

**JET AIRWAYS (INDIA) LIMITED
COMMERCIAL SUPPLIES**

Annexure A - JA01: GENERAL TERMS AND CONDITIONS OF THE TENDER

1 TERMS OF APPLICATION

1.1 Application by tenderer constitutes acceptance by tenderer of all the terms and conditions in the Annexures annexed to the Tender.

2 ITEM & REQUIREMENT

2.1 The item(s) is/are listed in **Annexure B**. The annual requirement is only an estimate and the successful Tenderer is required to make available the quantity as and when required.

3 TENDER PRICE

3.1 The pricing for the material to be supplied shall be exclusive of any duties and taxes. The tenderer must indicate the duties / tax structure for the said material.

3.2 Jet Airways will not entertain any negotiation on price once the tender has been submitted. The price quoted shall be treated as the final price offered by the tenderer. Therefore, the tenderer has to quote its best and final price.

3.3 Notwithstanding the above, should a change in specifications occur after the Tender has been called, and such change may have an effect on price, Jet Airways may under such circumstances re-negotiate the price.

4 COMPLETION OF TENDER APPLICATION FORM

4.1 Annexures B, C, and E are to be completed in full. The tenderer must insert the words 'No Quote' or 'Not Applicable' against items not quoted / not applicable. The tenderer must sign and affix the company's stamp/seal on the bottom right-hand corner of every page of Annexures B, C, and E.

5 NO PRICE INCREASE

5.1 No price increase will be allowed to the successful Tenderer during the agreement period. Any increase in the cost of production or in other aspects will not be passed on to JET AIRWAYS (INDIA) LIMITED by way of an increase in the awarded price or a change in the materials to be supplied.

6 VALIDITY PERIOD

6.1 The tenderer's offer shall be valid for a period of 3 calendar months from the closing date of the tender. On expiry of the Tender, the tenderer shall, if Jet Airways so requires, extend the validity of the offer for a further period to be mutually agreed upon.

7 ACCEPTANCE OF TENDER

7.1 Jet Airways shall not be bound to accept the lowest quoted Tender, nor is it liable for any claim for whatever costs which may be incurred in the preparation of the Tender. Jet Airways shall reserve the right to accept the whole or part of the Tender.

8 COMMENCEMENT OF CONTRACTUAL OBLIGATIONS

8.1 The successful Tenderer shall be notified in writing of the contract being granted to him. The terms and conditions stipulated in the Tender shall be binding upon Jet Airways and the successful Tenderer until a formal Agreement is entered by both the parties. Pursuant to the execution of the Agreement, the Tender of the successful Tenderer shall be deemed to be an integral part of such Agreement.

9 AGREEMENT

9.1 The successful Tenderer is required to enter into an Agreement within two weeks from the date of the award of the contract, failing which Jet Airways reserves the right to award the contract to another Tenderer. The Agreement shall come into effect from the date of the letter of award from Jet Airways and will be subject to approval of prototypes of the item(s) to be supplied.

10 DURATION OF AGREEMENT

10.1 The Agreement if concluded shall be in force for the period as stipulated in Annexure D.

10.2 Jet Airways may at any time terminate the agreement, in whole or in part, by giving the successful Tenderer not less than ninety (90) days written notice. The successful Tenderer shall, however, be bound to accept orders for the supply of the items until the expiry of the notice. All orders received during the notice period must be delivered by the successful Tenderer in accordance with provisions of the applicable Agreement.

11 TERMINATION OF AGREEMENT

11.1 Jet Airways may immediately terminate the agreement, in whole or in part, by giving written notice to the successful Tenderer, if any of the following events occur in relation to the successful Tenderer:

- (a) The successful Tenderer commits a material breach of any of the duties or obligations under the Agreement and fails to cure such breach or non-performance within thirty (30) days after receiving notice of the same, where such breach or non-performance is capable of being remedied; or
- (b) The successful Tenderer commits numerous or persistent breaches of, or persists in not performing its duties or obligations under the Agreement; or
- (c) The successful Tenderer files for bankruptcy, becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer for it.

12 ASSIGNMENT OR TRANSFER

12.1 Jet Airways may assign or transfer the whole or any part of the agreement to a subsidiary or associate company of Jet Airways.

13 SUB-CONTRACT

13.1 The successful Tenderer will not assign the Agreement to any person or persons without the prior consent in writing from Jet Airways.

14 NO SEPARATE AGREEMENT FOR DELIVERY PERIOD NOT EXCEEDING THREE MONTHS

14.1 For purchases where no agreement has been signed and where the delivery period does not exceed three months, the terms and conditions stipulated in the Jet Airways Tender shall constitute an Agreement between Jet Airways and the successful Tenderer.

15 STAMP DUTY, AND OTHER LEVIES

15.1 Any stamp duty and other levies including taxes payable pursuant to the Agreement shall be borne by the successful Tenderer.

16 DELIVERY

16.1 The estimated annual quantity shall be delivered upon the issue of purchase orders as and when required during the term of the Agreement.

16.2 Subject to delivery terms, the items ordered may be required to be delivered to any delivery point/points in India and/or in other countries as specified by Jet Airways upon issue of the purchase orders to the successful Tenderer.

16.3 All orders received during the term of the Agreement must be completed by the successful Tenderer at the Agreement price notwithstanding that delivery is to be made after the expiry of the Agreement.

16.4 Delivery of goods must be made within the stipulated date(s) as stipulated in the Jet Airways Purchase Order(s). A grace period of up to 7 days may, at Jet Airways' discretion, be granted for late deliveries (Sundays and Public Holidays inclusive) after which the successful Tenderer will be liable to pay liquidated damages as set out hereinbelow.

17 LIQUIDATED DAMAGES

17.1 All delays will be subject to payment by the successful Tenderer of liquidated damages of one percent (1%) per calendar week, in respect of the total value of the quantity due for delivery up to a maximum of ten percent (10%) of such value. If there are three (3) or more occasions of delay occurring in a rolling twelve (12)-month period, the liquidated damages will be five percent (5%) per calendar week, in respect of the total quantity due for delivery up to a maximum of twenty percent (20%) of such value. Such payment will be without prejudice to any other rights or remedies that Jet Airways may have hereunder or at law including the right to terminate the agreement by giving written notice to the successful Tenderer.

17.2 Notwithstanding any other provision to the contrary contained in the agreement, Jet Airways may, at any time and from time to time, without notice to the successful Tenderer, set off or deduct from any or all amounts payable to the successful Tenderer (whether under the Agreement or any other Agreements), any or all sums that may be due and owing by the successful Tenderer to Jet Airways, its related or associated companies, whether under the Agreement or otherwise (including without limitation, any liquidated damages payable under Agreement, or any amounts previously overpaid to the successful Tenderer).

18 PURCHASES IN DEFAULT FROM ALTERNATIVE SOURCE(S)

18.1 On expiration of the deadline, including grace period (if any) for delivery of the item(s) and/or on expiry of the normal delivery lead time for replacement of defective goods and/or rectification of any type of defects, Jet Airways may, without any further notification to the successful Tenderer, purchase any items which may function in an equivalent manner as the items which has/have not been supplied and/or replaced/rectified from other source(s) and recover damages (including but not limited to the price difference) from the successful Tenderer. For the avoidance of doubt, should the price charged by the alternative source(s) be lower than that charged by the successful Tenderer, the successful Tenderer shall not be entitled to claim the price difference from Jet Airways.

18.2 Such purchases will be made in the event of a default on the part of the successful Tenderer to cater to the requirements of Jet Airways, in order to prevent disruption of supplies.

18.3 When purchases are made from a third party owing to a default on the part of the successful Tenderer, then liquidated damages shall also be charged based on the period of delay between the date on which the delivery was supposed to have been made by the successful Tenderer (including grace period, if any), and the date on which the delivery was actually made by the alternative source(s).

19 PACKING AND PACKAGING

19.1 The material must be suitably packed and packaged for sea freight or airfreight depending upon the applicable transport mode in accordance with Jet Airways' specifications and/or standard trade practices and/or mandatory requirements.

19.2 The successful Tenderer is liable for damages resulting from inadequate packing and packaging. The packing to be used for food grade material shall comply with the hygienic, sanitary and marking / packaging regulations in force in the country of origin. The wrappings should bear the life expiry date of the item, wherever applicable.

20 USE OF RAW MATERIALS SECURED WITH PURCHASER'S ASSISTANCE

20.1 Where any raw materials are procured with the assistance of Jet Airways either by issue from Jet Airways stocks or by purchase made by Jet Airways under arrangements with third parties, the successful Tenderer:

- (a) Shall hold the said materials as trustees for and on behalf of Jet Airways;
- (b) Shall use such material economically and solely for the purpose for which they are issued and shall maintain a stock record showing the opening balance, receipts, issues and closing balance.
- (c) Shall not dispose of the same without the permission of Jet Airways,
- (d) shall return if required by Jet Airways, all surplus or unserviceable material that may be left with the successful Tenderer after the execution of the order or on termination for any reason whatsoever, with due regard to the condition of the material. The freight charges for the return of the material according to the directions of Jet Airways shall be borne by the successful Tenderer. In the event of the Agreement being cancelled by Jet Airways for any default on the part of the said successful Tenderer, such decision of Jet Airways shall be final and conclusive.

21 QUALITY AND REJECTION OF ITEMS

21.1 Notwithstanding receipt of the item by Jet Airways and/or payment thereof Jet Airways shall not be deemed to have accepted the item until after inspection. The successful Tenderer hereby warrants that the merchandise and workmanship of the item delivered and work performed shall be in accordance with the specifications of Jet Airways and agrees that this warranty shall survive acceptance. No liability will be assumed by Jet Airways for losses or deterioration in material received by Jet Airways which are subsequently discovered to be not in conformity with the order placed with the successful Tenderer. The successful Tenderer shall refund the purchase price of such item(s), if paid earlier.

21.2 The quality of the items supplied shall be in accordance with the approved sample and/or specifications provided by Jet Airways. No alterations to such specifications may be made without the prior written consent of Jet Airways.

21.3 If the items supplied fail to meet the stipulated specifications and/or workmanship, and in the opinion of Jet Airways, is not satisfactory, Jet Airways may reject such items and the successful Tenderer shall replace the rejected items with items complying with the stipulated specifications and/or workmanship within one (1) week from the date of rejection without any additional charge to Jet Airways and the successful Tenderer shall be liable for any and all damages and costs to Jet Airways arising from this breach. The successful Tenderer shall arrange to collect the rejected material at its own cost within seven days of intimation. The rejected material which is likely to be misused like printed packaging materials, items containing Company logo etc. will not be returned to the successful Tenderer. Instead, the same will be destroyed/defaced in the presence or with the concurrence of successful Tenderer's management. The destroyed items will be collected by the successful tenderer from Jet Airways' location at his cost immediately. If not collected, the same shall be disposed off and Jet Airways will not be responsible / liable for such disposal.

21.4 Jet Airways may conduct random quality checks on the items supplied by the successful Tenderer, either through its own personnel or external professionals engaged by Jet Airways. If the items so checked do not meet the quality standards of Jet Airways, Jet Airways may conduct further checks on up to one hundred percent (100%) of the items delivered, to ascertain the quality. The successful Tenderer will reimburse Jet Airways the costs of conducting such checks which include costs towards manpower, professional fees, time and other materials which Jet Airways may expend to conduct such quality checks. Jet Airways may deduct or set off such costs from the successful Tenderer's outstanding invoices with Jet Airways, under advice to the successful Tenderer.

21.5 The item(s) supplied should be safe for human use and should not contain any harmful, banned or restricted substances. For item(s) where restricted substances may be present, the same shall not exceed the allowed limits, in accordance with any existing applicable standards that are applied by any relevant authority having jurisdiction on Jet Airways' operations or acquisition of supplies at any time. Should any item(s), supplied under the Agreement contain any harmful, banned or restricted substances (in the case of restricted substances where restricted substances may be present and the same exceeds the allowed limits); it shall constitute a breach of the Agreement. The successful Tenderer shall be obliged to replace the item(s) at no

additional cost to Jet Airways and the successful Tenderer shall be liable for any and all damages and costs to Jet Airways arising from this breach.

22 WARRANTY

22.1 The successful Tenderer warrants that the items supplied fully conforms to the order placed and that it is suitable for the intended use and is free from any defects whatsoever.

22.2 If the characteristics of the quality are not specified in the part number description, the supply shall be of the best commercial quality. Supplies in respect of which a specific warranty is requested shall be accompanied by the relevant Certificate(s).

22.3 In case of any minor defect or discrepancy which does not jeopardize the final use of the supply, Jet Airways has the right, at its option, to request a correction of such a defect or discrepancy by and at the expense of the successful Tenderer or have a reduction for the price payable for the supply.

23 VISITS

23.1 Jet Airways staff shall be entitled to visit the office, factory, premises, laboratories, storage locations, workshop etc. of the successful Tenderer after providing adequate notice for such visit.

24 INTELLECTUAL PROPERTY

24.1 The drawings, samples, models, equipment, sketches, photographs, printing plates, moulds, artwork supplied ("JET AIRWAYS (INDIA) LIMITED materials") or approved by Jet Airways shall not be copied, transferred to third parties or used in any manner whatsoever contrary to the provisions of the Final Tender and the Agreement. Upon completion of the last delivery to Jet Airways, the above material(s) shall be returned to Jet Airways with immediate effect.

24.2 The successful Tenderer agrees that all copyrights, goodwill, patents, know-how, trade secrets and other intellectual property rights ("Intellectual Property Rights") whether now known or hereafter becoming known and comprised or subsisting in Jet Airways materials, any derivative materials, and the confidential information as well as any and all other materials provided to the successful Tenderer by Jet Airways, or created or developed by the successful Tenderer exclusively for Jet Airways, in connection with or for the purposes of the Agreement are and will be the sole and absolute property of Jet Airways and the successful Tenderer hereby assigns to Jet Airways all its Intellectual Property Rights in respect thereof, in accordance with the Agreement. In the event that notwithstanding the above, the successful Tenderer has or acquires the Intellectual Property Rights, the said Tenderer is deemed to have irrevocably assigned and transferred the same to Jet Airways free from any obligations on the part of Jet Airways to pay any fees. Further and if required by Jet Airways and at the cost of Jet Airways, the successful Tenderer shall execute and deliver to Jet Airways all relevant documents or assignments and transfer in respect of the Intellectual Property Rights and the documents will be in such form as may be required by Jet Airways in this regard. Further if any such Intellectual Property Rights cannot be assigned to Jet Airways and cannot be waived, the Tenderer hereby grants to Jet Airways an exclusive, perpetual, worldwide and royalty-free license to use, apply and otherwise exploit the Intellectual Property Rights and to extend sub-license (through any number of tiers or sub-license) in and to the same. This clause is without prejudice to and does not limit the extent of the tenderer's obligations herein provided that nothing in the above clause or this clause is intended to confer on Jet Airways any intellectual property rights which belong to or are vested in (i) the successful Tenderer prior to the commencement of the Agreement, any such rights created independent of the provision of services under the Agreement including all software, tools, processes, utilities and methodologies belonging to the said Tenderer and used in the provision of the Agreement, even if such intellectual property or any part thereof is incorporated into or forming part of the material developed for Jet Airways, (ii) any alterations, modifications, enhancements or customisation made to any of the above in the item(s) in the course of provision of the services hereunder and (iii) any third party software as set forth in any license extended by any such Tenderer. The successful Tenderer further agrees not to: (i) make claims or assist any third party in any claim to the Intellectual Property Rights; (ii) do or permit any act to be done which is likely to prejudice any rights of Jet Airways in and to the Intellectual Property Rights; and (iii) do or permit to be done any act or thing which is likely to jeopardize or invalidate any rights of Jet Airways in and to the Intellectual Property Rights.

24.3 The successful Tenderer fully covenants to Jet Airways that the item(s) have not been and will not be produced in infringement of any intellectual property right including patent, trade mark or copyright and the successful Tenderer shall indemnify and hold Jet Airways, its servants and agents free and harmless from any

prejudice, damages and expenses, including legal expenses incurred as a result of claims or legal proceedings brought against Jet Airways, its servants or agents in connection with the foregoing.

24.4 If any legal proceeding is instituted for an alleged infringement of intellectual property rights, Jet Airways reserves the right to cancel immediately all items yet to be accepted by Jet Airways and/or to purchase all such items from elsewhere without prejudice to all or any of Jet Airways' rights in the Agreement.

25 EXCLUSIVITY OF ITEMS

25.1 The successful Tenderer will not dispose any item(s) which carries the Jet Airways logo, logo-type, name or any other registered or unregistered trademark of Jet Airways which is exclusively designed/produced for Jet Airways, to a third party through sale, gift or any other means.

26 PLACEMENT OF VENDOR'S/MANUFACTURER'S NAME, BRAND NAME AND LOGO

26.1 Unless instructed or mutually agreed upon in writing, the successful Tenderer will in no way display his company's name, logo, brand name or any other representation on the item(s).

27 PROVISION FOR BACK-UP STOCK

27.1 To ensure a continuous supply of the items to Jet Airways, the successful Tenderer will be required to hold at least one (1) month's stock at any given point in time in its warehouse to meet Jet Airways' urgent requirement. This one month's stock is part of the estimated annual quantity and it is not in addition to the estimated annual quantity. Jet Airways, however, will not be responsible for either the expenses arising out of the provision and maintenance of such warehousing facilities or the security of goods contained therein. Jet Airways will upon expiry or termination of this Agreement undertake to accept the balance of these stocks, if any, provided that there has been no breach of any of the terms of the Agreement and that such balance stocks are not in excess of the one (1) month's quantity.

27.2 If the successful Tenderer fails to hold one (1) months stock in his premises at any given point in time, Jet Airways reserves the right to purchase the equivalent quantity of stock from another vendor to build up the required stock. The cost of such purchases and the expenses incurred will be debited to the successful Tenderer's account or paid by the said Tenderer to Jet Airways, at the option of JET AIRWAYS (INDIA) LIMITED.

27.3 The purchase to build up this stock shall be made as and when required to maintain one (1) month's stock.

28 TERMS OF PAYMENT

28.1 Jet Airways will pay the successful Tenderer within 45 days of receipt of the successful tenderer's invoice or upon receipt of the items by Jet Airways whichever is later.

29 INDEMNITY

29.1 The successful Tenderer hereby agrees to indemnify and hold harmless Jet Airways, its agents and servants from and against all liabilities, claims, damages, losses, costs and expenses (including but not limited to those in respect of death or injury to any person or loss of or damage to property) arising out of or in any way connected with or use of the item(s) supplied by the successful Tenderer.

30 REGULATORY COMPLIANCE

30.1 The successful Tenderer shall ensure compliance of all applicable laws, rules and regulations in supply of materials to Jet Airways and shall indemnify Jet Airways from any breaches committed by the successful Tenderer.

31 GIFTS, INDUCEMENT AND REWARDS

31.1 The tenderers should refrain from offering gifts and rewards in any form or manner to any Jet Airways employee in relation to the obtaining or execution of any Agreement with Jet Airways, whether or not

the like acts are performed by the tenderer(s) or persons acting on its behalf with or without the knowledge of the tenderer(s).

31.2 Jet Airways shall terminate the Agreement and debar the tenderer(s) for any appropriate period of time if it is proven that the tenderer(s) has/have offered and/or given gifts and rewards in obtaining or in execution of any Agreement.

32 DISPUTE RESOLUTION

32.1 Any dispute, controversy or difference between the parties shall be first resolved through mutual negotiation.

33 GOVERNING LAW AND JURISDICTION

33.1 The Agreement shall be governed by and interpreted in accordance with the laws of India, and the parties hereto hereby submit to the non-exclusive jurisdiction of the Courts of Mumbai.

34 ENFORCEABILITY

34.1 Neither party will be liable for any default or delay in the performance of its obligations under the Agreement:

(a) if and to the extent the default or delay is caused, directly or indirectly, by fire, flood, elements of nature, acts of God, health epidemics declared by the World Health Organisation, acts of war, terrorism or civil unrest, industrial action in any form (except industrial action by employees of either Party) in the country in which such obligations are being performed or any other similar events beyond the reasonable control of the party (“**Force Majeure Event**”); and

(b) Provided the party affected by the Force Majeure Event is without fault and the default or delay could not have been prevented by reasonable precautions.

In such event, the party affected by the Force Majeure Event is excused from further performance for as long as such circumstances prevail.

34.2 If any one or more of the foregoing conditions shall to any extent be invalid or unenforceable, the other conditions shall remain in full force and effect.

34.3 A person who is not a party to the agreement has no right to enforce or enjoy the benefit of the Agreement.