



TEA BOARD
14, Biplabi Trailokya Maharaj Sarani
Kolkata - 700001

Ref: Law/Fees/Advocate/07/2010

Dated: 13 .1.2016

EXPRESSION OF INTEREST EMPANELMENT OF LAW FIRMS

Requirement of Law Firms for empanelment to protect of Board's Intellectual Property Rights in India and in other jurisdictions other than India.

The Tea Board of India, a statutory body Ministry of Commerce & Industry, Govt. of India, intends to empanel Law Firms for protection of Board's Intellectual Property Rights in India and in other jurisdictions other than India.

Only Law firms are eligible for empanelment. The experience, qualifications, schedule of fees, other terms and conditions and the proforma application in which the application has to be made have been prescribed by the Tea Board and the same is available on the Board's website at www.teaboard.gov.in. Eligible law Firms may send their applications (as per **Annexure A**) to the Secretary, Tea Board of India, 14, B.T.M. Sarani, Kolkata-700001. The last date of receipt of such applications is **26.02.2016**.

By Order
Secretary (I/C)



TEA BOARD

14, Biplabi Trailokya Maharaj Sarani
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Dated: . .2016

NOTICE INVITING

EXPRESSION OF INTEREST EMPANELMENT OF LAW FIRM

The Tea Board of India, a statutory body under Ministry of Commerce & Industry, Govt. of India, has registered the word and logo marks of teas known for their origin under various statutes in India and abroad. The registered marks of Tea Board are Darjeeling, Assam, Assam Orthodox, Nilgiri, Nilgiri Orthodox, Dooars Terai and India Tea Logo. In order to prevent registration of marks which are similar or deceptively similar to such marks owned by the Board, both in India and abroad the Board intends to empanel Law Firm which can be assigned this job in toto or individually for each mark. Interested Law Firm may send their willingness in the prescribed Proforma. The details of the terms and conditions of the engagement of Law Firm are as under:

1. SCOPE OF WORK (SoW):

- a) Providing legal opinion on issues referred to by Tea Board;
- b) Opposing such marks which are against the interest of the Board;
- c) Handling notices and other legal queries referred by the Board;
- d) Conducting legal due diligence as and when referred;
- e) Handling registration of such marks as referred by the Board;
- f) Providing advice relating to IPR issues of the Board;
- g) Any such other issues as referred by the Board from time to time.

2. **TENURE:** The initial tenure of the empanelment shall be for **three years** which can be extended for another **two years**. However, the Authority of the Board reserves the right to terminate the empanelment of any Law Firm at any time.

3. The number Law Firms to be empanelled **shall be not more than three**.

4. **ELIGIBILITY OF EMPANELMENT:**

- a. The Law Firm should possess adequate professional experiences in handling cases pertaining to Geographical Indication, Copy Right, Trade Mark in different Registry, Tribunal, High Court and Supreme Court of India and should be well versed with relevant laws on such subjects
- b. The Law Firm should be exclusively dealing with only IPR matters.
- c. The Law Firm should have such arrangement with Firm /Advocates outside India to oppose and protect and enforce the Intellectual Property Right of the Board outside India
- d. At least one of the Partners of the Law Firm should have minimum professional experiences as under:-
 - i. Ten years of practice in India in Trade Mark and other related laws pertaining to Intellectual Property Rights.
 - ii. Well versed with Intellectual Property Laws of USA, European Union, Russia, China, South East Asia and WTO.
- e. The responding Law Firm should be registered under statues of India.
- f. The Law Firm must have the requisite infrastructure and in-house capability.
- g. The Law Firm should not have been blacklisted by any Central/State Government/Public Sector Undertakings of the central/State Government.

5. DOCUMENTS TO BE SUBMITTED:

- a) Copies of empanelment with other organization.
- b) Documents in support of the claim made in the bio-data from.

6. PROCEDURE FOR EMPANELMENT:

The empanelment of the Law Firm shall be done by a committee so constituted by the Board. The committee shall evaluate the responses so received as per the following system:

Sl.No	Criteria	Weightage
1	Technical Capacity Criteria (a)	70% (b)
	<u>Break up (a)</u> <ul style="list-style-type: none"> • Experience in carrying out assignment pertaining to intellectual property relating to tea in India and abroad. 	<u>Break up (b)</u> 30%
	<ul style="list-style-type: none"> • In house Manpower Structure and professional Competence of the Partners/Associates. 	15%

	<ul style="list-style-type: none"> • Nature of assignment carried out during its presence on the panel of Government Enterprises/PSUs • Firm's policy on data protection, confidentiality & conflict of interest. • Presence of firm's establishment/office within the city of Kolkata. 	10%
		10%
		5%
2	Presentation	30%

The shortlisted law Firms will be called for a brief interaction cum presentation before the committee. Each of such interaction will be of 20 minutes duration. The venue of interaction cum presentation shall be in the office of the Board at Kolkata. The Law Firms have to attend such interaction session on their own cost.

During interaction/presentation, the shortlisted firms will be rated on the following parameters:

- ❖ Ability to communicate the organizational expertise
- ❖ Relevance of in-house resources to the SoW and clarity of thoughts.
- ❖ Case presentation on any one of the most significant assignments completed during the preceding year.

N.B:

- The evaluation shall be carried out on the basis of data available in the application documents received from the law firms in the first instance. On no account any further documents or clarification or any additional information furnished by the law Firms will be accepted or taken into record.
- The firms obtaining total score in evaluation of technical capacity criteria and presentation will be ranked as H-1 followed by firms securing lesser marks as H-2 & H-3. Only H-1, H-2 & H-3 shall be invited for empanelment and execution of agreement thereafter.
- The points secured by all the responding Law Firms shall be uploaded in the website of the Board.

7. GENERAL TERMS & CONDITION:

- a) The Law Firms shall not be empanelled for specific Court/Tribunal/Registry and shall accept the work assigned to them and shall not refuse to accept any work/assignment without reasonable cause.
- b) The Law Firms will take all necessary steps to protect the interest of the Board in matters entrusted to it from time to time.
- c) The empanelment does not confer any right or claim that the Law Firms shall be entrusted to with the work by the Board.
- d) Mere submission of Application and fulfilling of eligibility criteria does not entitle for empanelment.
- e) Board reserves the right to verify/cross check the information furnished/submitted by the Law Firms.
- f) Board reserves the right to summarily reject the applications for any of the reasons (i) not submitted in the prescribed format or (ii) do not meet any of the eligibility criteria or (iii) not accompanied with requisite documents/information or (iv) incomplete in any respect, without assigning any reasons therefore.
- g) The Board may, at any time, at its discretion withdraw from the Law Firm any proceedings /matters/brief.
- h) The Law Firms shall keep the Board informed regarding the development of each of the matter entrusted to it on monthly basis.
- i) Unless the case is specially assigned, the Law Firm will not receive summons/notices on its own on behalf of Tea Board and even if any summons/notice is received and no VAKALATNAMA is given by the Board, Law Firm shall not otherwise deal with such cases and immediately inform the Board in this regard.
- j) The Law Firms shall not use Tea Board's name/logo/symbol in its letter head/signboard/nameplate etc.
- k) In case of any misconduct, Tea Board will take appropriate action against Law Firm which includes filling complaint with bar counsel and recovery of financial loss caused to the Board due to the misconduct of the law firm. Here the word misconduct will have the same meaning as has been defined under Advocate Act, 1961.

- l) In case of initiation of any disciplinary proceedings/criminal proceedings against the law firm, the Board may remove such Law Firm from the panel without waiting for conclusion of such proceedings.
 - m) Refusal of any Law Firm to accept any work otherwise on the ground of conflict of interest may entitle removal of such Law Firm from the panel.
 - n) No empanelled Law Firm shall contest any case against the Board during the empanelment. The empanelled Law Firm shall not delegate the case to any other advocate or law firm, except such matters which are outside India.
 - o) The empanelled Law Firms shall maintain absolute secrecy and confidentiality about the cases of the Board entrusted to them.
 - p) The Board reserves the right to engage any other law firm/advocates or Government Law Officers for any case.
 - q) The empanelment of the Law Firm shall be at the sole discretion of the Board and no person shall have any claim for being empanelled.
 - r) Each Law Firm shall sign an agreement (**Annexure C**) with the Board after empanelment.
8. **PAYMENT OF FEE AND OTHER CONDITIONS:**
- a) The fees payable to the Law Firm shall be governed by the schedule of fee structure annexed with the advertisement (**Annexure B**) and as amended from time to time.
 - b) All payments shall be made in INR and shall be subject to prevailing laws/rules.
 - c) No interest shall be paid for any delayed payment.
 - d) **No retainer fees shall be paid to any law firm.**
 - e) Prior sanction of the Board is to be obtained for engaging any senior Advocate for any matter.
 - f) Any payment outside the fee structure can be made only on exceptional cases.
 - g) The Board shall reimburse only the actual expenses relating for any issue other than the fee mentioned in the fee structure.
 - h) The Board shall reimburse in INR only the payments made to Overseas Associates provided prior approval has been obtained from the Board for engaging the said Associate.

- i) In the event of renewal of the empanelment beyond three years then there shall be a hike in the professional fee @ 20%. For all heads as mentioned in the **Annexure B**.

9. **DISABLEMENT:**

Disablement on part of the Law Firm shall mean and include any of the following:

- a) Giving false information in the application for empanelment;
- b) Handing over the brief/matter to any other advocate/Law Firm without prior written permission of the Board;
- c) Failing to attend the hearing of the case without sufficient reason and prior information;
- d) Not acting as per instructions of the Board or going against specific instruction;
- e) Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- f) Threatening, intimidating or abusing any of the Board's employees, officers or representatives;
- g) Making any of its associates or juniors to appear on behalf of any of the opposite parties in cases related to the Board;
- h) Committing any act tantamounting to contempt of court or professional misconduct;
- i) Passing information relating to the Board's case to any third party which will harm the interest of the Board except such information which is required under law;
- j) Giving false or misleading information to the Board relating to any proceeding/case etc.;
- k) Taking adjournment in any case or not objecting the adjournment moved by the opposite party without sufficient reason.
- l) Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on part of the Law Firm.

N.B: Notwithstanding anything stated herein above, the Board reserves its right not to empanel any Law Firm even on fulfilling the eligible criteria or postpone or cancel the process of empanelment.

10. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS:

- a. The Law Firm is free to private practice which should not, however, interfere with or in conflict with the efficient discharge of its responsibilities as an empanelled law Firm of the Board.
- b. The Law Firms shall not advise any part or accept any case against the Tea Board.

11. INDEMNITY:

- a. The empanelled Law Firms will indemnify Tea Board of all legal/other obligations of its professionals deployed for Tea Board's work.
- b. Tea Board also stands absolved of any liability on account of death or injury sustained by the Law Firm's professional deployed for the performance of this empanelment and also for any damages or compensation due to any dispute between the Law Firms and its professionals.

12. **TERMINATION:** The Board may terminate the empanelment of the Law Firm by giving one month prior notice to it.

13. **REMOVAL OF DIFFICULTY:** In the matter of implementation of these guidelines, if any, doubt or difficulty arises or doubt regarding the interpretation of any of the clause of these guidelines, the same shall be placed before the Chairman, Tea Board and the decision of the Chairman, Tea Board shall be final.

14. Applications from eligible Law Firms must be addressed to the Secretary, Tea Board of India, 14, B.T.M. Sarani, Kolkata-700001. The last date of receipt of application is **26th February, 2016**.

Annexure-A**Format for Bio-data for Law Firm**

1	Name of the Firm & detailed address, Pan Number, Date of Registration of the Firm	
2	Details of Experience & Practice in IPR including important cases the firm has dealt with or handled.	
3	Details of the Manpower structure and their expertise.	
4	Details of the Branch Offices in India and the manpower structure of such branch office and the level of control exercised over such offices.	
5	Details reported judgment if any in the last two years	
6	Brief list of clients and details of the cases won & lost on behalf of such clients (in the last two years.	
7	Experiences in Tea Act/Control Orders along with a brief note on suitability for empanelment.	
8	Details of penalty imposed on the firm, if any.	
9	Details of firm's policy on confidentiality and conflict of interest.	
10	Details of awards won by the firm, its partners, associates and personal achievements in the field of IPR by the Partners/Associates of the firm.	
11	Details of cases filed against the Tea Board by the Firm, its present partners or Associates.	
12	Annual income tax returns filed with the Income tax Authorities for the last two years.	

DECLARATION

We declare that the information so provided for empanelment by the Board are factually correct.

Signature of the authorized representative of the Law Firm
(Complete postal address with mobile number and email id)

Annexure B

Schedule of Fees

Sl No	Particulars	Profession Fees in Rs.
1	For drafting Legal Notices/Reply Notices	3000/-
2	For written Opinion	2500/- (for first two opinion in a month) 7500/- for each additional opinion
3	Drafting Complaint/Affidavit/Written Statement/Claim/Counter Claim/Rejoinder/Application	15000/-
4	Scheduled conference including telephonic conference	2000/- per each 30 minutes
5	Appearance before Registry	i. Effective-5000/- ii. Non Effective-1500/-
6	Appearance before Tribunals/High Courts/Supreme Courts	i. Effective-15000/- ii. Non Effective-1500/-
7	Misc. Expenditure (Fax, Photocopy, typing, Printing, Stationary only, courier, ISD)	Actual
8	Searching Journals (Per hour)	1000/-
9	Matters outside India	10% in addition to the professional bill raised by the foreign associate of the empanelled firm.
10	Reviewing email/notices/plaint/journal publication	500/- per hour
11	Filing of Caveat	3000/-

N.B.

1. Each of the bills payable to foreign associates should have prior written approval of the Board.
2. The partners/senior associates of the empanelled law Firm are entitled to travelling and hotel expenses equal to the rank of Director level officer of Govt. of India.
3. The above fee payable is exclusive of service tax. Liability of Tea Board towards payment of Service Tax would be subject to applicable rules only and any amendment/modification thereto would be applicable immediately.

AGREEMENT

This Agreement is made on this day of, 2013 at Kolkata by and BETWEEN **The Tea Board of India** a body corporate established under the Tea Act 1953 (Act No XXXIX of 1953) having its Head office at **14, B.T.M. Sarani, Kolkata – 700 001** (hereinafter referred to as “**Board**” which expression shall unless it be repugnant to the context or meaning thereof, be deemed to include its successors, legal representatives and permitted assigns) of the **First Part**.

AND

_____, having its registered office at _____, hereinafter referred to as the “Empanelled Firm”, (which expression shall wherever the context so admits include its employees, administrators and permitted assignees) of the **Second Part**.

WHEREAS all the parts are hereinafter referred to as “Parties”;

The Notice for empanelment issued by the Board shall be an integral part of this Agreement.

NOW THEREFORE, the parties hereby agree to be bound by the provisions set out in this agreement.

1. INTERPRETATION

- i. Confidential Information: “Confidential Information” means all information (whether in oral, written or electronic form) relating to the proposals referred by Board for opinion including the information on Intellectual Property (IP), legal due diligent and matters related to legal opinion on issues referred to by Board, minutes of the meeting(s) or other agnate materials including any notes or summaries derived from those materials of the Disclosing Party and confidential information received by the Disclosing Party from third parties, but excludes any information that: (1) was lawfully in the possession of the Recipient before receiving it from the Disclosing Party; (2) is provided in good faith to the Recipient by a third party without breaching any rights of the Disclosing Party or any other party; (3) is or becomes generally available to, or accessible by, the public through no fault of the Recipient; (4) is independently developed by the

Recipient without use of the disclosed Confidential Information or (5) is required by public authority, by law or decree.

- ii. Words importing the singular numbers shall include the plural number and vice versa.
- iii. Headings and subheadings are for convenience only and shall not be deemed to be a part of this Agreement.

2. TERMS OF EMPANELMENT:

- i. The Empanelled Firm shall be entitled to the fees and reimbursement as per Annexure B of the notice for empanelment for all pre-approved expenses incurred in the performance of the Duties, upon submission and approval of written statements and/or receipts in accordance with the then regular procedures of the Board.
- ii. The Law Firm shall be empanelled for a period of three (3) years from the date of execution of the present agreement which may be extended for another three years.
- iii. Board reserves the right to assign the tasks to any of the empanelled Law Firms. Board also reserves the right to award the work to any other agency, not necessarily empanelled with Board.
- iv. This empanelment does not constitute and will not be deemed to constitute an exclusive commitment/ arrangement between Board and the Empanelled Firm.
- v. The Law Firm shall abide by the terms and conditions so mentioned in the Notice for empanelment.

3. RESPONSIBILITIES OF THE EMPANELLED FIRM

The Empanelled Firm shall;

- i. discharge its duties, responsibilities and execute its activities in furtherance of the scope of work as given in Annexure-1.
- ii. be solely responsible for determining all matters of detail as to the manner in which a specific assignment is done with an objectively acceptable quality.
- iii. undertake necessary liaison work as may be required from time to time with the officials of the concerned departments.
- iv. comply to the best of the technical /scientific knowledge, statutory, regulatory and safety guidelines established by the Government of India while performing the services.

- v. take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the disclosing party including discussion of the Confidential Information in any public forum which includes formal and informal discussions.
- vi. comply with all applicable laws, rules and regulations and shall not indulge in any act, which constitutes an offence or a corrupt practice under the Indian laws.

4. CONFIDENTIALITY

The Parties, undertake to maintain strict confidentiality and refrain from disclosure thereof, of all or any part of the information and data exchanged/generated from the Process under this Agreement for any purpose other than in accordance with this Agreement. It shall be the responsibility of both the Parties to ensure maintenance of such confidentiality in respect of their behalf and on behalf of their employees, representatives and associates involved in related activities.

5. RETURN OF MATERIALS

Upon the conclusion of the task the Empanelled Firm undertakes to return or destroy materials containing Confidential Information in physical form handed over by the Board in relation to the services or which was generated by the Empanelled Firm in the course of providing the services.

6. EARLY TERMINATION OF THE TERM

This Agreement may be terminated without cause by either party upon not less than thirty (30) days prior written notice by either party to the other. Board can terminate the agreement if the Empanelled Firm voluntarily ceases performing the Duties or "for cause", in case of any material breach of the terms agreed to. Any termination "For Cause" shall be made in good faith by the Board. Upon termination, neither party shall have any further obligations under this Agreement, except for the obligations to maintain confidentiality. The financial liability shall cease as of such termination date. Upon termination the Empanelled Firm shall return all Confidential Information, as hereinafter defined, and copies thereof.

7. WAIVER AND ASSIGNMENT

Any waiver by the Board of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof. The Empanelled Firm shall not have the right to assign the rights or obligations under this Agreement without the prior written consent of Board.

8. EFFECT OF THIS AGREEMENT

- i. The duty of secrecy under this agreement will commence on the Effective Date and will subsist till three years after completion of the task or till such time the confidential information falls into the public domain whichever is earlier.
- ii. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall be deemed a single agreement.
- iii. The rights and remedies herein provided are cumulative with, and not exclusive of, any rights or remedies provided by law.

9. DISPUTE RESOLUTION

In the event of any dispute or difference between the Parties hereto upon or in relation to or in connection with this Agreement, such dispute or difference shall be resolved amicably by mutual consultation or through the good offices of the Chairman, Tea Board.

10. NOTICE

Any notices, consents, objections, demands, requests or other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent by registered post, return receipt requested, to the addresses of the parties set forth in the heading to this Agreement. Either party may designate, by notice, a change of address hereunder.

11. SEVERABILITY

If any of the provisions of this Agreement are found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the Agreement as a whole.

12. GOVERNING LAW

This Agreement shall be construed in accordance with and governed for all purposes by the laws of India applicable to contracts executed and wholly performed within such jurisdiction.

13. AMENDMENTS OR WAIVER

No amendment or waiver of this Agreement is binding unless agreed to in writing by the parties.

14. NO OTHER RELATIONSHIP

The Empanelled Firm agrees that all Services will be rendered as an independent contractor and that this Agreement does not create an employer-employee relationship or business partnership between the parties.

WHEREFORE, the Parties hereto through its duly authorized representatives have signed this Agreement on the day, month and year mentioned hereinbefore.

Signed

On behalf of the Empanelled Firm

On behalf of the Board

Date