

Duxford Airfield Terms and Conditions

Visiting aircraft

1. Interpretation

1.1. In these Conditions, the following definitions shall apply:

"Aircraft"	means an aeroplane, helicopter, or other machine capable of flight.
"Airfield"	means all that area comprising Duxford Airfield which is operated by or under the control of IWM.
"Airport Manager"	means any individual appointed to act as airport manager by the IWM.
"Airport Official"	means any individual appointed to act as an airport official by the IWM.
"Charges"	means the IWM's charges as published from time to time (whether or not scheduled to these Conditions)
"Conditions"	means these Terms and Conditions of Duxford Airfield, the Duxford General Flying Order and the Duxford Airfield Manual and the any other rules and regulations relating to the use of Duxford Airfield, and any other orders, instructions, directions respectively from time to time in force whether in writing or otherwise made by the IWM or on its behalf.
"Contract"	the contract between the IWM and the Operator for the use of the Airport in accordance with these Conditions.
"Control Tower"	shall mean the control tower building at the Airfield.
"Force Majeure Event"	means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors, air traffic control restrictions or availability, runway incident, mechanical failure and the exceptional diversion or landing of Aircraft at the Airfield.
"IWM"	means the Trustees of the Imperial War Museum.
"IWM Representative"	means such person as is notified in writing by IWM to the Operator from time to time.
"Operator"	means the person or organisation from time to time having the use, management or possession of an Aircraft whether owner, user, pilot or

otherwise and shall mean the person(s) or body or organisation (and their respective servants, agents and contractors) using, attempting to make use of, or having used, the facilities or services offered by the IWM at the Airfield.

“Services”

means the use of the Airfield and any other services supplied, or to be supplied, by the IWM to the Operator at the Operator’s request.

"Vehicle"

means any vehicle other than Aircraft

1.2. Construction. In these Conditions, the following rules apply:

1.2.1. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2. A reference to a party includes its personal representatives, successors or permitted assigns.

1.2.3. A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.4. Any phrase introduced by 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.

1.2.5. A reference to **writing** or **written** includes faxes and emails.

2. Use of the Airfield and its Facilities

2.1. These Conditions set out the Conditions that will apply to any Contract between:

2.1.1. the IWM;

2.1.2. the Operator;

for the use of the Airfield.

2.2. These Conditions apply to the Contract to the exclusion of any other terms that the Operator seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3. The Contract constitutes the entire agreement between the parties. The Operator acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the IWM which is not set out in this Contract.

3. Charges and Payment

3.1. The Operator shall pay the appropriate Charges in consideration of the Airfield.

3.2. All Charges are due and payable upon demand and in any event (whether a demand has been made or not) before the Aircraft departs from the Airfield and IWM’s control unless otherwise agreed in advance and in writing.

- 3.3. All Charges are exclusive of VAT which shall, where applicable, be paid in addition at the rate in force at the relevant tax point.
- 3.4. If any Charge shall not be paid when due, IWM may (without prejudice to any other right or remedy):
 - 3.4.1. charge interest thereon calculated daily from the date upon which the Charge first became due until the date of actual payment at the equivalent of the base rate of Barclays Bank Plc plus 4%; and/or
 - 3.4.2. not provide any further Services or part of the Services.
- 3.5. The method of payment shall be agreed between the IWM and the Operator. The Operator will be liable for all bank charges, credit card service charges and other charges levied on any transaction when making payment to IWM in respect of the Services.
- 3.6. All Charges are payable by the Operator without any right of set off, notwithstanding any claim (howsoever founded) the Operator may have against IWM.
- 3.7. IWM may set off any outstanding Charges against any deposit received from the Operator (whether or not paid in respect of the Charges concerned).
- 3.8. IWM shall not be liable for and shall not provide a reduction or exemption from any Charges by reason of the unavailability of the Airfield, the Services or other facilities at the Airfield due to a Force Majeure Event.

4. The Operator's Obligations

- 4.1. The Operator shall:
 - 4.1.1. obtain and at all times comply with and maintain all necessary permits, licences and authorisations required for the Operator to enter into the Contract and to use the Airfield;
 - 4.1.2. co-operate with and provide all reasonable assistance to IWM in all matters relating to the Airfield and the Services;
 - 4.1.3. instruct their staff and agents to co-operate with and assist IWM;
 - 4.1.4. provide to IWM such information and documentation as IWM reasonably requires; and
 - 4.1.5. comply with the Duxford General Flying Orders and the Duxford Airfield Manual.

5. Lien

- 5.1. IWM shall have a continual lien both particular and general for any Charges (including any interest payable thereon) of whatsoever nature and whensoever incurred which shall be or become due and payable to IWM upon either:
 - 5.1.1. any Aircraft (including its parts and accessories) in respect of which the Charges were incurred (whether or not incurred by the person who is the operator or owner at the time when the lien is exercised); or

- 5.1.2. in the case of Charges incurred by the Operator in respect of any Aircraft (including its parts and accessories) operated or owned by Operator at the time when the lien is exercised whether or not the Charges were incurred in respect of the Aircraft, parts or accessories concerned.
- 5.2. The said lien shall not be lost by reason of any Aircraft departing from the Airfield but shall continue and be exercisable at any time when the Aircraft, returns to the Airfield so long as any Charges (including interest) remain unpaid.
- 5.3. Should the payment of any such Charges or interest not be made to IWM within 14 days after a letter demanding payment has been sent by post addressed to the registered owner of the Aircraft at the last known address, then, in addition to any rights which IWM might have at law, IWM may from time to time and in such manner as it thinks fit in its absolute discretion sell the Aircraft and any of its parts or accessories in order to satisfy any such lien.

6. Liability

- 6.1. Nothing in these Conditions shall operate so as to exclude or limit the liability of either party to the other for death or personal injury arising out of negligence or any other liability which cannot be excluded or limited by law.
- 6.2. Neither IWM nor its trustees, officers, employees, agents and contractors shall be liable for the loss of or the damage to any Aircraft, its parts or accessories or any property contained in the Aircraft, occurring while the Aircraft is on the Airfield or any hangar on the Airfield or is in the course of landing or taking off at the Airfield or being removed or dealt with by IWM in the event of sale or detention of such Aircraft in accordance with the relevant legislation or under these Conditions, arising or resulting directly or indirectly from any act, omission, neglect or default on the part of IWM, its trustees, officer, employees, agents and contractors unless done with intent to cause damage or recklessly and with knowledge that damage would result.
- 6.3. Neither IWM nor its trustees, officers, employees, agents or contractors shall have any liability to the Operator whether in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that operator of an indirect or consequential nature including without limitation economic loss either loss of turnover, profits, business, opportunity or goodwill.
- 6.4. The Operator will indemnify and hold harmless IWM and its trustees, officers, employees, agents, insurers and contractors against any damages, losses, liabilities, claims, actions, costs, expenses (including the costs of legal or professional services), proceedings, demands and charges whether arising under statute, contract or at common law incurred by IWM and its trustees, officers, employees, agents, insurers and contractors in respect of:
 - 6.4.1. delay, injury or death of persons carried or to be carried by the Operator;

- 6.4.2. injury or death of any trustee, employee, agent or contractor of IWM or the Operator or any visitor or invitee to the Airfield or any operator of other Aircraft at the Airfield;
- 6.4.3. damage to or loss of property owned or operated by or on behalf of IWM, its employees, trustees, agents, contractors or any visitor or invitee to the Airfield or any operator of an Aircraft at the Airfield and any consequential loss or damage;
- 6.4.4. damage to or loss of property owned or operated by or on behalf of the Operator;
- 6.4.5. damage, death, injury or loss to third parties or damage to third parties property;
- 6.4.6. any loss or liability suffered by IWM as a result of any act or omission by the Operator or its employees, agents, contractors or charterers or breach, negligent performance or failure in performance or breach of these Conditions by the Operator.

7. Insurance

- 7.1. The Operator shall:
 - 7.1.1. be responsible at its own cost for insuring the Aircraft against all risks customarily insurable in respect of loss of or damage to such an Aircraft, its engines, components and any spare parts, whether or not belonging to the Operator; and
 - 7.1.2. have in effect and maintain liability insurance in respect of the Aircraft including aircraft third party legal liability insurance, passenger, baggage, cargo and general third party legal liability insurance.
- 7.2. The insurance specified in Condition 7.1 shall be primary and without right or contribution from other insurances which may be available to IWM.
- 7.3. The Operator shall maintain the insurance cover with a reputable insurer.
- 7.4. The Operator shall produce evidence to IWM on reasonable request of the insurance policies set out in this Condition 7 and payment of all premiums due on each policy.
- 7.5. The Operator warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in this Condition 7 being or becoming void, voidable or unenforceable.
- 7.6. In respect of any Vehicle which the Operator, his servants, agents, contractors or associates may use or operate on that part of the Airport which is or has been designated 'Airside', the Operator shall at all times ensure that the Vehicle is fully and properly insured for third party risks for an appropriate amount having regard to the nature of the risks. Evidence of such insurance shall be produced to the IWM or its duly authorised representative on demand. The IWM's decision as to the adequacy of such insurance cover shall be binding on the Operator

7.7. The Operator shall at all times fully indemnify and keep indemnified the IWM against any breach of this Condition 7 but without prejudice to any other rights of the IWM under these Conditions whether the same shall be enforced by the IWM or not.

8. Movement of Aircraft

- 8.1. No parachuting or hang gliding shall be allowed at the Airfield unless special arrangements have been made for a particular event.
- 8.2. No kite flying shall be allowed at the Airfield.
- 8.3. No model aircraft flying shall be allowed other than in the area agreed and indicated on the Airfield plan.

9. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event

10. GENERAL

10.1. Notices.

10.1.1. Any notice or other communication given to a party under or in connection with these Conditions shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (if a business) or if an individual address as the individual may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post requiring a receipt on delivery or other next working day delivery service requiring a receipt on delivery or a commercial courier.

10.1.2. A notice or other communication shall be deemed to have been received on the date and at the time that the delivery receipt is signed.

10.2. Waiver.

A waiver of any right or remedy under these Conditions or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

10.3. Third party rights.

A person who is not a party to the Contract shall not have any rights to enforce its terms.

10.4. Variation.

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the IWM.

10.5. **Governing law.**

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

10.6. **Jurisdiction.**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).