

## Request for Proposal (RFP)

For

Study on Developing Regional Dispute Settlement  
Framework/Procedure and Mechanism for Advancing  
Cross Border Electricity Trade in South Asian Region



**South Asia Regional Initiative for Energy Integration  
(SARI/EI)**

[www.sari-energy.org](http://www.sari-energy.org)

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## REQUEST FOR PROPOSAL (RFP)

**RFP No.:** SARI/EI-2017-12

**Issue Date:** 25<sup>th</sup> July, 2017

**Closing date:** 17<sup>th</sup> August, 2017

**Assignment:** Request for proposal for the study on developing Regional Dispute Settlement Framework/Procedure and Mechanism for Advancing Cross Border Electricity Trade in South Asian Region

**Implementing Agency:** Integrated Research and Action for Development (IRADe)

**Funding Agency:** United States Agency for International Development (USAID)

IRADe is inviting prospective organizations through this **Request for Proposal (RFP) to submit their proposal for the study on Developing Regional Dispute Settlement Framework/Procedure and Mechanism for Advancing Cross Border Electricity Trade in South Asian Region.** This is an activity funded under the United States Agency for International Development (USAID) for South Asian Regional Initiative for Energy Integration through IRADe.

The following documents include: instructions for bidders; the Terms of Reference for the assignment; and information on proposal/bid particulars, including technical and financial selection criteria, and the copy of the draft contract.

**Proposals/Bids are due on 17<sup>th</sup> Aug, 2017 by 1400 hrs.** Please send your proposal in hard copy to the following address:

**The Program Administrator,  
SARI/EI Project Secretariat  
B-44, Shivalik Road, Malviya Nagar, New Delhi-110017.**

## **REQUEST FOR PROPOSALS - INSTRUCTIONS FOR BIDDERS**

As this is a USAID-funded Program, the RFP follows USAID Procurement Regulations and Laws. All bidder details will be kept confidential.

Attached are the following documents to assist in the preparation and submission of a proposal:

Annexure I:	Scope of Work (SoW)
Annexure II:	Conditions of Proposal
Annexure III:	Proposal Delivery Instructions
Annexure IV:	Payment Schedule
Annexure V:	Proposal Submission Declaration
Annexure VI:	Technical Format for Organizational Experience
Annexure VII:	Technical Format for Personnel Details
Annexure VIII:	Financial Format for Cost of Assignment
Annexure IX:	Draft Contract

Any proposal received by IRADe will be on the basis that all terms and conditions in this Proposal document and the briefing guidelines are understood and accepted by the bidder.

## ANNEXURE I: TOR/ SCOPE OF WORK

### **Study on Developing Regional Dispute Settlement Framework/Procedure and Mechanism for Advancing Cross Border Electricity Trade in South Asian Region**

#### **1. BACKGROUND OF SARI/EI:**

South Asian Regional Initiative for Energy Integration (SARI/E) is the long-standing program of USAID started in the year 2000. The program covers eight countries of the region i.e. Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka. The program has consistently strived for enhancing energy security of South Asian nations. The SARI/E program of USAID has entered its fourth and final phase (2012-2017), South Asia Regional Initiative/Energy Integration (SARI/EI), which aims to advance regional energy integration as well as increase well as increase cross border electricity trade in the region. The overall objective of SARI/EI is to create the right “enabling” environment to support the establishment of a South Asian electricity market, and gain consensus and support from the key decision makers and stakeholders. SARI/EI program focuses on three developmental outcomes i.e. Coordination of Policy, Legal, and Regulatory Framework; Advancement of Transmission Systems Interconnection; and establishment of South Asia Regional Electricity Market. To achieve these outcomes, three dedicated Task Forces (TFs) has been constituted under the program represented by government nominated members from South Asian Country governments (Energy/Power Ministries), Electricity Regulatory Commissions, Planning Authorities, National Power Transmission utilities, Power Market Institutions etc. The program has an oversight body in the form of high level Project steering committee with representation from senior officers from each country. Integrated Research and Action for Development (IRADe) is the implementing partner for the fourth phase (2012-2017) of the SARI/EI program through a cooperative agreement with USAID.

#### **2. BRIEF ABOUT THE TF-1 STUDY REPORT:**

In order to address various policy, regulatory and legal issues with respect to CBET, SARI/EI commissioned a demand driven study on “Review of Electricity Laws, Regulations, Policies (El&R&P) and legal structure of South Asia countries (SAC)” under Task force 1 to identify areas that can hinder CBET and recommend changes/amendments therein to promote it. The study recognized that the Dispute resolution procedures for the settlement of disputes through conciliation and arbitration, create conditions favourable for fostering greater investment by investors of one Member State in the territory of another Member State. The Study recommended the need for a transparent, fair, commonly accepted legal framework and clearly defined regional dispute resolution procedures as an absolute necessity to promote CBET in the region.

### 3. SCOPE OF WORK:

- a. To analyse and assess the existing Dispute Resolution/Settlement Mechanisms/Procedure/Regulations in South Asia including Bilateral-Multilateral agreements and legal arrangements both for domestic power trade transactions as well as for the cross border power trade transactions. This should include the provisions of existing cross border power purchase agreements, arbitration procedures, alternative dispute settlement mechanisms etc. in power or energy sector of each SA countries and with a particular emphasis on how the disputes are being resolved from the point of view for Cross Border Electricity Trade in South Asian Region and its associated existing regional dispute Resolution/Settlement mechanisms/Procedure/Regulations/Bilateral-Multilateral agreements and legal arrangements if any.
- b. Analyze the need for developing appropriate Regional Dispute Settlement Framework/Procedure and Mechanism as well as suggest associated institutional arrangements for advancing Cross Border Electricity Trade in South Asian Region.
- c. Review and analyse the international experiences and best practices in dispute resolution mechanisms in Europe, Southern Africa (SAAP), Western Africa (WAPP), US (PJM and other markets), and Central America etc. and document their learnings in developing an appropriate Regional Dispute Settlement Framework/Procedure and Mechanism and the associated institutional arrangements including procedures, regulations and legal arrangements for dispute settlement for Cross Border Electricity Trade.
- d. Analyze the various existing forums and institutional mechanisms (if any) in South Asian Region vis-à-vis their role, responsibilities, structure, and function with respect to the dispute settlement mechanism. This includes but is not limited to SAARC, SAARC Council of Experts of energy regulators for electricity, SAARC Arbitration council, Appellate tribunal of each SA countries, BIMSTEC etc.
- e. Based on the above analysis, recommend an Appropriate Regional Dispute Settlement Framework along with the detailed procedure and mechanism, and associated institutional arrangements from the perspective of resolution of disputes related to Cross Border Electricity Trade in South Asia.
- f. Provide technical support and present the key findings on Regional Dispute Settlement Framework including the procedure and mechanism in SA Region in the “Regional Workshop on Dispute Settlement Mechanism for CBET in SA Region” to be organized by SARI/EI secretariat to seek the views and suggestion of key stakeholders
- g. Based on the inputs and suggestion from the workshop finalize the report and develop a detailed Strategy and Road Map for implementation of Regional Dispute Settlement Framework.
- h. As the study paper should reflect the nuances, opinions and suggestions of the concerned parties/stakeholders with the objective of developing consensus towards addressing differences while building upon areas of unanimity, IRADe in consultation with the consultant and depending upon need may organize con-call with such stakeholders/parties of South

Asian countries to take their views during formulating the paper. Any logistic cost for organizing workshop/meeting outside India i.e. international travel/accommodation charges etc. will be borne under SARI/EI. However, any logistic cost for bilateral meetings within India will be borne by Consultant. SARI/EI secretariat based at IRADe will bear the logistic cost such as venue, international air travel, Hotel accommodation etc. for organizing the “Regional Workshop on Dispute Settlement Mechanism for CBET in SA Region” as mentioned in point f. However, the consultant will provide technical support in organizing the workshop.

#### **4. DELIVERABLES:**

- a. Inception report within 20 days from the date of issue of Letter of Intent/date of contract whichever is earlier.
- b. Interim report covering the Appropriate Regional Dispute Settlement Framework along with the detail Procedure and Mechanism and its associated institutional arrangements from the perspective of resolution of disputes with respect to Cross Border Electricity Trade in South Asian Region within 50 days from the date of issue of Letter of Intent/date of contract whichever is earlier.
- c. Draft report incorporating the key findings of the “Regional Workshop on Dispute Settlement Mechanism for CBET in SA Region “within 70 days from date of issue of Letter of Intent/date of contract whichever is earlier.
- d. Final report on Regional Dispute Settlement Framework/Procedure and Mechanism as per the scope of work within 120 days from date of issue of Letter of Intent/date of contract whichever is earlier.

#### **5. TIME LINE OF THE STUDY:**

Four months from the date of award.

## ANNEXURE II: CONDITIONS OF PROPOSAL/BID

### 1. PROPOSAL CONTENT

The proposal/bid must contain the following:

- a) A cover letter to the Proposal for the assignment
- b) A technical proposal
- c) A financial proposal

Technical Proposal and Financial Proposal should be submitted in separate envelopes indicating clearly in the envelopes “Technical Proposal” and “Financial Proposal.” Both the sealed envelopes must be sealed in separate envelope superscripting **RFP No. SARI/EI- 2017-12**

#### 1.1 Cover Letter format

Cover letter to the proposal should contain the following information:

- Name, title, telephone number, and e-mail address of the person authorized to represent the contract.
- Name, title, telephone number, and e-mail address of the person to be contacted regarding the content of the tender, if different from above.
- Declaration that the bidder commits to the terms described in their tender and assumes responsibility for any pre-contract costs incurred during the bid and negotiation phases.
- A signature of this letter by a duly authorized representative of the company.

#### 1.2 Technical Proposal form

The bidder shall structure the operational and technical part of its proposal as follows:

##### (a) Management/Organization Experience

This section should provide organization orientation to include the year and state/country of incorporation and a brief description of the bidder’s present activities. It should focus on services related to the Proposal.



This section should also describe the organizational unit(s) that will become responsible for the contract, and the general management approach towards a project of this kind. The bidder should comment on its experience in similar projects and identify the person(s) representing the Bidder in any future dealing with the procuring IRADe entity.

Further, in this section the bidder should explain the various projects that are being executed by the organization in the past three years. Please see **Annexure VI** for the format.

### **(b) Resource plan**

This should fully explain the bidder's resources in terms of personnel and facilities necessary for the performance of this requirement including key personnel identified. It should describe the bidder's current capabilities/facilities and any plans for their expansion. The bidder should submit the curriculum vitae of the key personnel who will work on this assignment in the format in **Annex VII**.

### **(c) Proposed methodology**

This section should demonstrate the bidder's responsiveness to the specification by identifying the specific components proposed, addressing the requirements, as specified, point by point; providing a detailed description of the essential performance characteristics; and demonstrating how the proposed methodology meets or exceeds the specifications. This would include making presentation of the methodology by the bidder.

The bidder may also include in their proposal any other activity that in their view may improve the execution of the project. The bidder may also propose any additional relevant deliverable that they are capable of delivering. If any additional amount is payable due to the above, the same may be separately mentioned in the Financial Proposal. However, the acceptance of the above shall be at the discretion of IRADe.

The technical part of the Proposal should not contain any pricing information whatsoever on the services offered. Financial proposal is to be submitted in a separate sealed envelope.

It is mandatory that the bidder's Proposal numbering system corresponds with the numbering system used in the body of this RFP. All references to descriptive material and brochures should be included in the appropriate response paragraph, though material/documents themselves may be provided as annexes to the RFP.

## **1.3 Financial Proposal**

The Financial Proposal should be submitted as per the attached format (Annexure VIII):

- The Lump sum fixed cost (quote) of the assignment

- Any amount of the nature of taxes, duty, levy, etc. should be mentioned separately and will be paid as per applicable rates as and when due.
- Confirmation of the payment schedule included (Annexure IV)

## 2. PROPOSAL ASSESSMENT

### 2.1 Proposal Assessment Process

Proposal must comply with the requirements of the Scope of Work (SoW). Compliance with the SoW will be determined solely by IRADe.

Failure to submit a proposal including the information required as per the RFP will factor into IRADe's assessment of the level of compliance with the Request for Proposal and may result in rejection of the proposal.

The bidder may be requested to attend a pre bid meeting at his own cost. Only such bidders who have expressed interest or are deemed as prospective bidders shall be invited to the meeting.

2.2 IRADe will evaluate the technical proposals various parameters, the most important ones being the following criteria:

- Organizational experience of the firm in the power sector related assignments in the area of dispute resolution and settlement, contract enforcement, handling of legal aspects of Power purchase agreements, handling arbitration cases including international and also working in south Asian region in Power Trade and Cross Border Electricity Trade. The firm with relevant legal background and experience will be preferred.
- Methodology/approach, Staffing Schedule, and time line; Qualification and experience of key personnel proposed particularly with relevant legal background and qualification to work in this assignment

2.3 The firms who secure minimum 70% marks in the technical assessment, the financial proposal of only such firms shall be opened.

2.4. The technical and financial score shall be evaluated as per the following formula to ascertain the ranking of the firm:

$$(0.70 \times \text{Technical Score} + \text{LP/FP} \times 0.30)$$

LP is the lowest quoted price from among the bidders

FP is the quoted price of the bidder whose bid is being evaluated.

2.5 IRADe reserves the right to:

- a) Accept or reject any proposal, and to annul the proposal process thereby rejecting all proposal, at any time prior to the award of contract
- b) Cancel or vary the Request for Proposal process.
- c) Reject any proposal that does not adhere to the structure and content requirements as outlined in this Request for Proposal.
- d) Accept proposals for the whole or part of the requirement/assignment
- e) Negotiate with the most favourable bidder. Request for any additional certifications or clarification.

2.6 IRADe shall not be bound by any oral advice given or information furnished, but shall be bound only by written advice or information.

2.7 The conduct of this Request for Proposal shall not be construed in any way as a legally-binding agreement between IRADe and another Party or the acceptance of any liability by IRADe.

2.8 A proposal will not be considered in a case where the bidder or a representative of the bidder gives or offers anything to an employee or agent of IRADe as an inducement or reward, which could in any way tend to influence the actions of that employee or agent.

### **3. ACCEPTANCE OF PROPOSALS**

3.1 IRADe is not bound or required to accept the lowest priced proposal or any proposal.

3.2 A proposal will not be deemed to be accepted unless and until such time as a formal contract is negotiated and executed by both IRADe and the successful bidder.

3.3 IRADe reserves the right to enter into negotiation with any other bidder if contract negotiations cannot be concluded with the preferred bidder.

### **4. LODGEMENT OF PROPOSALS**

4.1 It is the responsibility of the bidder to ensure that the proposal is received at IRADe by the closing date and time prescribed in this Request for Proposal. A proposal lodged after the closing date is a late proposal and may be excluded from consideration at IRADe's sole discretion.

4.2 IRADe will not consider or entertain any queries about a decision to assess or reject a late Proposal.

4.3 Proposals are to be in English and all pricing and costs are to be in Indian Rupees.

### **5. BIDDER COSTS**

5.1 Bidders are responsible at their own cost for:

a.) Making all arrangements and obtaining and considering all information relating to the Terms of Reference.

b) The preparation, delivery and lodgement of their proposals

c) Costs associated with any issues that may arise, including disputes, related to the proposal process

d) Cost associated with attending a pre bid meeting in case such a meeting is held.

## **6. CONFIDENTIALITY**

6.1 Bidders must keep any discussions or contact with IRADe in connection with the Invitation to proposal and any Contract negotiations, strictly confidential and shall not disclose such information to any third party.

## **7. REQUEST FOR INFORMATION**

7.1 Any prospective bidder may within a reasonable time before the closing date request information on any point of clarification in this Request for Proposal. The information requested shall be given in writing by IRADe as soon as practicable, and where in the opinion of IRADe the information could have an effect on other bidders, that information shall be given in writing to all known prospective bidders.

## **8. BIDDER ACCEPTANCE OF CONDITIONS**

8.1 A proposal lodged in response to this Request for Proposal does so with agreement to these Conditions of Proposal unless any departures from these Conditions are detailed in the proposal submission. IRADe reserves the right to reject or accept any departure from these Conditions of Proposal, and thereby determine that the proposal submission is non-conforming for that reason.

### ANNEXURE III: PROPOSAL DELIVERY INSTRUCTIONS

- 1. Closing Time:** 1400 hrs, 17<sup>th</sup> August, 2017
- 2. Contact Person:** Rohit Magotra
- 3. Proposal Validity Period:** 60 days
- 4. Mode of Submission:** Hard copy of proposal submitted by Hand Delivery/Registered Post
- 5. Delivery Address:** The Program Administrator,  
SARI/EI Project Secretariat  
B-44, Shivalik Road, Malviya Nagar,  
New Delhi-110017  
Tel:+91 11 26692714-16
- 6. Email address:** r.magotra@irade.org

#### Annexure IV: PAYMENT SCHEDULE

IRADe shall effect the payment to the bidder on successful completion and acceptance of deliverables to IRADe as per the following payment schedule:

S. No.	Completion of Deliverables as per Scope of Work (Annexure 1)	Due date of Submission of Deliverables / completion of activity. as per Scope of Work (Annexure 1)	Payment percentage
1	Completion of Deliverable No 4 (a) and acceptance of the same	Within 20 days from the date of issue of Letter of Intent (LOI)/date of contract whichever is earlier.	20%
2	Completion of Deliverable No 4 (b) and acceptance of the same	Within 50 days from the date of issue of Letter of Intent (LOI)/date of contract whichever is earlier.	30%
3	Completion of Deliverable No 4 (c) and acceptance of the same	Within 70 days from date of issue of Letter of Intent (LOI) /date of contract whichever is earlier.	20%
4.	Deliverable No 4 (d) Submission and Acceptance of the final report	Within 120 days from date of issue of Letter of Intent (LOI) /date of contract whichever is earlier.	30%
	Total		100%

## ANNEXURE V: PROPOSAL SUBMISSION DECLARATION

Dear Sir / Madam,

Having examined the Solicitation Documents, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide Professional Consulting services (profession/activity for Project/programme/office) for the sum as may be ascertained in accordance with the financial proposal attached herewith and made part of this Proposal.

We undertake, if our Proposal is accepted, to commence and complete delivery of all services specified in the contract within the time frame stipulated.

We agree to abide by this Proposal for a period of 60 days from the date fixed for opening of Proposals in the Invitation for Proposal, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

We understand that you are not bound to accept any Proposal you may receive.

Dated this day /month of year

**Signature**

(In the capacity of)

Duly authorised to sign Proposal for and on behalf of

**ANNEXURE VI: TECHNICAL FORMAT FOR ORGANIZATIONAL EXPERIENCE**

<b>S. No.</b>	<b>Name of the assignment</b>	<b>Client name</b>	<b>Duration</b>	<b>Value (INR)</b>	<b>Status: Ongoing/Completed</b>
1					
2					
3					
4					
5					
6					
7					
8					
9					
10.					



## ANNEXURE VII: TECHNICAL FORMAT FOR CURRICULUM VITAE

Please provide resume of individuals/expatriates/consultant details as per following format

- 1) Name of the Personnel
- 2) Nationality
- 3) Professional Area of expertise:
- 4) Academic Qualification (summarize college, university, specialized education etc. with degree and year of attainment)
- 5) Key qualification (training or other qualifications obtained pertinent to this project)
- 6) Details of experience in similar assignments:
- 7) Position held in the firm
- 8) Number of Years with the firm
- 9) Proposed position in team for this project
- 10) Experience Record (list positions with organizations and nature of duty).
- 11) Language proficiency

## ANNEXURE VIII: FINANCIAL PROPOSAL FORMAT

Dear Sir/Madam,

We hereby declare that the following costs outlined in the Terms of Reference for providing consultancy services. We further declare that these are FIRM (fixed) prices and shall remain unchanged for the entire period of consultancy/assignment.

<b>Item</b>	<b>Lump sum Fixed cost (INR)</b>	<b>Taxes/duties if any</b>	<b>Total Amount (INR)</b>
Scope of Work, Annexure 1			

We also confirm that the payment schedule as provided in the RFP is acceptable to us.

Signature:

Name:

Designation

Seal:

## ANNEXURE IX: DRAFT CONTRACT

This consultancy contract is made on this ---- day of ....., 2017 by and between:

Integrated Research and Action for Development, a fully autonomous advanced research institute a nongovernmental, not for profit organisation having its principal place of operation at C-80, Shivalik, Malviya Nagar, New Delhi – 110 017, India (hereinafter referred to as the “IRADe”);

and

(Name of the organisation) .....having its principal place of operation at..... (herein referred to as “Consultant”)

Here in after referred to as the ‘parties’.

### Whereas:

1. The Consultant having the requisite expertise, in relation to the tasks referred in Terms of Reference (TOR) as provided in **Annexure 1**, agrees to provide professional services and would work in accordance with IRADe quality assurance procedures.
2. The contract will be effective from the date of signing of the contract shall be completed by and will be executed with dates as mentioned in the key deliverables of **Annexure 1**, unless terminated earlier in accordance with the provisions of the contract
3. The activity is being funded by the United States Agency for International Development (USAID).

### 4. Consultancy cost

The all-inclusive lump sum consultancy cost for the assignment as per the scope of work shall be INR..... (Amount in words.....,) inclusive of all taxes/duties, service tax etc.)

### 5. Terms of payments

S. No.	Submission of Deliverables as per Scope of Work	Payment terms
1		

## 6. Time Schedule

The estimated time for completion of the activities is from the date of signing of this contract. The above time schedule is indicative and could be increased or decreased as may be required by IRADe.

7. At each stage of the work as desired by IRADe, the consultant would be required for interaction and attend review meetings/make presentations in IRADe/USAID at a time and place intimated by IRADe.
8. This contract will be governed by IRADe General Terms & Condition for Consultancy Contract as laid down in **Annexure 2**.
9. The bid submitted by the consultant and all the communication with respect to the **RFP No \_\_\_\_\_** between the two parties will be part of this contract.
10. All communication regarding this contract should be addressed to \_\_\_\_\_ who will manage this contract or the person designated by him.
11. In witness thereof, this contract is signed on \_\_\_\_\_

For and on behalf of **IRADe**

Signature:

Name:

Designation

Date:

For and on behalf of **Consultant**

Signature:

Name:

Designation:

Date:

## APPENDIX 1: GENERAL TERMS AND CONDITION CONSULTANT AGREEMENT

This contract consists of the following **THIRTEEN ARTICLES**:

ARTICLE I	:	Definitions and Interpretations
ARTICLE II	:	General Conditions of Agreement
ARTICLE III	:	Payment
ARTICLE IV	:	Duration of Contract
ARTICLE V	:	Taxes/Duties/Service Tax
ARTICLE VI	:	Penalty for Late Submission of Deliverables
ARTICLE VII	:	Termination
ARTICLE VIII	:	Subcontracting
ARTICLE IX	:	Indemnification
ARTICLE X	:	Law and Jurisdiction
ARTICLE XI	:	Disputes
ARTICLE XII	:	Funders Terms and Conditions
ARTICLE XIII	:	Miscellaneous

### ARTICLE I: DEFINITIONS AND INTERPRETATIONS

#### DEFINITIONS

The following words and expressions shall have the meanings assigned to them except where the context otherwise requires:

**AGREEMENT** means the Agreement between IRADe and \_\_\_\_\_;

**CONSULTANT** means the party named in the Agreement.

**SERVICES** mean the professional services to be performed by the consultant in accordance with the Terms of Reference of the assignment.

*Force Majeure* shall mean war, civil commotion, fire, flood, riots, all natural calamities, action by any government or any event beyond the reasonable control of the party affected.

## ARTICLE II: GENERAL CONDITIONS OF AGREEMENT

1. Both parties hereby declare that they are fully empowered, authorised and competent to execute this agreement.
2. The consultant shall ensure that the services rendered are strictly in accordance with the standard prescribed in terms of the agreement entered into between IRADe and the consultant.
3. The consultant shall regularly apprise IRADe with respect to the progress of the services rendered and shall carry out such modifications as may be instructed by IRADe from time to time.
4. The consultant shall not be entitled to substitute personnel unless IRADe gives written consent to such substitution. IRADe shall not be liable to meet any costs arising from the replacement of such personnel.
5. Notwithstanding anything contained in this agreement, the relationship of IRADe and the consultant shall not be construed, as that of employer and employee and staff of the consultant shall at no time be considered as employee/s of IRADe.
6. The consultant shall be responsible for all acts of omission and commission of persons engaged by the Consultant whether or not in the course of performing the services and for the health safety and security of such persons and their property.
7. The terms/conditions/scope of this contract shall not be varied/altered/modified until and unless mutually agreed by and between IRADe and the consultant and such modification shall be reduced to writing in the form of an amended contract.
8. IRADe shall retain copyright of all documents prepared by the Consultant in relation to the services rendered.
9. The Consultant shall not engage in any activity which might conflict with the interest of IRADe under this agreement or the agreement of IRADe with Client.
10. The consultant shall not during or after the termination of the contract disclose to any third party any information arising from the contract, other than in the proper performance of their duties, except with the prior written permission of IRADe. The Consultant will be signing a Non-Disclosure Agreement (NDA) with IRADe in this regard.

11. The consultant shall exercise reasonable skill, care and diligence in the performance of his obligations under the agreement and shall act in accordance with the services as provided in Terms of Reference
12. The consultant shall not without the written consent of IRADe, in any way assign or transfer his/ her obligations under this agreement or any part thereof to anyone, failing which the contract may be rescinded by IRADe.
13. The consultant shall keep IRADe indemnified in respect of any loss or damage or claim howsoever arising out of negligence on the part of the consultant in relation to the performance or otherwise of the services to be provided under this contract.

### **ARTICLE III: PAYMENT**

1. IRADe shall pay to the consultant a fixed price for the services to be provided as per this agreement.
2. Payment will be authorized after completion, delivery, and acceptance by IRADe representative of all services, and scheduled deliverables stipulated herein. Payment will be made as soon thereafter as the regular course of business will allow based on the submission of the correct invoice.
3. The Consultant shall be paid according to the payment schedule as per this agreement.

### **ARTICLE IV: DURATION OF THE CONTRACT**

1. The agreement is deemed to commence on the date specified earlier. Any delay in the completion of the obligation on the part of the consultant shall entitle IRADe to terminate the agreement and deduct the amount of the consultant proportionate to the work remaining incomplete. The decision of IRADe in quantifying the amount of such deduction shall be final and binding.
2. Notwithstanding the above, the period of due performance of the obligation of the consultant may be extended by IRADe without deduction of any amount for the Consultant, if the delay is caused due to the lack of finances, delay in instructions, act of God or *Force Majeure*.

### **ARTICLE V: TAXES/DUTIES/SERVICE TAX**

1. Consultant is responsible to pay all taxes due to the local tax authority as a result of Services provided to IRADe.

## ARTICLE VI: PENALTY FOR LATE SUBMISSION OF DELIVERABLES

Deliverables must be submitted to IRADe his/her designee on the date agreed upon. Payments are subject to satisfactory submission of all deliverables. For non-excusable delayed deliverables without prior written agreement of IRADe representative, payment of any outstanding invoices will be withheld until satisfactory submission. Should the Consultant fail to submit deliverables as required under this agreement for more than 5 (five) business days past the deadline, IRADe shall withhold all payments associated with the outstanding deliverables and may exercise the termination clause as outlined in Article VII. TERMINATION of this contract

## ARTICLE VII: TERMINATION

IRADe shall have the option to terminate the contract in the event of termination of the **(Cooperative Agreement by the USAID)** for whatever reasons. In the event of such termination, the Consultant shall be entitled to receive all supporting funds as described herein for those expenditures justifiably incurred to the time of termination of this purchase order, including commitments which cannot be reversed or mitigated, to the extent that said funds are available to IRADe under its **Cooperative Agreement**.

IRADe shall have the option to terminate this agreement in the event Consultant materially breaches any of the terms and conditions set forth herein. Consultant shall receive advance written notification of termination, a description of the nature of the breach and, if applicable, the opportunity to remedy or cure any such breach of terms as described below in **Article XI. DISPUTES**. In the event of termination, such right to terminate shall be IRADe sole remedy at law and equity. IRADe may require reimbursement of any expenses improperly incurred prior to termination in a sum not to exceed the total contracted amount.

The Consultant's entitlement to notice as set out above is without prejudice to IRADe's right to dismiss the Consultant summarily in the event of gross or serious misconduct by the Consultant. Examples of such misconduct include (but are not limited to) the commission by the Consultant of any fraudulent act or act of dishonesty, material breach by the Consultant of any of the terms of the purchase order, or conduct tending to bring the IRADe into disrepute.

Either party shall have the option to terminate the contract if either party fails to perform its obligations under this, and fails to cure any such material breach in performance within fifteen (15) days after written notification by the other party thereof.



In the event of termination of this contract the consultant shall, upon receipt of notification of termination, immediately stop work, minimize additional costs and shall not incur any further cost during the termination of performance hereunder.

#### **ARTICLE VIII: SUBCONTRACTING**

Consultant should not subcontract any part of its activities described herein without the prior written consent of IRADe.

#### **ARTICLE IX: INDEMNIFICATION**

Each party shall mutually indemnify and hold one another harmless against losses, claims, liabilities, or damages (including costs, reasonable attorney's fees, and amounts actually paid in reasonable settlement thereof) that are sustained as a result of the negligent acts, errors, or omissions of the other party, its employees and agents, or for the improper performance or non-performance relating to activities hereunder. Indemnification under this paragraph shall be limited to the maximum amount payable under this agreement, except for losses, claims, liabilities or damages sustained in connection with an actual or alleged violation of law applicable to this agreement.

#### **ARTICLE X: LAW AND JURISDICTION**

1. This Agreement shall be governed by and construed in accordance with Indian Law.
2. This Agreement shall be subject to the jurisdiction of courts at New Delhi only.

#### **ARTICLE XI: DISPUTES**

1. All disputes and/or differences and other questions in any way arising out of or relating to this Agreement, which cannot be settled amicably shall be referred to an arbitrator who shall be appointed by IRADe. The decision of the arbitrator shall be final and binding on both the parties.
2. It shall be incumbent on the party invoking arbitration to specify the dispute and/ or differences to be referred to arbitration under this clause together with the amount or amounts claimed in respect of each dispute.
3. The consultant shall continue to perform his duties with diligence notwithstanding the fact that a dispute has been referred to arbitration or any dispute or difference has arisen.

4. The venue of arbitration shall be New Delhi.
5. The arbitration shall be governed by the provisions of the “Arbitration and Conciliation Act 1996” as amended up to date or any statutory modification or re-enactment thereof for the time being in force or any rules made there under.

## ARTICLE XII: FUNDERS TERMS AND CONDITIONS

1. **Books, Records, and Accounts:** The consultant shall maintain books, records and accounts sufficient to demonstrate the incurrence, expenditure, and allowability of all costs charged to the agreement. USAID, or any of their duly authorized representatives shall have access to such books, records and accounts as are directly pertinent to the activities funded by the agreement. Consultant agrees that IRADe or USAID, shall have access to any books, documents, papers, and records of the Consultant that are directly pertinent to the services provided hereunder, for the purpose of making audits, examinations, excerpts, and transcriptions. These records shall be maintained for 3 (three) years unless written approval is requested by the c consultant and approval by IRADe is given in writing.
2. **Terrorist Financing:** U.S. Executive Orders and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the consultant to ensure compliance with the Executive Orders and laws.
3. **USAID Standard Provisions:** As the Program of SARI/EI is being funded by USAID, the Standard Provisions of USAID will be applicable and binding for this contract.

## ARTICLE XIII: MISCELLANEOUS

1. This agreement shall not be modified or varied nor its provisions waived otherwise than in writing duly signed by both the parties hereto.
2. This agreement represents an integrated agreement between the parties hereto and supersedes all prior negotiations representations or agreements either oral or written.
3. The privity of the contracts in terms of this agreement shall be between IRADe and the consultant. The researchers/ specialists/ workers or any agency employed by the consultant shall have no privity of contract whatsoever with the IRADe.
4. The consultant will adhere to IRADe quality process and standards, and management systems while working on this contract, as guided by the Project Director, SARI/EI or person designated by him.