

**Addendum 01**

**Dated: 8<sup>th</sup> Jan 2020**

This addendum is issued with respect to the **RFP No.: IRADe/SARI/2019-20/10 - Request for Proposal on developing a strategy paper for creating the South Asia Forum for Electricity Market (SAFEM) for promoting cross-border electricity trade (CBET)** issued on 11th December 2019. This addendum has been issued to inform the following:

- a. The last date of submission of proposal submission has been extended to **20<sup>th</sup> Jan 2020**
- b. The responses against queries received for the above mentioned RFP is listed below:

S. No.	Ref. as per RFP	Queries	Clarifications/Recommendations	IRADe’s Response to queries
<b>PwC</b>				
1.	General - Limitations of liability	Limitations of liability	IRADe is requested to limit consultant’s liability to 1x of the total contract value. It is the normal industry practice. IRADe 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	Limitation of liability included 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.” Since the consultant will not be using the systems of IRADe, the

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			opportunity, anticipated savings or benefits or (iii) indirect or consequential loss.”	corruption of data in the IRADe systems is non-existent.
2.	Page no. 10: Section 4.2.7 - Bidder Acceptance of Conditions	A bid lodged in response to this Request for Bid does so with agreement to these Conditions of Bid unless any departures from these Conditions are detailed in the bid submission. IRADe reserves the right to reject or accept any departure from these Conditions of Bid, and thereby determine that the bid submission is non-conforming for that reason.	We understand that raising of conditions/deviations in the proposal are allowed and will not lead to non-compliance and technically non-responsive bids. Kindly confirm.	Raising of conditions and deviations with <b>not</b> lead to disqualification
3.	Page no. 4: Section 3.3 - Scope of work: Strategy Paper on SAFEM	Point no. 8: Suggest a detailed plan for SAFEM implementation.	Request to elaborate the activities to be covered under detailed Road map and action plan.	Para 3.2 of the bid document clearly states the background behind formation of SAFEM and under point nos. (i) to (viii) under Para 3.3 of the bid, there is a clear mention that the consultant shall come out with a Strategy Paper/Report covering the

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	implementation			structure of SAFEM, the different functions to be performed by it, its operating structure and the manner/mode of operation, including the support if it may take including the working groups/expert committees etc. It is natural that in the detailed plan for implementation to be suggested by Consultant the action plan for all such activities have to be covered including the time frame. NB: There is no point 8 in Section 3.3
4.	Page No. 20 ARTICLE II: General Conditions of Agreement	Point no. 8: IRADe shall retain copyright of all documents prepared by the Consultant in relation to the services rendered	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 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 be not be able to use these in	It is already mentioned that “all documents prepared by the Consultant <b><i>in relation to the services rendered</i></b> ”. No Change in the Tender specification. Please issue a disclaimer wherever pre-existing copyrights have been used.

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			providing services to you in order to protect our ownership in them. We request you to kindly include the below clause: "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."	
5.	Page no. 21: - ARTICLE II: General Conditions of Agreement	Point no. 9: The Consultant shall not engage in any activity which might conflict with the interest of IRADe under this agreement or the	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	Cannot be defined, as the definition could cover wide ranging areas. Therefore, no change in the Tender Specifications.

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		agreement of IRADe with Client.	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.	
6.	Page no. 21: - ARTICLE II: General Conditions of Agreement	Point no. 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.	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, 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." We also request IRADe to	No Change in the Tender specification

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			reduce the survival period of confidentiality obligations to one year post expiry or termination.	
7.	Page No. 21: 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	If the project is to be completed on time, it would require binding both parties with timelines to fulfil 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: "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."	No Change in the Tender specification

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		associated with the outstanding deliverables and may exercise the termination clause as outlined in Article VII. TERMINATION of this contract	Our overall LD should be capped to maximum 10% of the contract value. LD should be imposed if solely attributable to the bidder and should be tightly aligned to a well laid consultative process and ascertaining the cause of the delay in question.	
8.	Page no. 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.	No Change in the Tender specification
9.	Page no. 22: 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	There are several remedies available under law and contract to you 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 entire purpose of such remedies available to you. We understand that remedies other than indemnity will be sufficient for such breaches. We request you	No Change in the Tender specification. It is already mentioned "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"

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		<p>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.</p>	<p>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.</p>	
10.	Page no. 23: ARTICLE XII: Funders Terms and Conditions	Books, Records, and Accounts: The consultant shall maintain books, records and accounts sufficient to demonstrate	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	No Change in the Tender specification. It is mentioned "pertinent to the services provided hereunder, for the purpose of making audits,



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		<p>the incurrance, expenditure, and allow ability 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</p>	<p>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.</p> <p>We also request IRADe to reduce the survival period of obligations to one year post expiry or termination.</p>	<p>examinations, excerpts, and transcriptions”</p> <p>The period of 3(years) remains unchanged.</p>

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		requested by the consultant and approval by IRADe is given in writing.		
11.	Page no. 24: ARTICLE XII: Funders Terms and Conditions	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 can be 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 <a href="https://www.usaid.gov/sites/default/files/documents/1868/305maa.pdf">https://www.usaid.gov/sites/default/files/documents/1868/305maa.pdf</a>
12.	General	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

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13.	General	Confidentiality	We request to add the following in the clause: "The confidentiality obligations under this Contract will not apply to information already in the public domain or available to the bidder independently of this Contract."	No Change in the Tender specification
14.	General	Bid submission timeline	Given the detailed proposal requirements and action points and approvals to be taken from the management based on above clarifications, we request you to extend the bid submission date by at least 7 days from the date of issue of amendment/corrigendum.	The last date of submission of proposal has been extended to 20 <sup>th</sup> Jan 2020
<b>DNVGL</b>				
15.	<i>General</i>	What would be the dispute redressal methodology for SAFEM?		This has to be proposed by the Consultant under Strategy Paper/Report
<b>GE Gas Power</b>				
16.	<i>General Comment</i>	--	We request IRADe to indicate the expected budget for the study. This would help the Consultants in determining the optimum work which should be included under the required tasks and ensure best outcomes within the time schedule provided.	No change in the clause of RFP. The Bidder has to estimate the cost to provide the deliverables.

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17.	<i>General Comment</i>	--	We request IRADe to kindly provide confirmation that by virtue of submitting bids response to this RFP or, if selected, providing consultancy services under this RFP, GE Energy Consulting, or any of our associates/affiliate firms will not be disqualified from participating in any future tender for goods, works or services on account of a conflict of interest.	Accepted. By virtue of submitting bids response to this RFP or, if selected, providing consultancy services under this RFP, GE Energy Consulting, or any of our associates/affiliate firms will not be disqualified from participating in any future tender for goods, works or services on account of a conflict of interest.
18.	<i>Article 3.3: Scope of Work</i>	The scope of work of the consultant shall include the following: ..... ii. Review, analyze and assess the electricity market structure, market design, instruments and trade situation in South Asian region. .....	Request confirmation that as part of this task, the Consultant is only required to review the framework pertaining to CBET currently existing in the respective South Asian Countries, and the scope does not include review and assessment of power trading framework existing within these countries. Also, clarification requested whether such documentation (policy, guidelines, regulations, etc.) shall be provided to or arranged for the Consultant by IRADe.	The scope is not limited to CBET only but also each country's market structure and design as well, as it has implication for CBET (for a quality assessment, consultant will appreciate that most evolved power market structure exist in few south Asian countries such as in India, and it is important to review/study respective countries' market structure as well, as it has implication for CBET).

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				Such documentation shall have to be arranged by the Consultants with their own efforts/resources.
19.	<i>Article 3.4: Areas to be covered</i>	SAFEM may deliberate on the following subjects. The below details are indicative in nature and may be evolved and modified further. .....	Kind clarification is requested on: <ul style="list-style-type: none"> <li>– whether this indicative list is the expected tasks to be performed by SAFEM once it is established and hence the Consultant is only required to keep these in view while deliberating the SAFEM structure, OR</li> <li>– are these areas supposed to be covered by the Consultant when undertaking the detailed analysis (as part of Article 3.3 (v))</li> </ul> This clarification is requested since this could have a significant bearing the level-of-effort to be undertaken by the Consultant.	The tasks given under Article 3.4 are indicative and not complete. The consultant is to consider all tasks it feels are relevant for the above assignment.  Yes, the areas shown under Article 3.4 are supposed to be covered by the Consultant when undertaking the detailed analysis (as part of Article 3.3 (v))
20.	<i>Article 4.1.3: Financial Bid</i>	The Financial Bid should be submitted as per the attached format (Annex V): a. It should be a Lump sum fixed cost (quote) of the assignment	In view of the provisions under this Article and Section 3.3 (vi), kind clarification is requested on whether the travel and living costs are reimbursable for this project and thus are not to be included in the lump-sum costs quoted by the Consultants in the Financial Bid format provided.	As stated under Article 3.3(vi) only expenses incurred related to the international travel and living charges will be borne by SARI/EI secretariat (for one member) for PSC/TF3 meetings/stakeholder consultation meeting and need not be included in the lump-sum costs

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		<p>b. 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.</p> <p>c. Confirmation of the payment schedule included as mentioned in 4.4</p>	<p>This clarification is requested since the Consultant may propose to involve their overseas resources or partners under this study, and they may be required to travel to South Asia for meetings as part of this assignment.</p>	<p>quoted by the Consultants in the Financial Bid; however, beyond that, any other costs incurred for travelling/living within India, or for more than one person in international travel, shall be under the scope of the bidder and the lump-sum financial quote by them. For all international travel, SARI/EI provides the air tickets between <u>India</u> and the other South Asian country. Hence these expenses are covered by SARI/EI. For persons coming from other countries, their travel expenses will not be covered.</p>

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