

Manufacturing

TERMS AND CONDITIONS

Licensees are responsible to comply with all manufacturing terms and conditions 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.

“**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.

“**licensee**” means a person, business entity or association of persons holding a licence issued by the LGA.

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

“**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.

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

2.0 General

2.1

A manufacturer's liquor licence authorizes the licensee to manufacture the types of liquor set out in the licence at the premises specified in the licence.

2.2

The licensee must ensure that liquor is manufactured in the premises in accordance with the Act and that the manufacturing premises are operated in accordance with the Act.

2.3

The licensee is authorized to sell liquor produced at the premises specified in the licence to the MLLC.

2.4

A separate manufacturer's licence is required for each location where a person operates manufacturing premises.

2.5

No proprietary rights accrue with a licence.

2.6

All promotional agreements must be in writing.

2.7

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

2.8

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.

2.9

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

2.10

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.



2.11

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

3.0 Operations

3.1

Except as permitted by 3.2 and 3.3, a licensee must not allow a person to consume liquor in the manufacturing area.

3.2

The licensee may provide adult visitors to an area that is the subject of a manufacturer's licence with a complimentary sample of liquor produced by the licensee.

3.3

A minor is prohibited from providing a complimentary sample of liquor.

3.4

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

3.5

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.)

3.6

If a person who appears to be a minor attempts to sample liquor at a manufacturing premises, the licensee must require that person to produce one of the following types of identification that belongs to the person:

- a) a valid passport;
- b) a valid driver's licence;
- c) an 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.

3.7

If the person is unable to produce the required identification, the licensee must not allow the person to sample product.

3.8

A liquor manufacturer may provide a complimentary liquor, by the glass or bottle, at an event authorized by

the LGA that is intended to promote specific products produced by the liquor manufacturer.

3.9

The licensee may give liquor purchased through the MLLC:

- 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.

3.10

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.

3.11

A licensee holding a manufacturer's licence is not authorized to serve liquor to patrons for consumption on the premises unless they hold a unique hospitality licence – tasting room, or another liquor service licence.

3.12

A licensee holding a manufacturer's licence is not authorized to sell liquor produced on the premises for off-site consumption unless they hold a retail endorsement.

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 manufacturing 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 contravene a provision of the Act or these terms and conditions.

5.2

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

5.3

A licensee must not give, sell or otherwise supply liquor to another person who is not authorized to sell liquor if he or she knows that the other person intends to sell the liquor in contravention of the Act.

5.4

A licensee must not give, sell or otherwise supply liquor to a person who is or who appears to be intoxicated.

5.5

A licensee must not give, sell or otherwise supply liquor to a minor.

5.6

The licensee must not make a gift of liquor to any person except as permitted in 5.7; or provide a sample of liquor to a person except as permitted in 3.2 and 3.3.

5.7

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

5.8

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

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

5.9

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

5.10

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.

5.11

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

5.12

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

- a) contravenes a provision of this Act; or
- b) 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.

5.13

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

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

5.14

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 (6.15)(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:

- a) the licensee sells, assigns or transfers its assets through which it carries out the activities authorized by the licence;
- b) 10% or more of the shares, or any class of share, of the following are sold, assigned or transferred:
 - (i) a licensee that is a corporation, or
 - (ii) a corporation that effectively controls the business of a corporation that is a licensee;
- c) a person becomes or ceases to be a partner of a licensee that is a partnership;
- d) 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



- e) 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 4.1, the licensee must, at least 10 days before the proposed change is to occur:

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

7.0 Recordkeeping / Reporting

7.1

The licensee must immediately notify the LGA in writing of:

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

7.2

If a liquor manufacturer employs or retains a person to promote the sales of its products in Manitoba, the manufacturer must provide the LGA with the person's name and provide any additional information about the person requested by the LGA.

7.3

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

7.4

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