

Interim Alcohol Beverage Management Agreements

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Due to timing issues in a deal, the parties involved in an existing business acquisition may find that they do not have the luxury of time to complete all necessary tasks. In the face of timing constraints, interim management agreements for alcohol sales may be a possible solution for the parties in certain jurisdictions.

The parties to an interim management agreement are usually the current holder of the liquor license(s) and the incoming food and liquor license holder. The parties should review all current agreements, including current hotel management agreements and franchise agreements, and take into account relevant local laws to determine if any terms will restrict the parameters or use of a new interim management agreement for the hotel's food and beverage services.

Some key considerations for those drafting interim agreements are:

1. Term of the agreement— how much time are the parties agreeing to operate under the agreement? Clearly define the interim period. Often, an agreement will state that the period terminates when the defined tasks are completed or by X days, whichever occurs first.
2. Financial arrangements— how will the parties be compensated in the interim period, who will handle the accounting, who has access to books, records, and reports? Will ongoing expenses incurred in the ordinary course of business be paid on behalf of the current licensee from a business operating account during the interim period?
3. Labor and employment – managers and employees operating in the interim period will be paid by whom? Do the managers and employees comply with local requirements, if any, for certification in proper food handling techniques and hotel managers and certification for responsible alcohol sales or server permits?
4. Indemnification—address the risks for the parties involved. Who needs to be an additional insured on insurance policies?

For hoteliers, food and beverage service continuity, including alcohol beverage service, is often critical. However, because liquor licenses may require time for approval, parties sometimes need interim alcohol beverage agreements. The goal is to have interim agreements in place so that there is no interruption in business and the changes are seamless to customers.

We recommend determining which agency regulates alcohol sales at your business. In some states, this means checking with the state licensing agency. In other states, this may mean checking with state and local licensing agencies as some jurisdictions require state and local liquor licenses. Georgia, Illinois, Louisiana, and Nevada are four examples. In other states, a hotel property may get its liquor license from a

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local licensing agency only. Hawaii and Maryland are two examples where local agencies license and regulate alcohol vendors.

We further recommend discussions with your licensing counsel or the proper licensing agency to determine if interim alcohol beverage agreements are allowed for your specific business situation. The permissibility of interim agreements will vary by jurisdiction and by situation. Interim agreements, where permitted by law, may be useful, temporary agreements in your hotel transactions to avoid interruption in alcohol beverage service and sales at a business.

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