

IT REFERS TO PUBLIC NOTICE OF 2010-2011.

TERMS AND CONDITIONS FOR THE GRANT OF LICENCE IN FORM L-52D (RETAIL VEND OF FOREIGN LIQUOR) FOR THE LICENCING PERIOD 2010-2011 (FROM THE DATE OF ISSUE OF L-52D LICENCE TILL 31-03-2011) TO THE HOLDERS OF L-1 LICENCE FOR RETAIL SALE OF ITS OWN BRANDS OF FOREIGN LIQUOR IN THE NATIONAL CAPITAL TERRITORY OF DELHI.

Applications for grant of L-52D licence have been invited by a public notice dated----- . Only those applications which are complete in all respects and are received in the Office of the Commissioner of Excise, Government of NCT of Delhi (hereinafter called "the Commissioner") before 6.00 p.m. of ----- shall be considered for grant of the licence. Incomplete applications shall be liable to be rejected without notice.

Licences in Form L-52D for the retail sale of various brands of foreign liquor as approved or registered by the Competent Authority in the National Capital Territory of Delhi shall be granted to the holders of L-1 Licence for the licensing period 2010-2011 (hereinafter called the "the licensing period") in accordance with the following terms and conditions: -

1. ELIGIBILITY TO HOLD LICENCE

- 1.1 An Enterprise holding L-1 Licence/Licences having same constitution and having five or more then five brands of Indian Made Foreign Liquor severally or collectively with price range above Rs.350/- per quarts in case of Whisky/Wine, Rs.250/- per quarts in case of Vodka/Gin/Rum/Brandy and no limit in case of Beer/Mixed Alcoholic Beverages is eligible to open maximum of five L-52D vends.
- 1.2 The brands approved/registered in the name of particular enterprise holding L-1 Licence/Licences shall only be allowed for retail sale under this L-52D Licence.
- 1.3 Dedicated retail vends of IMFL in form L-52D are allowed to be opened in Metropolitan City Centres/District Centres/Community Centres/including Shopping Malls in all the above categories of Centres.

- 1.4 The covered area of such retail vends in form L-52D should not be less than 1000 Sq. ft. The proposed shop should be a pucca building.
- 1.5 The Licensee shall not sell liquor to any person for consumption “on” the premises.
- 1.6 No L-52D vend for retail sale of foreign liquor shall be located within 75 meters from the following-
 - (a) Major educational institutions
 - (b) Religious places
 - (c) Hospitals with fifty beds and above.

Explanation. - I For the purpose of clause (a) above, major educational institutions would mean middle and higher secondary schools, colleges and other institutions of higher learning recognized by the Government of NCT of Delhi or Government of India.

Explanation. - II For the purpose of clause (b) above, a religious place would imply a religious place having a pucca structure with a covered area of more than 400 square feet.

2. PROCEDURE TO APPLY

- 2.1 Applications in the prescribed form (Annexure - I) along with other relevant documents for licence shall be made to the Collector of Excise, Delhi (hereinafter referred as “the Collector”).
- 2.2 Applicant will submit the following alongwith the application:
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 - (a) Proof of lawful possession of the proposed shop i.e. ownership/lease/rental documents etc.
 - (b) An affidavit in the form given in Annexure -II declaring that –
 - (i) he is in actual physical possession of the shop for which he has made an application for grant of L-52D licence.

- (ii) there is nothing adverse against the applicant as per the provisions of rule 7 of Delhi Intoxicants License and Sale Rules, 1976.
 - (c) A lay out plan of the area in which the shop is located, clearly showing the proposed shop.
 - (d) An earnest money of Rs. 5 lacs by way of a Demand Draft in favour of the Collector of Excise, Delhi.
 - (e) A solvency certificate of Rs. 25 lacs issued by Sub-divisional Magistrate/a Scheduled commercial bank.
 - (f) Income tax clearance certificate.
 - (g) The certified copies of L-1 Licence/Licences held along with the brands covered by such Licence/Licences and the price ranges of each such brand.
- 2.3 Information as required in the application form shall be furnished with complete details, truly and faithfully, so as to enable the processing of the application for grant of L-52D licence. The applicant shall not be entitled to any relief or compensation on account of delay in the finalization of his case for the grant of licence.

3. GRANT OF LICENCE

- 3.1 All the applications for the grant of L-52D licence shall be subject to the acceptance by the competent authority who may accept or reject any application without assigning any reason. The licensing authority shall be under no obligation to grant any licence for which the application has been made.
- 3.2 All applications received in the office of the Commissioner before the specified time and date will be scrutinized.
- 3.3 If on scrutiny, any application is found incomplete, vague, confusing or not as per the terms and conditions, the same shall be summarily rejected and the decision of the licensing authority shall be final.

4. COMPLETION OF FORMALITIES/FEE STRUCTURE

4.1 The applicant will be granted L-52D licence for retail vend of Indian Made Foreign Liquor subject to the completion of the following formalities:

- (i) Payment of a licence fee of Rs. 10,00,000.00 (Rupees Ten lacs) only by way of a Demand Draft in favour of the Collector of Excise, Delhi, for each L-52D Licence.
- (ii) A security deposit of Rs. 10,00,000.00 (Rupees Ten lacs) only by way of a Fixed Deposit Receipt in favour of the Collector of Excise, Delhi. However, the earnest money of Rs. 5 lacs will be adjusted in the security deposit. The amount of security deposit will be refunded to the licence holder on termination of his L-52D licence without any interest within a period of ninety days from the date of the termination of the licence.
- (iii) After the grant of licence, if the applicant is not able to complete the formalities within a period of Fifteen days from the date of the issue of offer letter and is not found in the actual physical possession of the proposed shop, the earnest money of Rs. 5 lacs shall be forfeited.
- (iv) The successful applicant shall submit a plan of interior design of the proposed shop ensuring the following points:
 - (a) The shop floor area has been designed to ensure the display of the various liquor brands alongwith necessary price indicators;
 - (b) The interiors of the shop have been so designed that the shop has proper painting, lighting, flooring and hygiene.
 - (c) The shop must have air-cooling/conditioning facilities.

4.2 The licensed premises shall be duly insured against fire and natural hazards. The licensee shall keep the premises thoroughly clean and dry and shall comply with the orders issued by the Collector for removal of defects in the building.

5. TRANSPORT PERMITS/RIGHT TO SELL LIQUOR

- 5.1 On completion of the above referred formalities, the applicant will be granted licence in Form L-52D which will entitle him to make retail sale from the retail vend, of those brands of India Made Foreign Liquor which have been approved/registered by the Government in the National Capital Territory of Delhi, in their L-1 Licence/Licences
- 5.2 The holder of L-52D licence shall be bound to make purchase of liquor only from their own L-1 licences at the rates prescribed by the Department. Transport permits to procure liquor from the holders of L-1 licence/Licences shall be issued to the holders of L-52D licence subject to payment of special duty, assessment fee, vend fee and other duties and levies as prescribed by the Government.

6. TIMINGS/RETAIL PRICE.

- 6.1 Government of National Capital Territory of Delhi has approved the policy of flexi-timings for retail trade of liquor in Delhi. L-52D liquor vend will be allowed to remain open for 9 hours between 10.00 am to 10.00 pm. Timing has to be got approved from the Department by the holders of L-52D licence. Once the timing of a particular shop is approved, it will not be allowed to be changed during the licensing period without the prior approval of the Competent Authority.
- 6.2 Holders of L-52D licence will be bound to sell liquor only at a price fixed by the Competent Authority for each brand and so mentioned on labels. Any undercharging or overcharging shall be considered as violation of the terms and conditions and the licence will be liable to be cancelled.

7. DRY DAYS

Such days as are declared “dry days” by the Government shall be observed as “dry days”. The L-52D retail vend shall remain closed on all those “dry days”. The holders of L-52D licences shall not be entitled to any compensation or relief due to any increase in the

number of “dry days” beyond the normal number or due to change in the working hours of the retail vends during the course of the licensing period.

8. STOCK/BOOKS OF ACCOUNTS

- 8.1 The holder of L-52D licence must store such number of brands of IMFL as may be approved by Government for their own L-1 Licence/Licences.
- 8.2 The holders of L-52D licence shall maintain the books of accounts and sales statements in the proforma prescribed by the Department. He shall maintain true accounts for day to day in ink entering all figures in international numerals and other particulars in English or Hindi.

9. PAYMENTS

- 9.1 The licensee shall make all the payments to the Government in connection with the operation of his licence in cash or by Bank Draft drawn in the name of the Collector of Excise, Delhi or as per the procedure, which may be prescribed by the Department from time to time.
- 9.2 The licensee shall pay interest @ 14 % per annum from the date on which any payment recoverable from him under section 60 of the Punjab Excise Act, 1914 as extended to the National Capital Territory of Delhi (hereinafter referred to as the “said Act”) becomes due to the Government until the date on which such payment is actually made or such amount is actually recovered, whatsoever may be the reason for the lapse of time before payment is made or recovery is affected.
- 9.3 The licensee shall not be entitled to any interest or any other relief or compensation on account of any delay in the payment of any amount to him by the Government.

10. BAR-CODE SYSTEM

- 10.1 The holders of L-52D licence shall ensure that the operation of L-52D vend is totally computerized and shall have facilities for 2D serialized bar-code scanners, to be specified

by the Government. Billing shall be computerized only through automatic process of decoding bar-code.

10.2 The holders of L-52D licence shall be bound to issue receipt/bill for each transaction of sale of liquor. The bill/receipt shall inter-alia include -

- (i) name of the holder of the L-52D licence and address of the shop.
- (ii) name and address of the customer;
- (iii) date of sale;
- (iv) names, quantity and batch no. of the brands sold.

11. RENEWAL

11.1 The Government of National Capital Territory of Delhi has declared that, normally, the Excise Year/Financial Year would be from 1st April to 31st March.

11.2 L-52D licence may be renewed at the sole discretion of the Competent Authority subject to payment of such licence fee and compliance of such other conditions as may be prescribed from time to time.

12. PROHIBITION

12.1 In pursuance of the Directive Principles of the State Policy relating to Prohibition contained in Article 47 of the Constitution of India, Government of the National Capital Territory of Delhi may issue orders and directions from time to time and such orders and directions shall be binding on the licensee and no compensation shall be payable on that account.

12.2 The licensee shall abide by the following prohibition measures, namely: -

- (1) The licensee shall display a notice board prominently in front of the licensed premises declaring "Drinking of liquor is injurious to health."
- (2) All persons employed by the licensee in the licensed premises shall be required to possess identity cards issued under the signatures of the authorized

signatory and the employees shall be required to produce the Identity card on demand by the Excise Officer or any officer not below the rank of Sub-Inspector.

- (3) The licensee shall not keep nor distribute nor sell any advertising material, which is likely or intended to promote the sale or consumption of liquor. Eco-friendly carry-bags, however, can be used subject to such advertising as not exhorting people to take to drinking.
- (4) No licensee shall advertise liquor or any product having similar nomenclature of liquor product, unless such advertisement conforms to the programme code and advertisement code as laid down in the Cable Television Network (Regulation) Act, 1995 and Cable Television Net Work Rules, 1996.

13. OTHER CONDITIONS OF LICENCE

13.1 The licensee shall exhibit prominently in the licensed premises notices drawing the attention of the public to the provision of rule 19 of the Delhi Liquor Import, Export, Transport and Possession Rules, 1976 and to the fact that consumption of liquor on the premises or in any public place is punishable under section 68 of the Act with fine which may extend to two hundred rupees.

13.2 The licensee shall not sell liquor to any other L-2, L-2A, L-52, L-52D, L-53, L-54 and L-56 licensee:

Provided that in case of licensee holding more than one L-52D license, the transfer of stocks from one licensed premises to another shall not be construed as a sale, but no such transfer is permissible except with the prior permission of the Collector.

13.3 The licensee shall sell liquor of those brands, which are approved by the Collector under their wholesale licenses.

13.4 The licensee shall display at a conspicuous place in the approved premises a list showing the retail price (inclusive of VAT) of each size of bottle of each brand of liquor on sale and the price or maximum price, if any, fixed by the Excise

Commissioner under the provision of sub-rule (17A) of rule 33.

- 13.5 Assessment fee, vend fee and duties at such rates as may be prescribed and unless such duties have been paid by the wholesaler, shall be payable by the licensee for grant of a transport pass for any liquor purchased by it.
- 13.6 No licensee shall claim any discount/concession/rebate in any shape beyond what is permissible.
- 13.7 Licence in Form L-52D for the licensing period shall be interalia subject to the general conditions in rule 33 and special conditions in rule 34 of the Delhi Liquor Licence Rules, 1976 (hereinafter referred to as the "Rules"). The holders of L-52D licence shall abide by the provisions of the said Act and the rules framed and orders issued thereunder and any other law/rules in force in the National Capital Territory of Delhi relating to liquor.
- 13.8 The other conditions and guidelines as applicable to L-2 retail liquor vends shall be adhered to in the case of L-52D vends also and they shall also follow additional conditions as prescribed by the Government from time to time.
- 13.9 The licensee shall furnish to the Collector, a declaration in writing by the 8th of every month certifying that he has cleared all outstanding excise revenue and other dues recoverable from him. The Collector or any Excise officer may refuse to issue any passes or permits to licensee in the absence of such declaration or for any sufficient reasons, to be recorded in writing, if he has reasons to believe that the licensee has not, on demand, paid any dues recoverable under section 60 of the said Act or dues payable on account of undue pecuniary benefits obtained by the licensees due to furnishing of wrong information or/and suppressing the material information furnished to the Department at the time of initially applying for the licence. The licensee shall

not be entitled to any compensation or relief on account of such refusal.

14. The licensee shall be bound to furnish any information in connection with L-52D licence truly and faithfully within a reasonable time as may be prescribed by the Commissioner, the Collector, the District Excise Officer or the Excise Officer. Refusal to furnish the information, furnishing of false information or non-compliance of the orders shall be regarded as breach of the terms and conditions of the licence. Breach of terms and conditions may also result in non-issue of import/transport permits and suspension/cancellation of licence.
15. The Commissioner/Collector reserves the right to cancel or suspend any L-52D licence at will as per provision of section 36 (g) of the Act.

(R.M. PILLAI)
EXCISE COMMISSIONER

Subject: Terms and conditions for the grant of licence in form 1-52d (retail vend of foreign liquor) for the licencing period 2010-2011 (from the date of issue of 1-52d licence till 31-03-2011) to the holders of 1-1 licence for retail sale of its own brands of foreign liquor in the national capital territory of delhi.

The amendment in the Delhi Liquor Licence Rules, 1976 has been notified vide notification dated 12.04.2010 (____/C), due to which a different category of licence, namely “L-52D Retail Vend of Foreign Liquor to holders of Licence/Licences in Form L-1” has been added under Entry I of Rule 1 of DLLR, 1976. The said amendment has been made pursuant to the cabinet decision No.1580 dated 30.09.2009 (____/C) to this effect. Since, the rules have been notified it would be appropriate to issue public notice inviting the eligible applicants to apply for grant of such L-52D Licence. The terms and conditions for grant of licence in Form L-52D have been drafted on the basis of the amendment of rules dated 12.04.2010 and the cabinet decision of 30.09.2009. The general terms and conditions have been incorporated from the terms and conditions published at the time of grant of L-52 Licences. The terms and conditions have been placed opposite for approval and onward transmission to Finance Department for approval by the Competent Authority. On the approval of the terms and conditions by the Competent Authority, the public notice for the excise year 2010-11 will be published.

Submitted please.

(R.P. Gupta)
DEO (IMFL)

Collector (Excise)

Commissioner (Excise)

The file was withdrawn from Finance Department since certain modifications are required to be carried out in the Draft Terms and Conditions.

In para 2.9 of the Excise Policy (12/C and 11/C) for the year 2009-10 as approved by the cabinet vide Decision No.1580 dated 30.09.2009, it was decided that the dedicated retail vends of IMFL (L-52D Licences) may be opened in the District Centres / Community Centres, including Shopping Malls. However, it was further noticed that as per Chapter 5.0 of MPD-2021, a hierarchical five-tire system of Commercial Areas is envisaged to accommodate commercial space in Delhi, with Metropolitan City Centres at the tire-I followed by District Centres at Tire-II and Community Centres at Tire-III. Since, as per the Delhi Liquor Licence Rules, 1976 the liquor vends can be opened only in Commercial Areas, there is no reason why the highest tire of Commercial Area i.e. Metropolitan City Centre should not be included for opening of the dedicated liquor vends (L-52D) along with District Centres and Community Centres. However, due to some reason the Metropolitan City Centre, the highest at the hierarchy of the Commercial Areas has not been included in para 2.9 of the cabinet note. In view of the above, it would be appropriate to include the Metropolitan City Centre also as the permissible Commercial Areas where the dedicated IMFL liquor vends can be allowed. Accordingly, necessary modification has been made in para 1.3 of the Draft Terms and Conditions.

Submitted for approval by the competent authority.

(R.P. Gupta)
D.E.O. (IMFL)

Collector (Excise)