

LETTER OF INTENT/WORK ORDER

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Dear Sir,

Sub : Letter of Intent for promotion of Indian tea, coffee and spices in the Indian and 15 designated markets (refer to Annexure II) for a period of six months on a turnkey basis.

Ref : 1. Notice Inviting Proposals No. _____ dated _____

2. Your Offer vide _____

3.

With reference to the above, we are pleased to place this Letter of Intent for undertaking a Comprehensive Digital and Social Media Campaign for promotion of Indian tea, coffee and spices in the Indian and 15 designated markets for a period of six months on a turnkey basis.

The primary objective of this campaign is to reach out to global and domestic audiences, media, buyers, consumers, traders, importers, investors & institutions to heighten awareness about the products (tea, coffee and spices of India), the varieties and weave a story line that catches the imagination of people regarding the uniqueness of these Indian products. The medium envisaged is to use the online platform to engage the consumers through a variety of means such as use of graphic interactive designs, use of interactive maps leading to more intensified level of curiosity and providing layered information depending on the curiosity level, use of online engagement activities such as quiz and gift hampers to keep the users attracted to the social media campaign, use of info graphics, short time lapse videos etc.

1. **Scope of Work**

The scope of work with respect to the campaign is as follows:

1. Comprehensive Digital and Social Media Campaign for promotion of Indian tea, coffee and spices in the Indian and 15 designated markets.
2. The primary objective of this campaign is to reach out to global and domestic audiences, media, buyers, consumers, traders, importers, investors & institutions to heighten awareness about the products (tea, coffee and spices of India), the varieties and weave a story line that catches the imagination of people regarding the uniqueness of these Indian products. The medium envisaged is to use the online platform to engage the consumers through a variety of means such as use of graphic interactive designs, use of interactive maps leading to more intensified level of curiosity and providing layered information depending on the curiosity level, use of online engagement activities such as quiz and gift hampers to keep the users attracted to the social media campaign, use of info graphics, short time lapse videos etc.

3. The detailed scope as per Notice Inviting Proposals.

2. **Contract Price**

..... **Summary of retainer fee for six months**

S No	ITEM	Retainer Cost for six months	
		Amount in figure	Amount in words
	Service Tax		
	Total Cost		

3. **Terms of Payment**

The payment will be released in phases, as below:

For Monthly Retainer Activities:

(i) 10% of the payment will be cleared on acceptance of the content/messaging/creative developed for the monthly activities.

(iii) Balance 90% of retainer fee will be released at the end of each month after successful submission of the monthly campaign reports/ web traffic and engagement analytics/MIS reports and screen shots etc.

For online paid media campaign as per requirement:

(i) As far as possible, payments to digital media properties (such as Google/Facebook/Twitter etc.) will be made directly by IBEF, if not possible, agency will need to buy digital media on behalf of IBEF.

Upon successful submission of invoices for buying digital media with supporting documents/credit card statements to IBEF, IBEF will pay the actual amount spent, to the agency within three weeks of submission of invoices.

3.1.1 The Service Tax/VAT shall be paid as applicable.

3.1.2 For facilitating electronic transfer for funds the selected agency will be required to indicate the name of the Bank and Branch, account number (i.e. bank names, IFSC Code and Bank A/c No.) and also forward a cheque leaf duly cancelled to verify the details furnished. These details should also be furnished on the body of every bill submitted for payments by the selected agency.

3.1.3 Currency: The price is payable in local currency i.e. Indian rupees.

3.1.4 Payment for Additional Services: For the purpose of determining the remuneration due for additional services as may be agreed under relevant clauses for modification in this work order.

3.1.5 Post Audit

The Client reserves the right to carry out a post payment audit and/or technical information of the work and the final bill including all supporting vouchers, abstracts etc.,

and to enforce recovery of over payment, if any, discovered in respect of any work done by the Agency or alleged to have been done by the Agency under the contract and such recovery will be made by the Client from any payment due or that may become payable to the Agency including security deposit and/or other deposit and in case no such payment is due to the Agency, the Agency will pay dues within ten days from the date of demand by the Client.

3.1.6 Adjustment of Excess / over payments:

Excess/overpayments as soon as they are discovered should be adjusted in the next running account bill of the agency and in case the final bill has already been paid, the excess/over payment made shall be recovered from the Security Deposit of the Agency together with interest at 8% or such other percentages as Client may decide from time to time, from the date of such excess or over payment to the date of recovery. In case the amount recoverable is in excess of the Security Deposit, then such excess shall be recovered from any of the running bills of the Agency in any of his other works without further recourse to the Agency.

4. **Intellectual Property/Inventions**

4.1.1 The Agency acknowledges and agrees that the Agency's contribution towards Intellectual Property Rights" or "IPRs"/ "Inventions and as well as any portion thereof shall be the sole property of Client.

4.1.2 "Intellectual Property and Invention" includes ideas, concepts, creations, discoveries, inventions, improvements, know-how, trade or business secrets; trademarks, service marks, designs, utility models, tools, devices, models, methods, procedures, processes, systems, principles, algorithms, works of authorship, flowcharts, drawings, books, papers, models, sketches, formulas, teaching techniques, electronic codes, proprietary techniques, research projects, and other confidential and proprietary information, computer programming code, databases, software programs, including their source code; data, documents, instruction manuals, records, memoranda, notes, user guides; in either printed or machine-readable form, the whether or not copyrightable or patentable, or any written or verbal instructions or comments.

4.1.3 "Intellectual Property Rights" or "IPRs"/ "Inventions" include (i) all rights, title and interest under any statute or under common law including patent rights; copy rights including moral rights; and any similar rights in respect of Intellectual Property, anywhere in the world, whether negotiable or not; (ii) any licenses, permissions and grants in connection therewith; (iii) applications for any of the foregoing and the right to apply for them in any part of the world; (iv) right to obtain and hold appropriate registrations in Intellectual Property and, (v) all extensions and renewals thereof (vi) Causes of action in the past, present or future, related thereto including the rights to damages and profits, due or accrued, arising out of past, present or future infringements or violations thereof and the right to sue for and recover the same.

5. **Commencement, completion, modification and termination of work order**

5.1.1 Effectiveness of work order: This Work order shall come into effect on the date the work order is assented to by the Agency, or such other date as may be stated.

5.1.2 Commencement of Services: The Agency shall commence the Services from any date

notified by the Client.

5.1.3 Expiration of work order: Shall expire when the services are completed or on the expiry of stipulated period of six months from _____ (date).

5.1.4 Modification: Modification of the terms and conditions of this work order, including any modification of the scope of the Services or of the work order Price, may only be made by written agreement between the Parties.

6. **Time of Completion**

The work shall be completed within six months from the date of signing the contract agreement.

7. **Security Deposit**

Agency shall deposit within 15 days of receipt of Letter of Intent, a sum of Rs. _____ being 10% of the financial proposal value towards Security Deposit in form of Bank Guarantee in the prescribed format, valid till final acceptance of the work. (format of bank guarantee for security deposit in Annexure A)

8. **Force Majeure**

Neither party will be liable in respect of failure to fulfil its obligations, if the said failure is entirely due to Acts of God, Governmental restrictions or instructions, natural calamities or catastrophe, epidemics or disturbances in the country. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or by or of such Party's agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of being assigned the work, and avoid or overcome with utmost persistent effort in the carrying out of its obligations hereunder.

A Party affected by an event of Force Majeure shall immediately notify the other Party of such event, providing sufficient and satisfactory evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

No Breach of Work order: The failure of a party to fulfil any of its obligations under the Work order shall not be considered to be a breach of, or default under this Work order insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event:

1.1.1.a) has taken all precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Work order, and

1.1.1.b) has informed the other party as soon as possible about the occurrence of such an event.

1.1.1.c) the dates of commencement and estimated cessation of such event of Force Majeure; and

1.1.1.d) the manner in which the Force Majeure event(s) affects the Party's obligation(s)

under the Work order.

Neither Party shall be able to suspend nor excuse the non-performance of its obligations hereunder unless such Party has given the notice specified above.

Extension of Time: Any period within which a Party shall, pursuant to this Work order, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

Payments: During the period of their inability to perform the Services as a result of an event of Force Majeure, since the work will be suspended during the period of inability to perform as a result of Force Majeure, the payment to the Agency will also stand suspended till it is restored or work is resumed by the Agency. However, the Agency shall be entitled to continue to be paid under the terms of this Work order, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the services and in reactivating the services after the end of such period.

9. **Termination and Suspension**

Expiration of work order: Shall expire when the services are completed or on the expiry of stipulated period of six months from _____ (date).

10. **Obligations of the Agency**

10.1.1 General: The Agency shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Agency shall always act, in respect of any matter relating to this Work order or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-consultants or third parties.

10.1.2 Conflict of interest

10.1.2.1 Prohibition of Conflicting Activities: Neither the Agency nor their Sub-consultants nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

10.1.2.1.1 during the term of this Work order, any business or professional activities which would conflict with the activities assigned to them under this Work order; and

10.1.2.1.2 after the termination of this Contract, such other activities as may be specified in the SC.

10.1.3 Confidentiality: The Agency, their Sub-consultants, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Work order, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

10.1.4 Documents Prepared by the Agency to be the Property of the Client: All designs, reports, other documents and software submitted by the Agency pursuant to this work

order shall become and remain the property of the Client, and the Agency shall, not later than upon termination or expiration of this Work order, deliver all such documents and software to the Client, together with a detailed inventory thereof. The Agency may retain a copy of such documents and software. Restrictions about the future use of these documents and software, if any, shall be specified in the SC.

10.1.5 Liability of the Agency: Subject to additional provisions, if any, in this work order the Agency's liability under this Work order shall be as provided by the Applicable Law.

10.1.6 Professional Liability Insurance: Agency will maintain at its expense, Professional Liability Insurance including coverage for errors and omissions caused by Agency 's negligence, breach in the performance of its duties under this Work order from an Insurance Company permitted to offer such policies in India, for a period of one year beyond completion of Services commencing from the Effective Date, (i) For an amount not exceeding total payments for Professional Fees made or expected to be made to the Agency hereunder or (ii) the proceeds, the Agency may be entitled to receive from any insurance maintained by the Agency to cover such a liability, whichever of (i) or (ii) is higher with a minimum coverage of [insert amount and currency].

10.2 Obligations of the client

10.2.1 Assistance and Exemptions: the Client will use its best efforts to ensure that the Government will provide the Agency with work permits and such other documents as necessary to enable the Agency to perform the Services.

10.2.1.1 The client will issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

10.3 Responsibility for accuracy of project documents

10.3.1 General

The Agency shall be responsible for accuracy of the estimate and all other details prepared by him as part of these services. He shall indemnify the client against any inaccuracy in the work, which might surface during implementation of the project.

10.4 Liquidated damages

9.5.1 If the selected Consultant fails to complete the Assignment, within the period specified under the work order, the Performance Guarantee is liable to be forfeited in full or part in case of underperformance and undue delays in performance by the agency, besides other action, including blacklisting of the agency as may be deemed fit by 'INDIA BRAND EQUITY FOUNDATION'.

11. Miscellaneous

11.1 Assignment and Charges

11.1.1 The Work order shall not be assigned by the Agency save and except with prior consent in writing of the Client, which the Client will be entitled to decline without assigning any reason whatsoever.

11.1.2 The Client is entitled to assign any rights, interests and obligations under this

Work order to third parties.

11.1.3 Indemnity: The Agency agrees to indemnify and hold harmless the Client from and against any and all claims, actions, proceedings, lawsuits, demands, losses, liabilities, damages, fines or expenses (including interest, penalties, attorneys' fees and other costs of defence or investigation (i) related to or arising out of, whether directly or indirectly, (a) the breach by the Agency of any obligations specified in relevant clauses hereof; (b) the alleged negligent, reckless or otherwise wrongful act or omission of the Agency including professional negligence or misconduct of any nature whatsoever in relation to Services rendered to the Client; (c) any Services related to or rendered pursuant to the Work order (collectively "Indemnified matter"). As soon as reasonably practicable after the receipt by the Client of a notice of the commencement of any action by a third party, the Client will notify the Agency of the commencement thereof; provided, however, that the omission so to notify shall not relieve the Agency from any liability which it may have to the Client or the third party. The obligations to indemnify and hold harmless, or to contribute, with respect to losses, claims, actions, damages and liabilities relating to the Indemnified Matter shall survive until all claims for indemnification and/or contribution asserted shall survive and until their final resolution thereof. The foregoing provisions are in addition to any rights which the Client may have at common law, in equity or otherwise.

11.1.4 Notices: Unless otherwise stated, notices to be given under the Work order including but not limited to a notice of waiver of any term, breach of any term of the Work order and termination of the Work order, shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses specified in the SC. The notices shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

11.1.5 Severability: If for any reason whatever any provision of the Work order is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under the Work order or otherwise.

11.1.6 Professional Liability Insurance: Agency will maintain at its expense, Professional Liability Insurance including coverage for errors and omissions caused by Agency 's negligence, breach in the performance of its duties under this Work order from an Insurance Company permitted to offer such policies in India, for a period of one year beyond completion of Services commencing from the Effective Date, (i) For an amount not exceeding total payments for Professional Fees made or expected to be made to the Agency hereunder or (ii) the proceeds, the Agency may be entitled to receive from any insurance maintained by the Agency to cover such a liability, whichever of (i) or (ii) is higher with a minimum coverage of [insert amount and currency].

11.1.7 Performance security

11.1.7.1 The Consultant shall prior to the Effective Date and as a condition precedent to its entitlement to payment under this Work order, provide to the Client a legal, valid and enforceable Performance Security in the form of an unconditional and irrevocable bank guarantee as security for the performance by the Consultant of its obligations under this Work order, in the form set out in this work order, in an amount equal 10 (ten) percent of the total cost of Financial Proposal under this Assignment. Further, in the event the term of this Work order is extended, the Consultant shall at least fifteen (15) days prior to the commencement of every Subsequent extension or at least thirty (30) days prior to the date of expiry of the then existing bank guarantee, whichever is earlier, provide an unconditional and irrevocable bank guarantee as Performance Security for an amount equivalent to 15 (fifteen) percent of the total cost of Financial Proposal under this Assignment.

11.1.7.2 The Performance Security shall be obtained from a scheduled commercial Indian bank, in compliance with Applicable Laws (including, in case the Consultant is a non-resident, in compliance with applicable foreign exchange laws and regulations). {In the event the Consultant is a joint venture consortium, the Performance Security may be provided by any Member; provided that such Performance Security shall mention the details of this Work order and the other Members.}

11.1.7.3 The Performance Security shall be extended accordingly such that the Performance Security remains valid until the expiry of a period of 60 (sixty) days from the date of completion of the assignment. If the Client shall not have received an extended/ replacement Performance Security in accordance with this clause at least thirty (30) days prior to the date of expiry of the then existing Performance Security, the Client shall be entitled to draw the full amount of the bank guarantee then available for drawing and retain the same by way of security for the performance by the Agency of its obligations under this Work order until such time as the Client shall receive such an extended/ replacement Performance Security whereupon, subject to the terms of this Work order, the Client will refund to the Agency the full amount of the bank guarantee, unless the Client has drawn upon the Performance Security in accordance with the provisions of this Work order, in which case only the balance amount remaining will be returned to the Agency; provided that the Client will not be liable to pay any interest on such balance. The Client will return the bank guarantee provided as Performance Security to the issuer thereof for cancellation promptly upon receipt of any extension/ replacement thereof. Subject to satisfactory completion of all deliverables under this Work order, the Performance Security will, subject to any drawdowns by the Client in accordance with the provisions hereof, be released by the Client within a period of 60(sixty) days from the date of completion of the services.

12. The Client shall have the right to claim under the Performance Security and appropriate the proceeds if any of the following occur:
- a) the Consultant becomes liable to pay penalty;
 - b) occurrence of any of the events listed in sub-clauses (a) through (f) of Clause 3.2.1 of the GCC;
 - c) any material breach of the terms hereof; and/or
 - d) without prejudice to paragraph above, the Consultant fails to extend the validity of the Performance Security or provide a replacement Performance Security in accordance with the provisions of this Work order.

13. **Arbitration**

In respect of all matters/disputes arising out of, in connection with or in relation to this agreement as far as possible be mutually settled between the parties. If this fails, dispute shall be resolved by the Sole Arbitrator appointed by mutual consent of both the parties in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the Rules made thereunder, as amended from time to time. The venue of such Arbitration shall be Bangalore and shall be conducted in English. The award of the Arbitrator/Arbitral Tribunal shall be final and binding on both the parties hereto.

14. **Jurisdiction**

The contract shall be governed by the laws and Regulations of India for the time being enforced and will be subject to exclusive jurisdiction of the Court of Bengaluru.

15. **Other conditions**

All the terms and conditions shall be as per the above referred documents and Notice Inviting Proposals.

Please sign the copy of this Letter of Intent as a token of your acceptance and return the same to us. You are also requested to submit draft agreement in duplicate within 7 days of this Letter of Intent, as per agreed terms and conditions, for our approval. Please note that Agreement shall be signed within 15 days from the day of this Letter of Intent.

For The India Brand Equity Foundation

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We confirm acceptance of above Letter of Intent

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(Agency)

Annexure A: Form of Bank Guarantee for Performance Security

(To be stamped in accordance with Stamp Act if any, of the country for issuing bank)

Ref.:

Bank Guarantee:

Date: Dear

Sir,

In consideration of Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India (hereinafter referred as the 'Client', which expression shall, unless repugnant to the context of meaning thereof include its successors, administrators and assigns) having awarded to M/s [name of Agency] a [type of company], established under laws of [country] and having its registered office at [address] (hereinafter referred to as the 'Agency' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and permitted assigns), an Assignment for preparation of [name of assignment] Work order by issue of Client's Work order Letter of Award No. [reference] dated [date] and the same having been unequivocally accepted by the Agency, resulting in a Work order valued at Rs. [amount in figures and words] for (Scope of Work) (hereinafter called the 'Work order') and the Agency having agreed to furnish a Bank Guarantee amounting to Rs. [amount in figures and words] to the Client for performance of the said Agreement.

We [Name of Bank] incorporated under [law and country] having its Head Office at [address] (hereinafter referred to as the Bank), which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators executors and assigns) do hereby guarantee and undertake to pay the Client immediately on demand an or, all monies payable by the Agency to the extent of Rs. [amount in figure and words] as aforesaid at any time up to [date] without any demur, reservation, contest, recourse or protest and/ or without any reference to the Agency. Any such demand made by the Client on the Bank shall be conclusive and binding notwithstanding any difference between the Client and the Agency or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

We agree that the Guarantee herein contained shall be irrevocable and shall continue to be enforceable until the Client discharges this guarantee.

The Client shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee, from time to time to vary the advance or to extend the time for performance of the Work order by the Agency nor shall the responsibility of the bank be affected by any variations in the terms and conditions of the work order or other documents. The Client shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Client and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Work order between the Client and the Agency any other course or remedy or security available to the client. The Bank shall not be relieved of its obligations under these presents by any exercise by the Client of its liberty with reference to the matters aforesaid or any of them or by reason of any

other act or forbearance or other acts of omission or commission on the part of the Client or any other indulgence shown by the Client or by any other matter or thing whatsoever which under law would but for this provision have the effect of relieving the Bank.

The Bank also agrees that the Client at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Agency and notwithstanding any security or other guarantee that the client may have in relation to the Agency's liabilities.

This Guarantee shall be irrevocable and shall remain in full force and effect until discharge by the Bank of all its obligations hereunder.

This Guarantee shall not be affected by any change in the constitution or winding up of the Agency /the Bank or any absorption, merger or amalgamation of the Agency /the bank with any other Person.

Notwithstanding anything contained herein above our liability under this guarantee is limited to Rs. [amount in figure and words] and it shall remain in force up to and including [date] and shall extend from time to time for such period(s) (not exceeding one year), as may be desired by M/s [name of Agency] on whose behalf this guarantee has been given. Date this [date in words] day [month] of [year in 'yyyy' format] at [place].

WITNESS

1. [signature, name and address]
2. [signature, name and address]

[Official Address]

Designation

[With Bank Stamp]

Attorney as Per Power of Attorney No.

Dated

Strike out, whichever is not applicable.

The date will be fixed as indicated in S.C.C.

The stamp papers of appropriate value shall be purchased in the name of bank which issues the 'Bank Guarantee'. The bank guarantee shall be issued either by a bank (Nationalized/Scheduled) located in India or a foreign bank through a correspondent bank (scheduled) located in India or directly by a foreign bank which has been determined in advance to be acceptable to the Client.

(NOTE: This is a draft work order, and some minor changes may be made in the final agreement)