

Addendum 02

Dated: 12th July 2019

This addendum is issued with respect to the **RFP no. IRADe/SARI/2019-20/08 “Request for proposal for developing the Second Edition of BIMSTEC Energy Outlook (A biennial Report)”** issued on May 30, 2019. This addendum has been issued to inform the following:

- a. The last date of submission of proposal submission has been extended to **25th July 2019**
- b. The responses against queries received for the pre-bid meeting held on 8 July 2019 is listed below:

Queries raised by CRISIL				
SN	Clause No	Description	Suggested Modification	Response by IRADe
1	Article II: General Conditions of Agreement (Clause 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.	Request you to brief what would be considered as conflict of interest	Cannot be defined, as the definition could cover wide ranging areas. Therefore, no change in the Tender Specifications.
2	Article II: General Conditions of Agreement (Clause 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.	Please add the word "gross" before the word "negligence"	No Change in the Tender specification
3	Article III: Payment (Clause 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	Suggest a definitive credit period be incorporated for example 30 days from the date of submission of invoice.	No Change in the Tender specification

Queries raised by CRISIL				
SN	Clause No	Description	Suggested Modification	Response by IRADe
		thereafter as the regular course of business will allow based on the submission of the correct invoice.		
4	ARTICLE IV: Duration of the Contract (Clause 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.	Request you to provide a fixed maximum rate of deduction if any, and not leave it open.	No Change in the Tender specification
5	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	Request you to Please add "in accordance with the Contract" before deliverables.	This is the contract therefore it is a repetition to write "in accordance with" before every deliverables word. All deliverables are referred to the particular RFP only. Therefore, no Change in the Tender specification

Queries raised by CRISIL				
SN	Clause No	Description	Suggested Modification	Response by IRADe
		with the outstanding deliverables and may exercise the termination clause as outlined in Article VII. TERMINATION of this contract.		
6	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.	Request that a prior written notice of 30 days be incorporated.	No Change in the Tender specification
7	ARTICLE VII: Termination	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	Since there is no advance payment, then payment is made after IRADe is satisfied about the deliverable submitted. So in respect of milestones achieved in accordance with the Agreement, the consultant should not reimburse the payment received against them. Request you to kindly issue a clarification on this.	No Change in Tender Specification

Queries raised by CRISIL

SN	Clause No	Description	Suggested Modification	Response by IRADe
		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.		
8	ARTICLE VII: Termination	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.	Request you to incorporate clause of notice before any act of termination.	A 15 days' notice period on termination will be incorporated in this clause.
9	ARTICLE XI: Disputes	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.	Request you to appoint arbitrator jointly otherwise it is one-sided.	Article XI has been revised. Please Refer to the Annexure 1 for the revised Disputes clause.

Queries raised by CRISIL

SN	Clause No	Description	Suggested Modification	Response by IRADe
10	ARTICLE XII: Funders Terms and Conditions (Clause 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.	Request you to share these standard provisions.	https://www.usaid.gov/sites/default/files/documents/1868/303maa.pdf
11	3.3 Scope of work. Point No.5	Review and update country wise demand supply energy projections across the value chain and energy transition scenarios up to year 2035.... That are publicly available and by carrying out required comprehensive energy modelling of BIMSTEC countries and energy forecasting exercise	Please confirm whether the consultant is expected to carry our detailed energy modelling exercise individually for major energy sources like coal, oil & gas etc. upto 2035. This would eventually lead to projected generation capacity (in GW) for each fuel source of each of the 7 BIMSTEC countries.	Yes, consultant is expected to carry our detailed energy modelling exercise for Major fuel sources which need to be individually covered in the study, for generation capacity. Also, the sources of energy like coal, oil & gas etc. for other uses like industries, vehicles, domestic use, etc. need to be covered.
12	3.3 Scope of work. Point No.5 Read with Clause 3.5.4	Energy Transitions i. Energy demand-supply gap and transition	Are the consultants expected to remain confined within fuel wise primary energy supply and consumption projection? Or it is expected that the consultants will also carry out detail electricity supply-demand projection for each of the 7 country? While it is observed, it has been mentioned energy, but from the broader perspective of CBET, the	It has to be both primary energy (like coal, gas, oil, etc) as well as secondary energy, i.e. electricity, for all 7 countries.

Queries raised by CRISIL				
SN	Clause No	Description	Suggested Modification	Response by IRADe
			electricity supply-demand and deficit projection is critical.	
13	3.3 Scope of work. Point No.5	Energy Transitions Energy demand-supply gap and transition	In case, the consultant is expected to carry out excel based energy modelling of major fuel sources (supply & consumption projection till 2035) along with electricity demand-supply projections, the modelling exercise would require multiple input parameters in terms of various demand triggers (Like 100% rural electrification, EV penetration, solar rooftop penetration etc apart from consumer category wise conventional sales, and on supply side too, a massive data mining would be required. PI confirm that the consultant is expected to rely on secondary data sources only that are publicly available. PI also confirm that the consultant is not required to buy any information sets or are not required to visit any country for primary information.	The consultant is expected to obtain all data through public domain as well as by other means, to ensure that all data is collected. No separate will be made for collecting data.

Queries raised by CRISIL				
SN	Clause No	Description	Suggested Modification	Response by IRADe
14	3.3 (1,2 and 5) Scope of work And 3.4 (1) Deliverables	Submission of Drat report.... Within 60 days from date of signing of contract	<p>The required scope necessities to conduct an 'As-Is' analysis along with past trend.</p> <p>Additionally, it also requires to conduct energy modelling for projection purposes.</p> <p>The work is required for multiple energy sources and technology, and needs to be documented in Draft report.</p> <p>Request if the 1st Draft Submission can be made at least 75 days from date of signing of contract.</p>	No change in tender specification

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
1.	No clause in RFP.	Limitation of Liability	Liability is unlimited or not documented	<p>IRADe is requested to limit consultant's liability to 1x of the total contract value. It is the normal industry practice.</p> <p>Client may consider including the following language: Purchaser/Client agrees that Consultants total liability for all claims connected with the services or this agreement (including but not limited to negligence), whether in contract, tort, statute, indemnities or otherwise, is limited to one time the professional fees paid / payable for the services. Purchaser/Client agrees that Consultant will not be liable for (i) loss or corruption of data from your systems, (ii) loss of profit, goodwill, business opportunity, anticipated savings or benefits or (iii) indirect or consequential loss.</p>	<p>Limitation of liability has been taken care of in ARTICLE IX: Indemnification. A revised version of the clause: "... Indemnification under this paragraph shall be limited to the maximum amount payable under this agreement and any other cost incurred by IRADe on behalf of the consultant under the project for travel, hotel and logistics support except for losses, claims, liabilities or damages sustained in connection with an actual or alleged violation of law applicable to this agreement."</p> <p>Since the consultant will not be using the systems of IRADe, the corruption of data in the IRADe systems is non-existent.</p>
2.	GCC 10, p.21	Confidentiality Obligations	Parties to whom information can be disclosed is not documented	<p>Client is requested to consider that we may have to disclose information for successful accomplishment of work and for regulatory and internal compliance purposes. However, to the extent legally permissible, we will ensure that even if the information is disclosed to any third party, such parties maintain confidentiality of such information. Client is therefore requested to kindly include the following clause: Consultant may disclose confidential information: (a) to its employees, directors and officers, on a need to know basis, as required for performance of services,</p>	No Change in the Tender specification

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
				provided such employees, directors, officers and subcontractors are bound by confidentiality obligations; (b) where required by applicable law or regulation or for regulatory and compliance (both internal and external) purposes.	
3.	GCC 10, p.21	Confidentiality Obligations	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.	We request client to reduce the survival period of confidentiality obligations to one-year post expiry or termination.	No Change in the Tender specification

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
4.	GCC 13, p.21 and Article IX, p.22	ARTICLE IX: Indemnification	Indemnity for breach of contract obligations. 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.	There are several remedies available under law and contract to you for such breach of obligations. For eg, there are penalties and LDs that may be imposed for some of these breaches. Seeking indemnities for such breaches frustrates the entire purpose of such remedies available to you. We understand that remedies other than indemnity will be sufficient for such breaches. We request you to kindly delete this section. If you still insist on retaining this section, then we request you to at least make them subject to overall cumulative liability cap of total contract value and subject to final determination of court/arbitrator.	No Change in the Tender specification
5.	GCC 9, p.20	ARTICLE II: General Conditions of Agreement, Point 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.	We wish to highlight that we are a large organization providing various services to various state and central government departments, PSUs, international organizations and private clients. We wish you to note that while we have a mechanism in place to identify patent and direct conflict of interests, it may not always be possible to identify any or all indirect or remote conflict of interests. Kindly appreciate that our no conflict confirmations will be subject to the foregoing.	No Change in the Tender specification
6.	GCC 8, p.20	ARTICLE II: General Conditions	IRADe shall retain copyright of all documents prepared by	There are innumerable IPRs that exist with us which we would like to use to your benefit while delivering our services to you. These are our pre-existing IPRs	Please provide a disclaimer on any framework or methodologies you may use in the course of the study.

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
		of Agreement, Point 8	the Consultant in relation to the services rendered	<p>and we use it for all clients. We will not be able to give ownership in such IPRs to you just because we are using them for providing services to you, like we use these for other clients. We request that we are allowed to retain ownership of our pre-existing IPRs, else we might not be able to use these in providing services to you in order to protect our ownership in them. We request you to kindly include the below clause.</p> <p>Notwithstanding anything to the contrary in this agreement, Consultant will retain the ownership of its pre-existing intellectual property rights (including any enhancement or modification thereto) even if such IPRs are used for creating deliverables, are incorporated in the deliverables, etc. To the extent such pre-existing IPRs are included/incorporated in the deliverables, upon receipt of all due and payable payment in full, the Consultant shall grant a non-exclusive, perpetual and fully paid up license to the Purchaser/Client to use such pre-existing IPRs for use of deliverables for the purpose for which such deliverables are meant for client's internal business operations.</p>	
7.	Article XI, p.22	ARTICLE XI: Disputes	All disputes and/or differences and other questions in any way arising out of or relating to this Agreement, which cannot be settled	In order to uphold the principles of natural justice (Nemo judex in causa sua- no one should be judge in ones own case) and the provisions of the Arbitration and Conciliation Act, we request that the arbitrator(s) be appointed with mutual consent of both the parties. Alternatively, a panel of three arbitrators may be set	This is agreed. Please refer to Annexure 1 on Dispute Resolution

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
			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.	up in which one arbitrator is appointed by Consultant, one by the client and the two arbitrators appoint third arbitrator. Please confirm.	
8.	Article XII, p.22	ARTICLE XII: Funders Terms and Conditions, Point 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	We wish to clarify that we will retain our records as per our records retention policies. Upon reasonable notice, we will allow Client to inspect our invoicing records under this engagement; such inspection shall be done in a pre-agreed manner and during normal business hours. For avoidance of doubt, such inspection should not cause us to be in breach of our organizational confidentiality requirements. Please acknowledge that our audit related obligations will be subject to foregoing statement.	No Change in the Tender specification

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
			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		
9.	No clause in RFP. Please include in pre-bid.	No third party disclaimer	There is no restriction on the usage of deliverable. No third party disclaimers.	We will be providing services and deliverables to you under the contract. We accept no liability to anyone, other than you, in connection with our services, unless otherwise agreed by us in writing. You agree to reimburse us for any liability (including legal costs) that we incur in connection with any claim by anyone else in relation to the services. Please confirm our understanding is correct.	Not applicable. Therefore, no change in the tender specification

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
10.	No clause in RFP. Please include in pre-bid.	Acceptance	No acceptance criteria	<p>If the project is to be completed on time, it would require binding both parties with timelines to fulfill their respective part of obligations. We request you that you incorporate a deliverable acceptance procedure, or the one suggested below, to ensure that acceptance of deliverables is not denied or delayed and comments, if any, are received by us well in time. You may consider including the below simple clause:</p> <p>Within 10 days (or any other agreed period) from Client's receipt of a draft deliverable, Client will notify Consultant if it is accepted. If it is not accepted, Client will let Consultant know the reasonable grounds for such non acceptance, and Consultant will take reasonable remedial measures so that the draft deliverable materially meets the agreed specifications. If Client does not notify Consultant within the agreed time period or if Client uses the draft deliverable, it will be deemed to be accepted.</p>	No change in tender specification
11.	GCC 12, p.20	ARTICLE II: General Conditions of Agreement	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	This clause needs to be mutual	The consultant cannot assign its obligations under the agreement. No addition of any mutual clause , therefore no change in Tender Specifications

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
12.	Article VIII, p.22	ARTICLE VIII: Subcontracting	Consultant should not subcontract any part of its activities described herein without the prior written consent of IRADe	We may take assistance from our contractors or other PwC firms (each of which is a separate and independent) legal entity and may share confidential information with them in connection with this engagement. However, we remain solely liable to client for their acts; claims (if any) in relation to this engagement will be routed solely through client and us.	Consortium between firms is allowed. There needs to be one lead firm who shall be responsible for all deliverables under the contract
13.	ARTICLE XII: Funders Terms and Conditions, P-23	Point 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.	Please share such compliances. We comply with applicable laws of India. References to any other laws are deleted and replaced with applicable laws of India.	Article X specifies the law and jurisdiction under the contract. This Agreement shall be governed by and construed in accordance with Indian Law and shall be subject to the jurisdiction of courts at New Delhi only. For USAID Guidelines please refer to https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf
14.	4.1.2 (a) – Page 8	4.1.2 Technical Bid form a. Management/Organization Experience	The bidder should provide its Experience in similar projects. Further, in this section the bidder should give details of various projects that are successfully completed/being executed by the organization in the past	It is requested that the criteria for evaluating organization experience may be expanded to allow projects that are successfully completely/ being executed in the past five years. This would allow us to demonstrate wider array of experience relevant to the prescribed scope of work.	Not considered

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
			three years. Please see Annex II for the format.		
15.	4.2.1 (5) – Page 9	4.2.1 Bid Assessment Process	The technical and financial score shall be evaluated as per the following formula to ascertain the ranking of the firm: (0.70x Technical Score + LP/FP x0.30) LP is the lowest quoted price from among the bidders FP is the quoted price of the bidder whose bid is being evaluated	It is requested that some detailed evaluation criteria for evaluation of technical score may be prescribed i.e. the weights assigned to each component like organization experience, experience of team proposed, proposed methodology etc. This would facilitate a more objective response to the proposal's technical requirement.	Please find the technical evaluation parameters below: <ol style="list-style-type: none"> 1. The Consultant's/Organisation's relevant experience for the assignment - 25 2. Understanding of the issues and approach to be followed - 10 3. The qualifications and experience of the key staff (who would actually be working on the project) proposed - 40 4. Quality of presentation made before Technical Evaluation Committee - 25 Weighted average method will be considered for technical evaluation
16.	Annex VI (Article VI) – Page 21	ARTICLE VI: Penalty for Late Submission of Deliverables	...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	We request that Liquidated damages or penalties (if any) should be applicable only for delays solely attributable to the Consultant. Further, it is requested that overall amount of liquidated damages and penalties may not exceed 5% of the contract value. An objective and consultative process should precede before the Client chooses to exercise this right. A mechanism should be put in place to objectively	We agree that the Liquidated damages or penalties (if any) should be applicable only for delays solely attributable to the Consultant. The liquidated damages are limited to the value of contract plus travel and stay expenses borne by IRADe. The deliverables are clearly defined and there is no ambiguity. Therefore

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
			and may exercise the termination clause as outlined in Article VII. TERMINATION of this contract	capture service related defaults and allocate the accountability	the consultant's rights remain protected.
17.	No clause in the RFP		N/A	It is requested that consultant's liability may be limited to 1X of the total contract value. This is as per GFR and the guidelines issued by Meity. It is also the normal industry practice	Already mentioned in "Queries by PwC" Point 1
18.	Annex VI (Article IX) – Page 22	ARTICLE IX: Indemnification	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	There are several remedies available under law and contract for such breach of obligations. For e.g., there are penalties and LDs that may be imposed for some of these breaches. Seeking indemnities for such breaches frustrates the purpose of available remedies. We understand that remedies other than indemnity are sufficient for such breaches. We therefore request that this section may be deleted. If this section is retained, we request that indemnification may be subject to overall cumulative liability cap of total contract value and subject to final determination of court/ arbitrator.	No Change in the Tender specification

Queries by PwC					
SN	Clause no. of RFP	Clause	Description	Query / Clarification / Comment	Response by IRADe
			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.		
19.				While the total duration of the assignment may be maintained at 180 days, it is requested that at least 80 days be provided for submission of Deliverable No 3.4 (1) as the work involved is resource and time intensive compared to the remaining deliverables. Further, 50 days may be provided for completion of each of the two remaining deliverables.	No Change in the Tender specification

Queries by Deloitte

SN	Clause	Description	Query	Response by IRADe
1	ARTICLE II: General Conditions of Agreement	8. IRADe shall retain copyright of all documents prepared by the Consultant in relation to the services rendered. It is requested to modify the clause as below, so that pre-existing intellectual property rights of Consultants are protected:	It is requested to modify the clause as below, so that pre-existing intellectual property rights of Consultants are protected: 8. IRADe shall retain copyright of all documents/ Deliverables prepared by the Consultant in relation to the services rendered. However, the Consultant shall continue to have copyright and IPR for any pre-existing intellectual property, which was utilized for or in relation to services provided by the Consultant under this agreement”	It is already mentioned that “all documents prepared by the Consultant <i>in relation to the services rendered</i> ”. No Change in the Tender specification. Please issue a disclaimer wherever pre-existing copyrights have been used.
2	ARTICLE II: General Conditions of Agreement	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. Request you to please add the following to clause	10: “The confidentiality obligations shall survive the termination of this Contract / completion of services, for a period of one (1) year	No Change in the Tender specification
3	ARTICLE II: General Conditions of Agreement	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	It is requested to have the indemnity mutually available for both parties.	No Change in the Tender specification

Queries by Deloitte				
SN	Clause	Description	Query	Response by IRADe
4	ARTICLE VII: Termination	ARTICLE VII: Termination	In the interest of equity and clarity, it is requested to add the following clauses: “In case of termination of the contract by IRADe, the Consultant shall be paid for services rendered up to the effective date of termination. In case of delay in payment by IRADe to the consultant for more than 60 days, the consultant shall be entitled to suspend the work and/or terminate the contract.”	No Change in the Tender specification
5	ARTICLE XII: Funders Terms and Conditions	Books, Records, and Accounts	In the interest of protection of client confidentiality of the consultant, it is requested to modify the clause as below: “Consultant agrees to provide the extracts of any books, documents, papers and records of the Consultant that are directly pertinent to the services provided hereunder, to IRADe or USAID, for the purpose of making audits, examination, excerpts, and transcriptions. These records shall be maintained for 3 (three) years, unless written approval is requested by the consultant, and approval by IRADe is given in writing.”	No Change in the Tender specification
6		Limitation of Liability	It is requested to add a clause on limitation of overall liability of the consultant: “Notwithstanding anything contained in the contract, IRADe agrees that the consultant shall not be liable to IRADe, for any losses, claims, damages, liabilities, cost or expenses (“Losses”) of any nature whatsoever, for an aggregate amount in excess of the fee paid under the contract for the	Limitation of liability has been taken care of in ARTICLE IX: Indemnification. A revised version of the clause: “.... Indemnification under this paragraph shall be limited to the maximum amount payable under this agreement and any other cost incurred by IRADe

Queries by Deloitte				
SN	Clause	Description	Query	Response by IRADe
			services provided under the contract, except where such Losses are finally judicially determined to have arisen primarily from fraud or bad faith of the consultant. In no event shall the consultant, be liable for any consequential (including loss of profit and loss of data), special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to the services provided pursuant to this Contract.”	on behalf of the consultant under the project for travel, hotel and logistics support except for losses, claims, liabilities or damages sustained in connection with an actual or alleged violation of law applicable to this agreement.” Since the consultant will not be using the systems of IRADe, the corruption of data in the IRADe systems is non-existent.

Issued by:

Phalguni Dasgupta

Phalguni Dasgupta

Programme Administrator – SARI/EI
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Annexure 1: ARTICLE XI: Dispute Resolution

1. Either Party is entitled to raise any Dispute including the existence or validity or termination of the Agreement by giving a written notice to the other Party, which shall contain:
 - (i) a description of the Dispute;
 - (ii) the grounds for such Dispute; **and**
 - (iii) all written material in support of its claim.
2. The other Party shall, within 15 days of the issuance of the Dispute notice issued under, furnish:
 - (i) counter-claim and defenses, if any, regarding the Dispute; **and**
 - (ii) all written material in support of its defenses and counter-claim.
3. Within one month of issuance of notice by any Party pursuant to Article XI.1, the Parties to the Dispute shall meet to settle such Dispute amicably. In the event the Parties fail to resolve the Dispute amicably within the said one-month period, the Dispute shall be sent for arbitration.

4. Arbitration

The Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 and the Rules made thereunder, in accordance with the process specified below:

- (i) In the event of a Dispute remaining unresolved as referred to in Article XI.1, any party to such Dispute may initiate arbitration by notifying the other Party.
- (ii) The Arbitration tribunal shall consist of 3 (three) arbitrators of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected. In the event of any disagreement between the two arbitrators, the third arbitrator shall be appointed in accordance with the Indian Arbitration and Conciliation Act, 1996 and the Rules made thereunder.
- (iii) The place of arbitration shall be New Delhi, India. The language of the arbitration shall be English.
- (iv) The arbitration tribunal's award shall be substantiated in writing. The arbitration tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.
- (v) The award shall be enforceable in any court having jurisdiction, subject to the applicable Laws.

5. Parties to Perform Obligations

Notwithstanding the existence of any Dispute referred to the arbitral tribunal as provided in Article XI.4, and save as the arbitral tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in Dispute) under this Agreement.