6 October, 2021

To,

The Chairperson,
Airports Economic Regulatory Authority of India (**AERA**)
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi – 110003

Kind Attention: Shri. B.S. Bhullar, I.A.S

Sub: In the matter of determination of aeronautical tariffs in respect of Chennai International Airport for Third Control Period (1 April, 2021 to 31 March, 2026)

Ref: 1. AERA Consultation Paper No. 16/2021-22 dated 7 September, 2021; and
2. AERA stakeholder consultation (virtual) meeting dated 21 September, 2021.

Dear Sir,

We, InterGlobe Aviation Limited (**IndiGo**), write in response to the Consultation paper No. 16/2021-22 dated 7 September, 2021 issued by the Airports Economic Regulatory Authority of India (**AERA**) in the matter of determination of aeronautical tariffs of Chennai International Airport (**Chennai Airport**) for the Third Control Period (1 April, 2021 to 31 March, 2026) ('**Consultation Paper**').

At the outset, IndiGo would like to express our sincere gratitude to AERA for inviting stakeholder comments on the Consultation Paper, and further acknowledging the impact of COVID-19 on the aviation sector.

The Consultation Paper, inter alia, propose an increase/hike in the aeronautical tariff at Chennai Airport as mentioned under **Annex – A**. In this regard, IndiGo humbly requests AERA to not implement any increase in the aeronautical tariff in the Third Control Period and defer any increase in the same to subsequent control period, given the adverse financial impact of COVID-19 on airlines.

Without prejudice to the above, and as desired by AERA, please find attached IndiGo's recommendations/ comments on the Consultation Paper, under **Annex – B**.

INTERGLOBE AVIATION LTD. (INDIGO)

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We hope that your good self will positively consider such recommendations/ comments as it will help in achieving the affordability and sustainability of the airline, which is also outlined as a key objective in the National Civil Aviation Policy, 2016.

Thanking you,

Yours sincerely,

For and on behalf of **InterGlobe Aviation Limited**

RAHUL KUMAR
ASSOCIATE GENERAL COUNSEL

INTERGLOBE AVIATION LTD. (INDIGO)

Copy to:

Director (P&S Tariff), Airports Economic Regulatory Authority of India (**AERA**)

Annex – A
Increase in Aeronautical Tariff

Landing Charges	**FY22**	**FY23**	**FY24**	**FY25**	**FY26**
Dom	1625	4713	6748	7914	9281
Increase %	0%	190%	43%	17%	17%
International	3125	9063	12977	15219	17848
Increase %	0%	190%	43%	17%	17%
Parking Charges (Upto two hours after free hours)					
Dom/International	1.2	3.5	5	5.8	6.9
Increase %	0%	190%	43%	17%	17%
Parking Charges (Beyond first four hours)					
Dom/International	2.3	6.7	9.6	11.2	13.1
Increase %	0%	190%	43%	17%	17%
User Development Fee					
Dom	69	190	270	350	400
Increase %	0%	176%	43%	30%	15%
International	69	275	400	540	600
Increase %	0%	300%	45%	35%	10%

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Annex – B
Comments on the Consultation Paper (CP)

S. No.	Para	Particulars	Comments/Submission
1.	2.1.8 – 2.1.9	Revenue from Air Navigation Services and Cargo services	IndiGo submits that as per section 2 of Airport Economic Regulatory Authority of India Act, 2008 (**AERA Act**), under sub-section (a), "*aeronautical services means any services provided-* *(i)For navigation, surveillance and supportive communication thereto for air traffic management.....* *(v) for the cargo facility at an airport..*" IndiGo submits that considering the above provisions of the AERA Act, revenue from Air Navigation Services, Cargo services (100% revenue accruing to AAICLAS) should form part of aeronautical revenues and accordingly Authority should take into account of the corresponding revenue and revise the tariff card.
2.	3.11.3 - 3.12	True Up of Second Control Period	IndiGo submits that as per Table 58 of the Consultation Paper, it appears that on true up of the Second Control Period, AAI has made an over recovery of INR 472.90 Cr. In view of the above, IndiGo submits that AERA and AAI should undertake appropriate measures that to ensure that there are no/minimal case of over recovery, which will assist in lowering of burden of tariff on airlines/passengers. While IndiGo appreciates that independent studies have been conducted by AERA on Operating Expenditure/O&M expenses, IndiGo submits that such studies should be undertaken prior to commencement of each 'Control Period' to minimise any large variations in projections and to ensure suitable benchmarking of costs.
3.	4	Traffic	IndiGo requests AERA to conduct an independent study for traffic assessment, in accordance with the AERA Act. IndiGo further requests AERA to consider gradual increase in traffic - passenger and ATM along with

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			gradual relaxation in operational capacity (domestic) allowed by the Ministry of Civil Aviation i.e. 85%.
4.	5	Regulatory Asset Base (RAB)	IndiGo submits that AERA has observed AAI's historical trend in postponing the proposed capex to a subsequent ' Control Period' and has rightly held that the passenger must not bear the burden in case of a delay in capitalisation due to the airport operator. In view of the above, and similar to proposal under para 5.2.3 of the CP for Third Control Period, IndiGo requests AERA to impose the penalty of 1% or higher, as deemed fit, on the total project cost from the ARR for all the delays in capex by AAI till date. This approach is in line with the decision of Hon'ble TDSAT judgement dated 16 December, 2020 applicable for Bangalore International Airport Limited (BIAL). IndiGo appreciates that considering the reduced traffic owing to COVID-19, AERA has rationalised the capital expenditure and excluded certain proposed additions by AAI to RAB. However, AERA and AAI must ensure that non-essential capital expenditure should be put on hold or deferred, and only such capital expenditure deemed critical from a safety or security compliance perspective may be undertaken by AAI. In particular, AERA may review the cost of New Integrated Terminal Building (NITB) Part – I proposed to be capitalised at Rs. 92,287 per sq. mtrs. (Refer Table 72 of the CP). IndiGo submits that as per Normative Order No. 07/2016-17 *"In the matter of normative approach to building blocks in economic regulation of major airports – capital costs reg."* dated 13.06.2016 (Normative Order), the ceiling cost per sq. mtrs. for terminal building is stated as INR 65,000. IndiGo would also like to highlight that the cost per square meter of the terminal building in the case of

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			Vishakhapatnam Airport is INR 58,546.60 per sq. mt., which can be considered as a benchmark costs. Accordingly, IndiGo submits that any cost to be allocated for capital expenditures should be within the normative norms prescribed by the Normative Order. Further, respect of Residential Colony, AERA may kindly note that 'Residential Quarters' in the case of Patna Airport were approved at a total cost of Rs 32.56 Crore. Accordingly, AERA is requested to review the proposed cost of Rs. 370.89 Crores for building the new 'Residential Colony' at Chennai Airport. Further, IndiGo requests AERA to conduct an independent study for allocation of assets and allowable capital expenditure in the Third Control Period in accordance with AERA Act, 2008. It may be pertinent to note that AERA has itself recommended the need for such study for allowable capital expenditure as mentioned in para 5.2.26 of the CP.
5.	5.2.48	Depreciation	While IndiGo acknowledges the correct depreciation rate applied by AERA in relation to Computer Software, being in accordance with AERA Order No. 35/2017-18 reg 'Useful Life of Airport Assets', IndiGo submits that AERA should consider useful life of Building including Terminal Building as sixty (60) years (as envisaged in AERA Order No. 35/2017-18 read with Schedule II of Companies Act 2013, as applicable), and revise the amount of depreciation accordingly. It is pertinent to note that useful life of assets at various international airports like London Heathrow, Sydney airport and Amsterdam airport indicated that terminal buildings have useful life of as long as sixty (60) years and aprons have it for as long as ninety-nine (99) years. IndiGo submits that the useful life of terminal building for Kannur and Cochin airports have been considered sixty (60) years by AERA. AERA should prescribe sixty (60) years for the 'Building' including 'Terminal Building

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			as' is practiced by some of the developed aviation ecosystem.
6.	6	Fair Rate of Return (FRoR)	While IndiGo appreciates that AERA has drawn references to independent studies for FRoR conducted in case of DIAL and MIAL, independent study for FRoR should be done in case of Chennai Airport. IndiGo submits that fixed/ assured return favours the airport operators, and creates an imbalance against the airline, which are already suffering from huge losses and bear the adverse financial impact through higher tariffs. Further, due to such fixed / assured returns, service provider like AAI has no incentive to look for the productivity improvement or ways of increasing efficiencies or take steps to drastically reduce costs as they are fully covered for all the costs plus their returns. Such kind of scenario may result in inefficiencies and higher costs, which are ultimately borne by the airlines. In view of the above, AERA is requested to immediately review WACC/FRoR by capping the returns.
7.	8	Operating & Maintenance Expenses	While IndiGo appreciates that AERA has undertaken an independent study for Operating Expenditure/ Operations & Maintenance expenses for the Second Control Period, AERA may undertake similar independent study for the Third Control Period. Without prejudice to the above: 1. AERA may advise AAI to rationalize/re-negotiate all the cost/expenditure items or heads, as deemed fit. Further, no escalations should be permitted under these items or heads. 2. Expenses on account of CSR may be excluded. This will be in line with the similar treatment to CSR expenditure, given to CIAL at Cochin International Airport.

8.	9	Non-Aeronautical Revenue	In reference to para 9.2.3 of the CP, IndiGo wishes to submit that a minimal increase of non-aeronautical revenue (i.e. 4.6%) being less than inflation rate requires a detailed scrutiny by way of an independent study by AERA. In our view, such an independent should be done in the Third Control Period itself and not kept pending till Fourth Control Period of Chennai Airport. Without prejudice to the above, IndiGo submits that: 1. Increase in non-aeronautical revenue is a function of passenger traffic growth, inflationary increase and real increase/escalations in contract rates. AERA to ensure no adjustments are proposed to non-aeronautical revenue which is not dependent on traffic but are derived from agreements with concessionaires. AERA should also review; 2. 'Royalty' is in the nature of market access fee, charged by the services providers under various headings. These charges are passed on to the airlines by the service providers. It may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. In view of the above, we urge AERA to abolish such royalty which may be included in any of the cost items.
9.	2.2.	Methodology for Tariff Determination – Hybrid Till Vs. Single Till	IndiGo submits that in the Consultation Paper, it is stated that the AERA shall determine tariffs for using the 30% Hybrid Till model including for true ups as applicable. It is to be noted that IndiGo (including through Federation of Indian Airlines) has from time to time, advocated the application of a Single Till model across the airports in India. IndiGo submits that AERA should adopt Single Till basis across all

			Control Periods, including by way of true up, in view of the following legal framework: In the Single Till Order, AERA has strongly made a case in favor of the determination of tariff on the basis of 'Single Till'. It is noteworthy that the AERA has, inter alia, in its Single Till Order: (i) Comprehensively evaluated the economic model and realities of the airport – both capital and revenue elements. (ii) Considered the legislative intent behind Section 13(1)(a)(v) of the AERA Act. (iii) Concluded that the 'Single Till' is the most appropriate for the economic regulation of major airports in India. (iv) The criteria for determining tariff after considering standards followed by several international airports (United Kingdom, Australia, Ireland and South Africa) and prescribed by ICAO. Further, AERA in its AERA Guidelines (Clause 4.3) has followed the 'Single Till' approach while laying down the procedure for determination of ARR for Regulated Services. The fundamental reasoning behind 'Single Till' approach is that if the consumers/passengers are offered cheaper air-fares on account of lower airport charges, the volume of passengers is bound to increase leading to more foot-fall and probability of higher non-aeronautical revenue. The benefit of such non aeronautical revenue should be passed on to consumers/passengers and that can be assured only by way of lower aeronautical charges. It is a productive chain reaction which needs to be considered by the AERA.
10.	13 & 14	Aggregate Revenue Requirement/Aeronautical Revenue	(i) <u>Overall Tariff/ARR</u> AERA is requested to review the suggestions/comments on the regulatory building blocks as mentioned under Annex –

			B, which is likely to reduce the ARR of AAI. This will further ensure the lowering of tariff including UDF, which will be beneficial to passengers and airlines. (ii) <u>Collection Charges</u> With regards to the entitlement of the collection charge of Rs. 5 per departing passenger, IndiGo submits that instead of the same being conditional upon all dues, interest of dues, and other charges being paid within the due date, the entitlement should be against AAI having received the undisputed invoiced UDF amount with the applicable due date. IndiGo further submits that AAI, Chennai should clear any pending payment of Collection Charges, as due to the airlines. (iii) <u>Shrinkage in Control Period</u> IndiGo submits that the Hon'ble TDSAT Order dated 16 December, 2020 for BIAL stated as follows: *'100...However, there is substance in this grievance and AERA will do well to ensure that if delay is caused by the Airport operator, its consequences should not fall upon the users. Tariff orders should be prepared well in time so that the burden of recovery is spread over the entire period for which the order is passed...'* In view of the above, AERA is requested to ensure that airlines/passengers are not burdened in view of the apparent shrinkage in the period of recovery of the aeronautical tariff from passengers/airlines, as the AERA Tariff Order for AAI, Chennai Third Control Period will now be issued after the commencement of the Control Period i.e. 1 April, 2021. (iv) <u>No compensation to AAI – Exemption of Landing Charges for aircraft less than 80 seats</u> (Para 14.2.8 to 14.2.11 of the CP)

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			IndiGo submits that the issue raised by M/s. Spice Jet relating to an apparent excess billing of landing charges by AAI (amounting to Rs. 29.50 Cr.), pertaining to aircraft with a maximum certified capacity of less than 80 seats, during the First Control Period, is a bilateral issue between M/s. Spice Jet and AAI, and as such should be dealt between the said parties. In view of the above, IndiGo submits that AERA should not allow any compensation to be paid to AAI, including by way of adjustment in ARR (in the Third Control Period), for rectifying/reversing any excess billing by AAI in the First Control Period. AERA will appreciate that any such adjustment to ARR leading to an increase in tariffs, will unfairly burden the airlines and passengers at Chennai Airport during the Third Control Period.