

Liquor Service General

TERMS AND CONDITIONS

Licensees are responsible to comply with all general liquor service terms and conditions; terms and conditions specific to the type of licence held; and any terms and conditions specific to the premises.

1.0 Definitions

“**Act**” means *The Liquor and Gaming Control Act* and includes regulations made under the Act.

“**advertisement**” means anything prepared by or on behalf of a regulated person that is intended to promote liquor sales or participation in a lottery.

“**age-restricted licensed premises**” means licensed premises that minors are generally prohibited from entering

- a) under the category of liquor service licence in question; or
- b) as the result of a term or condition imposed upon the licence.

“**executive director**” means the executive director of the Liquor and Gaming Authority of Manitoba.

“**inspector**” means:

- a) an inspector appointed or designated under section 119 or 120 of the Act; and
- b) a member of a police service.

“**LGA**” means the Liquor and Gaming Authority of Manitoba.

“**licensed premises**” means the area or areas specified in a liquor service licence where the sale and service of liquor are authorized under the licence.

“**licensee**” means a person, business entity or association of persons holding a licence issued by the LGA; in these terms and conditions it means the holder of a liquor service licence.

“**liquor**” means beer, wine, spirits and any other product intended for human consumption that contains more than 1% alcohol by volume.

“**liquor service licences**” mean categories of licences established by the executive director that authorize the licensee to sell liquor for consumption in the licensed premises.

“**MLLC**” means the Manitoba Liquor and Lotteries Corporation.

“**person**” includes an organization, association, group or partnership, corporation or any other business model.

“**promotional agreement**” means an agreement between a liquor manufacturer, a liquor distributor, or any of their agents, employees or representatives, and the holder of a liquor service licence or retail liquor licence under which the holder agrees to sell a specific type, class or brand of liquor.

“**retail premises**” means the premises specified in a retail liquor licence where the retail sale of liquor is authorized.

“**sell**” includes to offer for sale or display for sale.

2.0 General

2.1

A liquor service licence authorizes the licensee to sell liquor for consumption in the licensed premises.

2.2

The licensee must ensure that liquor is sold and served in the licensed premises in accordance with the Act and that the licensed premises are operated in accordance with the Act.

2.3

The licensee must ensure that all liquor sold and served in licensed premises was purchased by the licensee from the MLLC or from retail premises unless otherwise authorized.

2.4

No proprietary rights accrue with a licence.

2.5

The executive director may, by written notice, require the licensee to post public service notices provided by the LGA on topics such as responsible liquor consumption, the dangers of drinking and driving or information on human trafficking, domestic violence or other matters of public concern.

2.6

Every advertisement prepared by or on behalf of a licensee must comply with the Canadian Code of Advertising Standards established by Advertising Standards Canada.



2.7

Unless exempted by the executive director, every advertisement prepared by or on behalf of a licensee must contain a social responsibility message approved by the executive director.

2.8

The executive director may, at any time, add, vary, repeal or substitute terms and conditions of a licence.

2.9

All promotional agreements must be in writing.

2.10

The licensee must, on request, provide the LGA with a copy of any promotional agreement that the licensee has entered into with another person.

2.11

The licensee must not enter into any promotional agreement under which any benefit provided to the licensee under the agreement is based on the amount of liquor purchased or sold.

2.12

If a promotional agreement provides free items or items at a discount to the licensee, the items must be provided for patrons or be provided for the principal benefit of patrons.

2.13

The licensee must, on request, provide the LGA with a copy of any agreement entered into with a manufacturer of liquor or an agent, employee or representative of a manufacturer under which the licensee agrees to exclusively sell a type of liquor produced by the manufacturer.

2.14

The liquor service licensee must retain 80% or more of the profits from the sale of liquor.

2.15

All required fees must be paid and required information submitted as directed by the LGA.

3.0 Operations

3.1

The licensee is responsible for the conduct of all employees involved in the sale and service of liquor or providing security at licensed premises.

3.2

The licensee must ensure that the manager of the licensed premises and any person involved in the sale and service of liquor or providing security at the licensed premises has successfully completed a training course specified by the executive director.

3.3

When a licensee requires identification to verify proof of age, the licensee must require the person produce one of the following types of identification that belong to the person:

- a) a valid passport;
- b) a valid driver's licence;
- c) a valid identification card issued by Manitoba Public Insurance;
- d) a Secure Certificate of Indian Status issued by the Government of Canada;
- e) two valid pieces of government-issued identification, with at least one piece of identification containing a photograph of the person.

3.4

If the person refuses or is unable to produce the required identification, the licensee must:

- a) refuse to allow the person to enter the licensed premises or require the person leave the licensed premises if his or her presence as a minor contravenes the Act;
- b) refuse to serve liquor to the person; and
- c) take liquor away from any person already in possession of liquor if the possession of liquor is in contravention of the Act.

3.5

Only an adult agent, employee or representative of a liquor manufacturer or liquor distributor, may provide a complimentary sample of liquor to adults in the licensed premises.

3.6

Only a liquor manufacturer or liquor distributor or an adult agent, employee or representative of a liquor manufacturer or liquor distributor may provide a licensee with a complimentary sample of liquor for consumption by the licensee and its adult employees for informational and training purposes.

3.7

A complimentary sample of liquor must not exceed the following serving sizes:

- a) 15 ml of spirits (0.5 oz.);
- b) 60 ml of wine (2.1 oz.);
- c) 120 ml of beer, cider or coolers (4.2 oz.).

3.8

A minor is prohibited from being involved in the sale or service of liquor, providing a complimentary sample of liquor, or providing security in the licensed premises.

3.9

The licensee must keep the licence for the premises posted in a conspicuous place in the premises.



3.10

The licensee must post the sign issued by the LGA setting out the maximum capacity of the licensed premises in a conspicuous place in the premises.

3.11

The licensee must not permit more patrons in the licensed premises at any one time than the maximum capacity of the premises as established by the LGA.

3.12

All liquor must be kept in the container in which it was purchased until it is dispensed for service to a patron unless authorized by the LGA.

3.13

The licensee must not adulterate or dilute liquor that is kept in the licensed premises or keep adulterated or diluted liquor in the licensed premises.

3.14

The licensee must not:

- a) allow or permit activities to take place in the licensed premises that contravene a federal or provincial enactment or municipal by-law;
- b) allow or permit disorderly persons to be in the licensed premises or in the immediate vicinity outside of the licensed premises;
- c) knowingly sell or serve liquor to any person in the licensed premises who is or appears to be intoxicated or permit any person in the licensed premises to possess liquor if he or she is or appears to be intoxicated; or
- d) allow or permit excessive consumption of liquor by any person in the licensed premises.

3.15

The licensee must not allow any game, activity or contest that involves the consumption of liquor to take place in the licensed premises.

3.16

The licensee must not allow a person to enter or remain in the licensed premises if the licensee knows that the person has, without lawful excuse, a knife, firearm or other weapon in his or her possession.

3.17

The licensee must not serve more than:

- a) 85.2 ml of spirits (3 oz.);
 - b) 500 ml of wine (17.6 oz.); or
 - c) 750 ml of beer, cider or coolers (26.4 oz.);
- at any one time to an individual patron in the licensed premises unless authorized by the LGA.

3.18

The licensee must ensure that no patron in the licensed premises is in possession of more than two containers of liquor — whether full or partially full — at any one time unless authorized by the LGA.

3.19

The licensee may serve more liquor in a single container than is set out in 3.17 if they are satisfied that:

- a) the liquor is to be consumed by more than one person; and
- b) there is not more liquor in the container for each person who is to consume it than specified in 3.17.

3.20

Unless authorized by the LGA, the licensee must not sell a drink containing the following types and volumes of liquor for less than a total purchase price, including provincial sales tax and federal goods and services tax, of \$2.25:

- a) 28.4 ml of spirits (1 oz.);
- b) 142 ml of wine (5 oz.); or
- c) 341 ml of beer, cider or coolers (12 oz.).

3.21

The minimum price of a drink must be increased or decreased in direct proportion to the increase or decrease in volume of liquor contained in that drink if the licensee sells a drink containing liquor in a larger or smaller volume than specified in 3.20.

3.22

No promotion or offer may be conducted by the licensee that allows a person to consume an unlimited or unspecified amount of liquor for a fixed price unless authorized by the LGA.

3.23

The manager of licensed premises and any person engaged in providing security or in serving liquor in the licensed premises must not consume liquor during the hours when he or she is on duty.

3.24

The licensee must not allow any person other than an on-duty employee of the licensee to sell or serve liquor in the licensed premises unless authorized by the LGA.

3.25

Unless authorized by the LGA, the licensee must not allow a server to carry liquor within the licensed premises unless an order has been received for the liquor being carried by the server.

3.26

A licensee must comply with any term or condition imposed by the executive director on the liquor service licence that requires the licensee to use specified security equipment in the licensed premises.

3.27

The licensee may give liquor purchased through the MLLC or a retail premises:

- a) to a charitable organization to enable the organization to sell or auction it under authority of a special sale permit issued under clause 50(1)(a) of the Act;

- b) to the organizer of a charitable fundraising event for consumption at the event; and
- c) to be used as a prize in a gaming event.

3.28

The licensee must:

- a) keep a copy of the written request from the charitable organization or event organizer; and
- b) give to the charitable organization or event organizer a written list of liquor provided.

3.29

The licensee must have available liquor menus or boards that must include the price per drink, quantity of liquor per drink, and appropriate taxes to be added to or included in the price.

3.30

The licensee may allow a person to remove an unfinished bottle of wine from the premises if:

- a) the wine was served to the person with a meal purchased at the licensed premises; and
- b) the licensee recorks the bottle using a new cork that is fully inserted into the bottle so that the top of the cork is flush with the opening of the bottle.

3.31

Unless authorized by the LGA, the licensee must:

- a) remove and destroy all liquor that is unconsumed by a patron upon the departure of the patron; and
- b) ensure all unconsumed liquor is removed and destroyed within 60 minutes after the time when the sale of liquor in the premises is required to cease.

3.32

If there are multiple licensed areas within a premises or the licensed premises are within a hotel, the licensee is authorized to allow a patron to carry liquor from one licensed area to another or to a guest room under the following conditions:

- a) all associated licences must be issued to the same licensee;
- b) the licensee may allow a patron of licensed premises located in a hotel to carry liquor purchased in a licensed area to a guest room of the hotel. The guest room must be located in the same building;
- c) the licensee may not allow a patron to carry liquor from a licensed area to a guest room if the guest room is only accessible through public premises, such as a parkade, parking lot or covered or open walkway;
- d) the licensee of a premises located in a hotel may not permit a patron to carry liquor from a guest room of the hotel to any licensed area;
- e) the area in which the liquor is carried must be under the control of the licensee; and

- f) the licensee must ensure that any person who takes liquor purchased in one licensed area to another licensed area, or guest room, within the same building:
 - i) goes directly to the licensed area or guest room within the same building;
 - ii) does not consume the liquor between the licensed areas or between the licensed area and guest room; and
 - iii) does not share the liquor with, or give or provide it to, another person.

3.33

The licensee must continue to comply with any terms and conditions or requirements under which the premises was licensed unless otherwise authorized by the LGA.

4.0 Inspection

4.1

For the purposes of determining compliance with the Act, an inspector may at any reasonable time, without a warrant, enter:

- a) any business premises of a licensee; and
- b) any other premises other than a dwelling where the inspector has reasonable grounds to believe that records or things relevant to the administration or enforcement of the Act are kept.

4.2

The licensee or person in charge of the premises being inspected or having custody or control of the relevant records or things must:

- a) produce or make available to the inspector all records and things that the inspector requires for the inspection;
- b) provide any assistance or additional information, including personal information that the inspector reasonably requires to perform the inspection; and
- c) answer questions related to the purpose of the inspection that are asked of them by the inspector.

4.3

A licensee must not obstruct or hinder, or make a false or misleading statement to an inspector who is exercising powers or performing duties under the Act.

5.0 Offences and Compliance

5.1

It is an offence to sell liquor without holding a valid licence issued by LGA.

5.2

It is an offence to contravene a provision of the Act or these terms and conditions.

5.3

A licensee must not possess liquor in contravention of a regulation made under *The Manitoba Liquor and Lotteries Corporation Act*.

5.4

The licensee must not make a gift of liquor to any person except as permitted in 3.27; or provide a sample of liquor to a person except as permitted in 3.5, 3.6 and 3.7.

5.5

The licensee must not accept a gift or item at a discount if the provision of the gift or item would contravene the Act.

5.6

Except as authorized under the Act or another Act or by the Lieutenant Governor in Council, a licensee must not:

- conduct, manage or operate a lottery scheme; or
- advertise, promote or hold himself or herself out as someone authorized to conduct, manage or operate a lottery scheme.

5.7

A licensee who is the subject of a compliance order must comply with the order.

5.8

Unless the compliance order is appealed, a licensee who is ordered to pay an administrative penalty must pay the amount of the penalty to the LGA within the time specified in the order.

5.9

The executive director can suspend or cancel the licence if the licensee fails to comply with an order.

5.10

A licensee is guilty of an offence under this Act who:

- contravenes a provision of this Act; or
- knowingly makes a false statement in an application for or renewal of a licence, permit or approval or in any record, return or report required under this Act.

5.11

A licensee who is guilty of an offence is liable on summary conviction:

- in the case of an individual, to a fine of not more than \$50,000, imprisonment for up to six months, or both; and
- in the case of a corporation, to a fine of not more than \$250,000.

5.12

If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence and is liable on summary conviction to the applicable penalties set out in clause 5.11(a), whether or not the corporation has been prosecuted or convicted.

6.0 Change in Control and Notification Obligations

6.1

A transfer or assignment of a licence is not valid without the written consent of the executive director.

6.2

A licence ceases to be valid if there is a prescribed change in control of the licensee, unless the executive director approves the proposed change in accordance with the regulations.

6.3

Unless approved by the executive director, a licence ceases to be valid if:

- the licensee sells, assigns or transfers its assets through which it carries out the activities authorized by the licence;
- 10% or more of the shares, or any class of share, of the following are sold, assigned or transferred:
 - a licensee that is a corporation, or
 - a corporation that effectively controls the business of a corporation that is a licensee;
- a person becomes or ceases to be a partner of a licensee that is a partnership;
- a person becomes entitled to any of the profits from the licensed activity or becomes liable for any obligations incurred from the licensed activity; or
- a person loans or advances or causes to be loaned or advanced money or any thing of value, with or without security, to the licensee.

6.4

To seek the executive director's approval of a change described in 6.3, the licensee must, at least 10 days before the proposed change is to occur:

- apply to the executive director in writing; and
- provide any information requested by the executive director.

6.5

If a licensee contracts with a person to manage the premises where the person is receiving profits from the sale of liquor, the LGA must approve the person and the licensee must provide the LGA a copy of the management agreement upon request.

7.0 Recordkeeping / Reporting

7.1

The licensee must immediately notify the LGA in writing of:

- any change in the principals of the licensee, or change to the authorized signatory of the licensee responsible for the agreement;
- any change of the licensee's name;
- any change of the licensee's permanent address;
- any change of the licensee's address for service.



7.2

The licensee must notify the LGA of any matter which the licensee can reasonably assume to be of consequence to the LGA.

7.3

The licensee must provide such further information as required by the LGA.

7.4

Licensees must maintain records of all liquor purchases and sales on a monthly basis and keep those records for at least two years.