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Department of Industries

Goa Industrial Development Corporation

Notification

GOA-IDC/IE/694

Goa IDC Transfer & Sub-lease Regulations, 2013

The Goa Industrial Development Corporation vide Notification No. GOA-IDC/IE/BR/2012(1)/329 dated 05th September, 2012 published in the Official Gazette (Extraordinary) No. 22, Series I dated 05th September, 2012 (Bhadra 14, 1934) has notified the Goa Industrial Development Corporation Allotment Regulations, 2012.

In addition to the above need has been felt to have Regulations governing all aspects of transfer of Industrial plots through laid down norms and procedures. The objective of these Regulations is to consolidate the preventive measures and restrict all manners of speculative transfer of land plots etc., belonging to or controlled by the Corporation, for the purpose of promoting industrial growth.

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 51 of the Goa Industrial Development Corporation

Act, 1965, the Goa Industrial Development Corporation, with prior approval of the Government, hereby makes the following regulations, namely:—

1. These regulations may be called as the Goa Industrial Development Corporation Transfer and Sub-Lease Regulations, 2013.

2. These regulations shall apply to the properties owned and controlled by the Corporation for granting lease or sub-lease for industrial purpose in the State of Goa and Union Territories of Daman and Diu, in the interest of its' primary objectives envisaged under the Goa Industrial Development Act, 1965 and shall not apply to the properties commercially acquired by it.

3. *Definitions.*— In these rules unless the context otherwise requires,—

(a) The terms "Corporation", "Industrial Estates/Areas", "Managing Director", "Allottee", and "Government" shall have the meaning as defined under the Goa Industrial Development Corporation Allotment Regulations, 2012;

(b) "Transfer" means an act by which an allottee conveys the shed or the lease hold rights over the plot allotted to him by the Corporation to any third party.

In this clause “third party” include an individual, a company, a partnership firm or a limited liability partnership or a trust or associations or body of individuals, whether incorporated or not, other than the allottee;

(c) “Sub-Lease” means an act by which an allottee leases the built up area constructed over the plot allotted to him by the Corporation to any third party;

(d) “No Construction” means a barren plot with or without a compound wall and/or a security cabin constructed thereon;

(e) “Partial Construction” shall mean construction of the factory building other than a compound wall and/or a security cabin, carried upon the allotted plot as per the approved plans and the invested value in the construction thereof as per a certified valuer is less than Rs. 300/- per sq. mt. of the gross plot area or is less than Rs. 20 lakhs;

(f) “Substantial Construction” shall mean the construction of the factory building carried upon the allotted plot as per the approved plans and the Occupancy Certificate is obtained for part or whole;

(g) “Commercial Production” shall mean and include the date of the first sale bill along with the first electricity bill of the allottee or in case a generator is fitted, NOC from the Electricity Department for the generator along with a copy of bill of purchase or bill for the rental of the generator;

(h) “Holding Company” means a holding company within the meaning of Section 4 of the Companies Act, 1956 (Act 23 of 2006);

(i) “Subsidiary Company” means a subsidiary company within the meaning of section 4 of the Companies Act, 1956 (Act 23 of 2006);

(j) Associate/Sister Companies for the purpose of these Regulations are companies which are owned by the same parent company or where the same Group of Shareholders controls a minimum of 26%

stake. Such shareholding could be direct holding or indirect holding through a holding company;

(k) Associate/Sister firms for the purpose of these Regulations are such proprietorship firms which are owned by the same proprietor or such partnership firms (including limited liability partnerships firm) in which the same group of partners control a minimum of 26% stake;

(l) “Plot Rate” shall mean and include the prevailing premium rate per sq. mt. as on the date of receipt of the application by the Corporation.

4. *Transfer of plots.*— (i) The allottee shall have no right to transfer or assign its rights in the allotted Land/Plot/Shed/Kiosk/Gala/Office premises, Godown etc., or sublet the allotted Land/Plot/Shed/Kiosk/Gala/Office premises, Godown etc., or any part thereof, without obtaining prior permission from the Corporation.

(ii) In an event a transfer or sub-lease is at all created by an allottee without having obtained the prior permission of the Corporation, then such a transfer or sub-lease shall not be recognized by the Corporation for any purpose and/or such transfer or sub-lease shall not confer any rights of whatsoever nature on the transferee or the sub-lessee.

CHAPTER I

Transfer

5. *Procedure for Transfer.*— (i) Upon receipt of an application in the prescribed form along with all the mandatory documents, the Corporation shall communicate the deficiency if any within a period of 21 working days or if the application is complete in all respects, take a decision in respect of the permission referred to under clause 4 above and communicate by certificate of posting or registered A/D within a period of 45 days failing which it shall be deemed to be granted. However, party shall be bound to pay all necessary fees and charges to the Corporation as per the prevailing rates and these regulations. The date of the dispatch

of the letter shall be the date of the communication.

The application would be treated as complete in all respects only after all the documents listed under Schedule IV are submitted by the applicant.

The deeming provision shall not apply to the transfers prohibited under Clause 6 below.

(ii) All the applications received shall be verified by a Scrutiny Committee constituted for that purpose by the Managing Director to ensure that the applications are complete in all respects and each application shall be processed and placed before the Screening Committee along with a duly filled up check list.

(iii) Screening Committee- following committee shall be constituted for screening the applications:

(a) The Chief General Manager of the Corporation;

(b) The Chief Accounts Officer of the Corporation;

(c) The General Manager (Engineering) of the Corporation;

(d) Nominee of GSIA.

(iv) The Screening Committee shall scrutinize the applications and the project report furnished by the applicants on the basis of these regulations and submit its recommendations to the Managing Director of the Corporation who shall decide upon the said applications.

6. *Prohibited transfers and exception therein.*— (a) Transfer is prohibited where there has been no construction or only partial construction has been carried out in the plot except in categories as specified under Schedule IA, Clause (i) to (vi) of Schedule II and under sub-clauses 5, 6 & 7 of Schedule III.

In cases other than the above exceptions, the Corporation shall have a right to re-enter upon and resume the possession of the plot.

(b) No transfer shall be permitted for running a fresh liquor or tobacco industry. However this restriction will not apply for existing industries of liquor or tobacco which may be permitted for transfer of ownership and/or place provided the new location if any, does not exceed the old constructed area.

7. *Permissible transfers and transfer fees therein.*— (a) Permissible transfer entailing Nil transfer fees: All transfers covered under Schedule IA and Schedule II shall not entail any transfer fee (meaning the transfer fee will be Nil). However, a processing fee of Rs. 5,000/- will have to be paid.

(b) Permissible transfer entailing a non-refundable transfer fee: The non-refundable transfer fees applicable are listed under Schedule III annexed hereto.

(c) Any case which does not fall within the purview of these regulations shall be considered as rejected. However in case the allottee is aggrieved by the decision then he may appeal to the Board by citing reasons for reconsideration of the decision. The Board is empowered to take a decision on the same keeping in mind the overall objective of these regulations and such decision of the Board shall be binding on the party.

(d) Penalty in case of unauthorized handing over of possession: (i) If an allottee transfers the plot allotted without obtaining prior permission of the Corporation or hands over the physical possession of the plot to a third party then such a transfer shall not be recognized for any purpose and the Corporation shall re-enter upon and resume the possession of the plot, in addition to levying a penalty equal to 10% per year or part thereof, of the prevailing rate per sq. mt. for the plot area from the date of such unauthorized transfer, for having violated these transfer regulations.

(ii) Any cases of unauthorized transfer prior to the Notification of these regulations shall be placed before the Board of the Corporation for a decision and in case the Board decides to regularize or approve the same shall be subject to the allottee paying a penalty fee

amount equal to 10% per year or part thereof, of the prevailing rate per sq. mt. for the plot area from the date of such unauthorized transfer, for having violated the terms and conditions of the lease.

(e) Any transfer on account of auction by the financial institutions pursuant to the issue of letter under clause 17(b) below, shall be only for an industry permitted by the Corporation and the fees prescribed under sub-clause 6 of Schedule III would be applicable.

CHAPTER II

Sub-Lease

8. *Prohibited sub-leases and exceptions therein.*— (a) No sub-lease shall be permitted (except in cases as listed under Schedule-IB) wherein the unit has not completed minimum of 5 years of commercial production. Commercial production shall be duly certified by a Chartered Accountant on the basis of the annual accounts of the allottee for the preceding 5 years and in case of any doubt the Corporation reserves its right to investigate in the matter prior to the grant of permission for sub-lease.

(b) No sub-lease will be permitted wherein the unit has already sub-let previously for a period of ten years and more, except in cases where the validity of the sub-lease is in force. However in such cases the sub-lease will automatically cease to be in operation on expiry of the validity of the sub-lease period and the unit will not be eligible for further sub-lease as it has already consumed the maximum period of ten years as stated under this clause.

Any sub-lease or handing over done by the allottee in violation of the provisions prescribed above shall entail a penalty as prescribed under clause 10 (c) below in addition to the right of the Corporation to resume the possession of the plot.

9. *Permissible sub-lease and fees therein.*—

(a) Sub-lease of a maximum of 80% of the built-up area will be permitted in all cases which do not fall under the category of the

prohibited sub-leases as specified under clause 8 above. Sub-lease will be permitted up to a maximum of ten years subject to the following conditions and payment of sub-lease fees as prescribed under clause 10 below, to the Corporation:

(i) The unit proposing to sub-lease should have been in commercial production for at least 5 years;

(ii) The proposed sub-lease should not be for any purpose other than those permitted under the Goa Industrial Development Corporation Allotment Regulations, 2012.

(b) Any case which does not fall under the category of prohibited or permissible sub-leases as specified under clause 8 above will be referred to the Board for a decision and the decision of the Board shall be final and binding.

(c) The Corporation reserves its right to permit 100% of the sub-lease of the built-up area on case to case basis, after obtaining prior approval of the Government.

10. *Sub-leasing fee.*— Sub-lease permitted under these regulations and approved by the Corporation will entail the following fees:

(a) For the first five years: 7.5% of the plot rate applied on the per sq. mt. of the built up area being sub-leased for a block year or part thereof;

(b) For the subsequent five years: 10% of the plot rate applied on the per sq. mt. of the built up area sub-leased for a block year or part thereof;

(c) If the sub-lease is done without obtaining prior permission of the Corporation or prior to the unit completing minimum 5 years of commercial production, an amount equal to five times the fees prescribed under clause 10(a) or (b) as the case may be for the period of default on the pro-rata basis, shall be charged as penalty.

11. *Penalties for unauthorized handing over of the possessions.*— (i) If an allottee sub-leases the plot or the built-up area

without obtaining prior permission of the Corporation or hands over the physical possession of the plot to a third party then such a sub-lease shall not be recognized for any purpose and the Corporation shall re-enter upon and resume the possession of the plot. In addition, a penalty equal to five times the sub-lease fees prescribed under Clause 10(c) shall be levied for the period the unauthorized possession existed.

(ii) Any cases of unauthorized sub-leases prior to the Notification of these regulations shall be placed before the Board of the Corporation for a decision and in case the Board decides to regularize or approve the same shall be subject to the allottee paying a penalty fee equal to five times the sub-lease fees prescribed under Clause 10(c) above for the area sub-let.

12. Any case which does not fall within the above category shall be placed before the Board for decision and the decision of the Board shall be final and binding.

13. Processing fees prescribed under Clause 18 would be applicable.

CHAPTER III

Surrender of Plots

14. *Surrender of plots.*— Following surrender charges shall be deducted by the Corporation in the event an allottee intend to surrender his land/plot allotted to him:

(a) 1% of the prevailing premium amount of the plot per sq. mt. of the plot area;

(b) In addition to the surrender charges specified under Clause 14 (a) above, the amounts paid by the allottee towards the lease rent, interest on premium, penal interest, processing fees, service tax to the Corporation, shall stand forfeited;

(c) Any amount pending towards dues on account of lease rent, penal interest, premium, processing fees, service tax or any other dues shall be recovered from the premium amount and any shortfall after adjusting the premium amount shall be recovered as land revenue arrears.

CHAPTER IV

Change of Trade

15. *Change or addition of product.*— (a) On submission of the application along with the project report, Certificate issued by the Director of Industries, Trade and Commerce, change in product or addition of product may be permitted.

(b) Change of products except restricted, will be permitted only for the products which are permissible in the concern Industrial Estates/Areas.

(c) Processing fees prescribed under clause 18 would be applicable.

CHAPTER V

16. *Permitting more than one industrial unit in a shed.*— (a) Every request seeking permission to set up more than one industrial unit in a shed shall be considered on merits and placed before the Board of Directors for consideration and decision.

(b) Processing fees prescribed under clause 18 would be applicable.

CHAPTER VI

Mortgage

17. *Grant of permission for mortgage of leased plots/premises.*— (a) Upon receipt of an application the Board of the Corporation or any official authorized to that effect and extend, may decide in respect of permitting an allottee to mortgage the lease hold rights over the plot allotted, over the machinery installed/to be installed and the factory building constructed on the said plot, to any Financial Institution for raising funds for setting up the project.

(b) Pursuant to the decision referred to under Clause 17(a) above a letter conveying no objection shall be issued to the Financial Institution for financing the allottee for setting up the project, to have the First, Second or pari passu charge over the lease hold rights of the plot allotted, over the machinery installed/to be installed and the factory building constructed on the said plot provided the allottee regularly remits the

annual lease rent fixed and in case of failure of the allottee to pay the annual lease rent or other dues then the No Objection Letter issued by the Corporation shall stand cancelled with necessary intimation to the Financial Institution.

(c) On behalf of the Corporation the letter to the Financial Institutions will be issued by the Managing Director or any other officer authorized by the Corporation within a period of 15 days from the receipt of the application.

(d) Processing fees prescribed under clause 18 would be applicable.

(e) In case of any unforeseen circumstances if the movable or immovable assets of the allottee are attached by the Financial Institution for recovery of dues and the said assets are put to auction then the bidder parties should check any outstanding dues of the Corporation if any, against the said assets before bidding so as to avoid further complication to get the plot transferred in their names.

(f) Auction of the allottees assets attached by the Financial Institution shall be only for industrial purpose and for setting up of industrial unit by the prospective bidders.

18. For processing the applications in all the above categories a processing fee of Rs. 5,000/- shall be charged.

19. Warehousing/automobile/logistics/ /kiosks shall be governed under a separate set of regulations to be notified by the Corporation subsequently, pending the regulations, the cases shall be placed before the Board for a decision and the decision of the Board with approval of the Government shall be final and binding.

20. The Corporation reserves its right to revise the payment, fees, charges, taxes, deposits etc., as stipulated and the allottee shall be bound to pay the payment, fees, charges, taxes, deposits etc., on demand by the Corporation. The decision to revise the payment, fees, charges, taxes, deposits etc., shall be taken by the Board of Directors with prior approval of the Government of Goa.

21. Applications submitted and/or pending prior to the 18th day of June, 2012, shall be processed and dealt with under these regulations. However in such cases, the transfer fees charged by the Corporation as per the present regulations shall be in accordance with the premium plot rate prevailing as on the day of the application received by the Corporation.

22. Any transfer or sub-lease effected between 18th day of June, 2012 and the date of the notification of these regulations, shall be processed and dealt with under these regulations. However in such cases, the transfer fees charged by the Corporation as per the regulations shall be in accordance with the premium plot rate prevailing as on the date of notification of these regulations.

23. *Removal of Difficulties.*— The Board of the Corporation with prior approval of the State Government shall be entitled for taking appropriate measure for removal of difficulties if any, that may arise at any stage in the performance of its lawful functions so as to give full effect to these regulations.

SCHEDULE IA

Exceptions in case of prohibited transfers.— Transfer initiated due to death or permanent disability or serious health condition certified by the Goa Medical College, of the proprietor, partner, key person or promoter listed in the application for allotment of plot, to his/her/their legal representatives such as:

- (a) Father.
- (b) Mother.
- (c) Husband.
- (d) Wife.
- (e) Son.
- (f) Daughter.

SCHEDULE IB

Exceptions in case of prohibited sub-leases.— (i) Sub-leases initiated due to death or permanent disability or serious health condition certified by the Goa Medical College, of proprietor, partner, key person or promoter listed in the application for allotment of plot.

(ii) Sub-leases from holding company to the subsidiary company and vice versa.

(iii) Sub-leases between sister companies or associate/sister firms as defined under section clauses 3(j) and 3(k) above.

(iv) Sub-leases between Central, Union Territories or State Government owned companies, joint sector companies and associate companies promoted by the Central, Union Territories or State Government.

(v) Sub-leasing arising out of attachment of property by Financial Institution.

SCHEDULE II

(i) Change of constitution in case of a proprietary or a partnership firm (including limited liability partnership firm) where at the time of the application for transfer is made to the Corporation, the proprietor or the original partners or existing partners at the time of application, proposes to retain 51% of the shareholding.

(ii) Change of constitution in case of a private limited or a limited company or a public limited

company listed on a stock exchange; where at the time of the application for transfer is made to the Corporation the original promoters proposes to retain 26% of the equity.

(iii) Amalgamation or mergers and demergers of companies taking place as per orders of the High Court under the Companies Act, 1956 (Act No. 1 of 1956).

(iv) Transfer from a holding company to its subsidiary company and vice versa.

(v) Transfer between Associate/Sister Companies or Associate/Sister firms as defined under clause 3(j) and 3(k) above.

(vi) Change in name of a Company without change in constitution or its shareholding.

SCHEDULE III

Sub- -Clause	Status of applicant and the plot sought to be transferred	Non-refundable transfer fees	Processing fees
1	2	3	4
1.	Bonafide applicants where the construction on the plot has exceeded the definition of partial construction but is not coming under the definition of substantial construction	60% of the prevailing plot rate per sq.mt. of the plot area	Rs. 5000/-
2.	Bonafide applicants where construction on the plot falls under the definition of substantial construction	40% of the prevailing plot rate per sq. mt. of the plot area.	Rs. 5000/-
3.	Bonafide applicants who have completed construction as per the plans approved by the Corporation, the occupancy certificate is obtained for full or part occupancy, the unit has gone in to commercial production but has operated for less than 5 years	30% of the prevailing plot rate per sq. mt. of the plot area	
4.	Bonafide applicants who have completed construction as per the plans approved, the occupancy certificate is obtained for full or part occupancy and the unit has gone in to commercial production for more than 5 years but less than 10 years	20% of the prevailing plot rate per sq. mt. of the plot area	Rs. 5000/-
5.	Bonafide applicants who have initiated transfers due to death; or permanent disability or serious health condition certified by the Goa Medical College, of the proprietor, partner, key person or promoter listed in the application for allotment of plot, to his/her/their legal representatives except those specified under Schedule IA	5% of the prevailing plot rate per sq. mt. of the plot area	Rs. 5000/-
6.	Bonafide applicants where transfers are initiated due to auction by any institution by any financial institution	15% of the prevailing plot rate per sq. mt. of the plot area	Rs. 5000/-

1	2	3	4
7.	Application for transfer in between or to the Central, Union Territories or State Government owned companies, joint sector companies and associate companies promoted by the Central, Union Territories or State Government.	15% of the prevailing plot rate per sq. mt. of the plot area	Rs. 5000/-
8.	Bonafide applicants who have completed construction as per plans approved, the Occupancy Certificate is obtained for full or part occupancy and the unit is into commercial production and successfully functioning for more than 10 years.	10% of the prevailing plot rate per sq. mt. of the plot area	Rs. 5000/-

* Commercial production shall be duly certified by a Chartered Accountant on the basis of the annual accounts of the allottee for the preceding 5 years and in case of any doubt the Corporation reserves its right to investigate in the matter prior to the grant of permission for sub-lease.

SCHEDULE IV
(See Clause 5)

1. Detailed project report along with the flow chart.
2. Term loan sanction letter from the financial institution or CA's certificate regarding promoter's financial capability.
3. The arrangements made for procurement of plant and machinery and marketing the products (attach relevant documents).
4. Bio-data of the Promoter/Directors/shareholders/Partners.
5. PAN cards.
6. In case of companies: Memorandum & Articles of Association along with incorporation certificate from the Registrar of Companies and a Certified copy of Resolution passed by the company for setting up of project and the person empowered to act on behalf of the company and the shareholding pattern of the company.
7. In case of partnership Firm: Registered copy of Partnership deed along with the certificate from Registrar of Firms.
8. EM Part I in case of Micro/Small & Medium unit and approval of the High Powered Co-ordination Committee in case of a large scale unit.
9. NOC from the Goa State Pollution Control Board from the pollution point of view, if applicable.
10. NOC from the Directorate of Health Services, Panaji-Goa, if applicable.
11. NOC from the Chief Controller of Explosives, if applicable.
12. NOC from the Inspectorate of Factories & Boilers, Panaji, if applicable.
13. NOC from the Directorate of Drug Administration, Government of Goa, if applicable.
14. A copy of the letter of intent from the Government of India, Ministry of Industries, New Delhi or SIA acknowledgment, if applicable.
15. Annual report of the company for the last three years, if applicable.
16. License under Fruit Products Order, if applicable.
17. A letter by the allottee or its authorized personnel confirming the not applicability of any of the documents listed at 9 to 16 above, in his/her or its case.

By order and in the name of the Goa
Industrial Development Corporation.

Menino D'Souza, Managing Director.

Panaji, 15th May, 2013.

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