except in an emergency You will not remove or allow to be removed the Items from display at the Loan Venue at any time except by IWM or with IWM's permission. This includes any study, research, or access requests to the Items.
- 4.3 You will allow IWM reasonable access to the Items for the purposes of inspection during the Loan Period so that IWM can ensure that the provisions of this Agreement are complied with.
- 4.4 You hereby agree to reimburse all expenses incurred by IWM in connection with any inspection carried out in accordance with clause 4.3.
- 4.5 You will comply with all special requirements listed in the Schedule for movement, handling, packing and transporting the Items.
- 4.6 You will inform IWM of the proposed method of display and the content of any accompanying text.
- 4.7 You will use the credit line set out in the Schedule for use in the exhibition label or credits panel. IWM may request evidence that it has been duly credited for the Items it has contributed to Your exhibition.
- 4.8 You will give IWM a copy of any publication produced for the exhibition in which the Items are displayed. You will provide IWM with visitor figures at the end of the loan period, and copies of any associated press related material.

- 4.9 You will provide IWM with any new research content that contributes materially to the understanding of the Items which You have undertaken during the Loan Period (this may also include any relevant information through due diligence checks).
- 4.10 You will comply with the terms of the GIS Guidelines or international equivalent in relation to the safe transit, display and security of loaned Items from IWM. IWM is committed to working with borrowers to ensure that potential obstacles to lending can be overcome.
- 4.11 You will adhere to all national and international legislation with regards to borrowing the Items from IWM, and will have and maintain approved procedures in place for dealing with the loan of the Items, based on recognised standards. You agree to adopt additional measures of care and security at IWM's request.

## **5. Extension of Loan Period**

- 5.1 You may request an extension to the Loan Period not later than one month before the end of the Exhibition Period (such time period to be increased to three months where the Loan Period is for three years or more). You should note that an extension is not obligatory on the part of IWM, and may be refused.
- 5.2 If both parties agree to extend the Loan Period then this shall be documented in writing and signed by the parties (or their authorised representatives), in which case, and subject to early termination of this Agreement, this Agreement shall remain in force on the terms and subject to the conditions set out in this Agreement and shall expire at the end of the newly extended Loan Period.

## **6. Photography, Press and Public Relations**

- 6.1 If You wish to take photographs of the Items for commercial purposes, You must first obtain written permission from IWM (for which a fee may be payable).
- 6.2 You will not allow or authorise photography of the Items by a third party for any commercial purpose without the prior written consent of IWM. Requests for copies or reproductions of the Items must be made directly through IWM's Image Sales team.
- 6.3 You must obtain IWM's prior written permission before use of photographs provided by IWM in which IWM holds the copyright (for which a fee shall be payable).
- 6.4 It is Your responsibility to be aware of any copyright ownership and legislation which may apply to the Items and to take the legally required action to ensure material is appropriately reproduced.
- 6.5 Photography by members of the public for non-commercial purposes, and by You for the purpose of managing the Items whilst on loan, is permitted within the limits of the relevant legislation.
- 6.6 You will acknowledge IWM in all press releases, posters, publicity material and leaflets that mention or refer to or picture the Items and, without prejudice to the foregoing, You will obtain IWM's prior written consent before such materials are published.

## **7. Costs**

- 7.1 You shall bear all the costs associated with borrowing the Items including (without limitation) the costs of packing and transport, photography, conservation, display preparation (including materials), independent valuation, insurance, emergency interventive work, and regular inspection of the Items.

- 7.2 IWM reserves the right to send a courier on either the outbound and/ or inbound journey of the Items to and from the Loan Venue, who shall be responsible for supervising all handling, installation and deinstallation of the Items. The courier, as IWM's official representative, maintains the right to withdraw Items from display where the terms of this Agreement have not been met. You shall reimburse IWM for all reasonable courier costs including travel and subsistence pursuant to this clause 7.2.
- 7.3 If You are a UK entity, You agree to cover the cost of all IWM staff time associated with loaning the Items, such costs to be agreed in advance. This includes, but is not restricted to, time to manage the loan and prepare the Items for display. It includes any in-house packing and courier time, if IWM decides a courier is necessary. IWM has duly advised You of these costs and You have previously agreed to them.
- 7.4 Overseas borrowers agree to the payment of an international borrower's charge, in addition to the costs outlined in 7.1 and 7.3 above. This is levied per Item, per Loan Venue. IWM has duly advised You of these costs and You have previously agreed to them.

## **8. Packing and Transport**

- 8.1 Subject to the remaining provisions of this clause 8, You shall be responsible for transporting the Items to the Loan Venue. Items must travel inside a secure, suitably padded/ protected packing case/ crate/ t-frame, or soft wrapping fit for purpose, as advised by IWM. IWM will notify You if any existing frames/ crates may be reused.
- 8.2 You must retain all packing materials and containers in sound condition during the Loan Period. If the packing is damaged and cannot be replaced, You must replace it to the same specification as the original.
- 8.3 IWM will notify You if packing materials need to be stored in a place fully conditioned to the same temperature and relative humidity levels as those under which the Items are stored or displayed and You shall comply with such instructions.
- 8.4 IWM reserves the right to specify the transport contractor and method of transport for the Items.

## **9. Condition Reporting, Care and Conservation**

- 9.1 You will sign a condition report, provided by IWM, agreeing to the Items' condition both upon arrival and departure from the exhibition venue.
- 9.2 On receiving the loan You will check the condition report, as against the initial report referred to at clause 9.1 and return a copy to IWM within forty-eight hours of unpacking, noting any changes in the condition of the Items. Any evident changes must be reported to IWM immediately.
- 9.3 If You disagree with IWM's condition report You must immediately notify IWM and provide an alternate report that clearly outlines the reasons for the difference in the two assessments.
- 9.4 If You supply all the necessary documentation required by 9.3, IWM will endeavour to resolve any issues without the need for a site visit. Where a site visit is determined as necessary by IWM, the cost of this visit will be borne by You.
- 9.5 In the case of long term loans IWM will request a condition report, including a photograph of the Items, at regular stages such as renewals. If You do not provide a report or the report raises issues of concern, a site visit may be required by IWM, in which case, You shall reimburse IWM for the cost of this visit.

- 9.6 If You are a UK non-museum venue, such as Government offices and permanent headquarters of the armed forces of the Crown, an annual site visit will be carried out by IWM, in which case You shall reimburse IWM for the cost of this visit.
- 9.7 In the event of claim arising from loss of or damage to the Item, You and IWM will give evidence of the condition of the Item at the time of the loss/ damage. This will include photographs and the relevant condition reports.
- 9.8 You acknowledge that You shall be responsible for the monitoring of any damage or change to the condition of the Items during the Loan Period and agree to inform IWM immediately of any damage or change of condition as outlined in clause 14.1 below.
- 9.9 Immediately prior to re-packing the Items at the conclusion of the loan, You shall complete a final condition report which shall confirm that, among other things, there is no material change to the Items, and ensure that the Items are packed to the same standard as they arrived at your venue for the return transit to IWM.
- 9.10 You must seek and obtain IWM's written permission before any conservation, i.e. interventive treatments/ processes, cleaning, framing, de-framing, re-mounting or other treatment is carried out to an Item or to any accompanying part of it (for example a frame or display box). Without prejudice to the foregoing, such conservation works will only be carried out in order to protect the Item or the public.
- 9.11 All conservation expenditure will be agreed with You in writing before any work is undertaken or contracted. If IWM has undertaken conservation, it may seek to recover all or part of such costs if the loan is cancelled or terminated prematurely at Your request.

## **10. Handling/ Operation of Items**

- 10.1 The Items will not be operated, worn, entered into or climbed onto without IWM's written permission.
- 10.2 If You wish to remove the Items from display during the course of the Loan Period, You must secure IWM's written permission before doing so.

## **11. Display, Environment and Case Design**

- 11.1 All materials used in the construction of the exhibition in which the Items are displayed, including display cases, must be tested for possible adverse effects upon the Items and their component materials.
- 11.2 Cased Items must be exhibited in locked display cases which should be fitted with anti-bandit laminated glazing meeting BS EN 356 P3A. This glazing should be 11.3mm thick or greater, depending on the risk assessment for the individual or combined contents. Perspex or Acrylic may be permitted as an alternative provided its minimum thickness is 12mm.
- 11.3 Where especially valuable Items are displayed, the case must be framed with steel flanges covering all corners and edges to a distance of 23mm and the case must be fitted with an individual alarm.
- 11.4 All display cases must be constructed of conservation grade materials, providing good protection against externally generated pollutants and variations in external humidity.
- 11.5 Pests must be controlled and excluded as far as possible from the display area. IWM may request evidence that You operate an integrated pest management programme.

- 11.6 Specific environment and display requirements for each Item will be set out in the Schedule, but will generally fall within the following range, as being equivalent to IWM's Basic storage environment and standard display environment:

Relative Humidity 40-60% RH

Temperature 14-22°C

Visible light levels, dependant on material sensitivity, e.g.

Textiles, watercolours, prints, drawings, documents 50 lux

Oil paintings 200 lux

Metals 300 lux

UV Less than 10 microwatts per lumen

- 11.7 You must provide a stable environment for the Items at all times during the Loan Period and Items will not be placed near sources of heat, air ducts or exposed draughts or exposed to direct or unfiltered florescent light.
- 11.8 You must constantly monitor and record the environmental conditions within the display space and display cases to ensure no excessive fluctuations of conditions.
- 11.9 You must notify IWM of any proposed alteration in the display environment of the Items on loan at least two months in advance of such alteration taking effect. This includes redecoration or refurbishment of the display area, or nearby. Adhesives, paints and varnishes used in the exhibition area will be applied well in advance of installation (minimum of two weeks) so that all temporary walls are dry and off gassed prior to the arrival of the Items. Delays in preparing the display area must be addressed with IWM prior to the despatch of the Items, who will further advise as to the minimum length of time that may be permitted for off gassing.
- 11.10 If for any reason, before and during the Loan Period, the environmental conditions specified may not be maintained You must consult IWM immediately to agree the best course of action.

## **12. Security and Safety**

- 12.1 Items on display should have secure plinths, security wall fixings, and secure display cases.
- 12.2 Barriers, at least 1 metre away from the Items, are required for Items on open display and unglazed works. You will notify IWM of any reasons why this may not be possible, and seek to resolve any obstacles to the safe display of the Items.
- 12.3 You will be informed by IWM if alarm devices or any special precautions are necessary.
- 12.4 All Items must be displayed so that they are invigilated by appropriate staff, unless alternative methods have been approved by IWM.
- 12.5 Where the Loan Venue has been approved by the National Security Advisor, Arts Council England (ACE) You will also comply with any additional security conditions recommended by the National Security Advisor.

## **13. Indemnity, Insurance and Liability**

- 13.1 Valuations for individual Items are provided on the attached Schedule of items, and are agreed for the purposes of indemnity/ insurance cover.

- 13.2 No items will be lent by IWM without a valuation agreed by both You and IWM. In signing this Agreement You accept the valuation. You must discuss any concerns with IWM before signing this Agreement.
- 13.3 You will arrange insurance or indemnity for the Items in accordance with this clause 13 on a nail to nail basis, covering the Item from the time when it is removed from its location prior to its shipment to You, and until returned directly to the specified IWM site.
- 13.4 You will adhere to or obtain one of the following insurance/ indemnity arrangements for the Items to cover loss of and/ or damage to the Items, as indicated in the Schedule:

**Where You are a UK national museum (wholly or largely funded by the UK Exchequer)**

If, during the Loan Period, the Items are damaged, You agree to cover the cost of all conservation work reasonably specified by IWM to bring the Item back to display standard, up to a value not exceeding the relevant Values for the Items. If, during the Loan Period, the Items have sustained irreparable damage or are irretrievably lost or (having regard to the relevant Values) are beyond economic repair, IWM shall be liable for all losses so arising.

**Where You are a non-national museum within the meanings of paragraphs 1.20 and 1.21 of the GIS Guidelines**

You shall meet the cost of any loss up to:

- a limit of £300 where an Item is valued at less than £4,000; or
- £300 plus 1 per cent of the Item's Value where that Value is £4,000 or above.

Subject to the below paragraph, You shall meet the cost of any damage up to:

- a limit of £300 where the cost of the damage (excluding depreciation) is less than £4,000; or
- £300 plus 1 per cent of the value of the damage (excluding depreciation) where the value of the damage is £4,000 or above.

If You are an institution with a "Designated Collection" within the meaning of the GIS Guidelines and You have opted for a minimum liability arrangement of £25,000 within Your financial year, You must compensate IWM for any loss or damage up to a limit of £25,000. Documentary evidence that the minimum liability is covered must be provided by You to IWM.

**Where You are taking out commercial insurance**

You shall insure the Items during the Loan Period against "All Risks" for their full replacement value on a nail to nail basis, and will be required to provide proof of cover two weeks prior to transport of the Item(s). If the terms and conditions of insurance coverage are deemed not adequate by IWM, IWM will approach a reputable commercial insurer to provide the required level of coverage. Costs for this coverage will be borne in full by You.



The policy must be in favour of the *Trustees of the Imperial War Museum* and must note the Items' Value. You shall insure and keep insured IWM in respect of any loss to damage to the Items howsoever arising during the Loan Period up to the relevant Value for each Item.

**Where You are an international state borrower and indemnities are permitted by IWM and obtained**

You shall arrange for the Items to be covered throughout the Loan Period by the applicable state indemnity to the relevant Value for each Item. You shall indemnify and keep indemnified IWM in respect of any loss or damage to the Items howsoever arising during the Loan Period up to the relevant Value.

- 13.5 You shall not be liable for the loss of, or damage to, the Items arising or flowing from:
- 13.5.1 natural deterioration or wear and tear;
  - 13.5.2 the negligence or other wrongful act of IWM, its servants or agents;
  - 13.5.3 war, hostilities or war-like operations, but excluding acts of terrorism, riot, civil commotion, piracy and hijacking; (unless where commercial insurance cover and international state indemnities are applicable, in which circumstance acts of terrorism, riot, civil commotion, piracy and hijacking must be included as a minimum within those policies)
  - 13.5.4 the condition (including inherent vice or a pre-existing flaw) of the Items on delivery to You or your authorised representative;
  - 13.5.5 any third party claiming entitlement to the Items; or
  - 13.5.6 restoration or conservation work undertaken to the Items by You, Your servants or agents with IWM's agreement (excluding where such work is necessary as a result of Your negligence).

**14. Damage and Loss**

- 14.1 If any Item is damaged or may be lost, You will inform IWM's Registrar immediately. You must send a written report, condition report and photographs showing the damage to the Registrar within 48 hours. If requested by IWM You must also complete a Damage Report using a template provided by IWM.
- 14.2 You may remove the Items to a place of safety in the event of an emergency and may take any necessary emergency remedial action to protect the Items from damage or danger, but will not undertake any repairs, conservation or restoration without seeking and obtaining IWM's prior written permission.
- 14.3 IWM will follow IWM's *Damage Procedure* or *Loss Procedure*, as appropriate.
- 14.4 Neither You nor Your agents or sub-contractors shall make any claim or bring any action or proceeding against IWM in respect of any expenses incurred by or any loss or damage to any property or injury or death to any person or consequential losses sustained by them as a result of any act or omission of IWM whilst engaged in the performance of this Agreement except so far as the same is attributable to the negligence or to a lack of due skill and care on the part of IWM (and save that nothing in this Agreement shall exclude IWM's liability for death or personal injury caused by its negligence).

## **15. Termination**

- 15.1 Either party may terminate this Agreement with a minimum of three months' notice in writing. In exceptional circumstances, or where the exhibition is for a shorter period, the notice period may be reduced upon written agreement of the parties.
- 15.2 Notice to terminate the loan by You must be made in writing to IWM's Registrar. Without exception, IWM will charge You for actual expenses incurred by it as a result of such early termination. These expenses may include the cost of any display preparation of the Items and/ or any documentation up to the termination date.
- 15.3 IWM reserves the right to recall any or all of the Items or to terminate this Agreement at any time by immediate written notice in the event of a breach of any of the terms of this Agreement by You. You shall not be entitled to any claim for loss or expenses howsoever incurred arising from the early termination of this Agreement or the withdrawal of any or all of the Item as contemplated by this clause 15.3. You shall reimburse IWM for its costs in arranging for the Items to be returned to it as a result of any such withdrawal of the Items.
- 15.4 Without prejudice to any other rights or remedies that IWM may have, You acknowledge and agree that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by You. Accordingly, IWM shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.

## **16. Force Majeure**

- 16.1 Neither You nor IWM shall be liable for any failure of or delay in the performance of its obligations under this Agreement where such failure or delay is due to any event or occurrence which is outside its reasonable control.

## **17. Service of Notices and Communications**

- 17.1 All notices which are required to be given under this Agreement must be in writing and sent to the address of the recipient set out in Part 1, or any other address which the recipient may designate by notice given in accordance with this Clause 17. Any notice may be delivered personally or by first-class pre-paid letter; and will be deemed to have been served, if by hand, when delivered or, if by first-class post, forty-eight (48) hours after posting.

## **18. Data Protection Act 1998 and Freedom of Information Act 2000 and Confidentiality**

- 18.1 Each party shall comply with the requirements of the Data Protection Act 1998 (and related legislation) in relation to any personal data obtained by it in the course of managing the loan of the Items or otherwise in connection with the performance of this Agreement.
- 18.2 If IWM receives a Freedom of Information request under the Freedom of Information Act 2000, IWM will consult You, where possible, before a reply is sent. The final decision over the release of any information rests with IWM, subject to any exemptions set out in the Act.
- 18.3 Any information of a confidential nature exchanged between You and IWM must be treated as confidential by You and not disclosed to third parties except where necessary for performance of the obligations under this Agreement or required by law or any other regulatory authority.

**19. Variations**

19.1 Any variation to this Agreement shall be in writing and signed by authorised signatories for both parties.

**20. Severance**

20.1 If any provision (including any distinct sub-clause) of this Agreement is held to be illegal, invalid, void or unenforceable, it shall be severed from the remaining provisions of this Agreement, which shall continue in full force and effect (and be construed accordingly).

**21. Third Party Rights**

21.1 Save where expressly stated otherwise in this Agreement the parties do not intend that by virtue of the Contracts (Rights of Third Parties) Act 1999 any of the terms of this Agreement should be enforceable by a person who is not a party to it.

**22. Jurisdiction**

22.1 This Agreement and any dispute or claim arising out of or in connection with shall be governed by and construed in accordance with the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

**23. Signatures**

23.1 I have read the terms and conditions of this Agreement, and confirm I have the delegated authority to sign this Agreement on behalf of the Borrower:

Signed by:	
Print Name:	
Position:	
Date:	

On behalf of IWM (Imperial War Museums):

Signed by:	
Print Name:	
Position:	
Date:	

## Schedule of Loan Out Items

### Loan out Item 1:

#### Item Details

<b>Item name:</b>		<b>IWM object number:</b>	
Maker/ Artist:		Production Date:	
Materials:			
Dimensions:		Weight:	
Associated parts:			
Known hazards:			

#### Valuation and Legal Requirements

Valuation:	£		Valuation date:	
Legal/ Licence Requirements:				

#### Display Information and Requirements

Display/ security:				
Environmental:	Temp:		RH:	
	UV:		Lux levels:	
Handling:				
Packing/ transport:				
Other requirements:				
Indemnity/ Insurance:				
Display label credit :				

#### Courier Requirements

Courier required:	
Notes:	

#### Photography

Copyright owner:	
Agreed Image Use:	