| **Sl.**  **No.** | **Clause Ref. No.** | **Existing provision** | **Amended as** |
| --- | --- | --- | --- |
| **GCC 14: Work Program** | | | |
|  | GCC 14.2 | **Program of Performance**  Within twenty-eight (28) days after the date of Notification of Award, the Contractor shall prepare and submit to the Project Manager a detailed program of performance of the Contract (L2 Network) in the form of the Critical Path Method (CPM), the PERT network, or other internationally used programs and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commissioning the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule included in Appendix-4 (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion under GCC Sub-Clause 4.2 and any extension granted in accordance with GCC Clause 34, and shall submit all such revisions to the Project Manager. | **Program of Performance**  Within twenty-eight (28) days after the date of Notification of Award, the Contractor shall prepare and submit to the Project Manager a detailed program of performance of the Contract (L2 Network) in the form of the Critical Path Method (CPM), the PERT network, or other internationally used programs and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commissioning the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule included in Appendix-4 (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion under GCC Sub-Clause 4.2 and any extension granted in accordance with GCC Clause 34, and shall submit all such revisions to the Project Manager.  **Further to above, the concerned POWERGRID’s site executive shall enter into a location-wise programme in advance on a periodic basis, preferably, every week/ fortnight with the Contractor after the consent of Site In-charge and the deployment of gangs shall be made by the contractor according to the agreed programme.** |
|  | GCC 14.4 | **Progress of Performance**  If at any time the Contractor’s actual progress falls behind the program referred to in GCC Sub-Clause 14.2, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 4.2, any extension thereof entitled under GCC Sub-Clause 34.1, or any extended period as may otherwise be agreed upon between the Employer and the Contractor. | **Progress of Performance**  If at any time the Contractor’s actual progress falls behind the program referred to in GCC Sub-Clause 14.2, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 4.2, any extension thereof entitled under GCC Sub-Clause 34.1, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.  **Notwithstanding above, in case, the Contractor is unable to provide sufficient materials, services or labor to execute and complete the Facilities at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities within the scheduled Time for Completion or any extension provided thereof as per the Contract, then the Employer may facilitate the Contractor in the manner detailed at GCC Clause 36B (Facilitation) to expedite timely completion of the Contract.** |
| **GCC 33: Change in the Facilities** | | | |
|  | GCC 33.2.3 | If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 33 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement by more than the percentage specified in SCC, the Employer and the Contractor shall mutually agree on specific rates for valuation of the Change beyond the specified percentage.  For the said purpose, the Contract Price means the Contract Price of the Facilities notwithstanding the Construction of the Contract. | If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 33 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement **or subsequently amended Contract Price pursuant to GCC Clause 36A (Partial Offloading) hereof**, by more than the percentage specified in SCC, the Employer and the Contractor shall mutually agree on specific rates for valuation of the Change beyond the specified percentage.  For the said purpose, the Contract Price means the Contract Price of the Facilities notwithstanding the Construction of the Contract. |
| **GCC 36.2: Termination for Contractor’s Default** | | | |
|  | GCC 36.2.2 | If the Contractor  (a) has abandoned or repudiated the Contract  (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 35.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed  (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause  (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Sub-Clause 14.2 at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,  then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 36.2. | If the Contractor  (a) has abandoned or repudiated the Contract  (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 35.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed  (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause  (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Sub-Clause 14.2 at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,  then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, **then the Employer may have the option to partially offload the Contract in line with GCC Clause 36A or** terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 36.2. |
| **GCC 36A: Partial Offloading** | | | |
|  | GCC 36A.1 |  | Pursuant to GCC sub-Clause 36.2.2, Employer reserves the right to offload a part of the Facilities under the Contract where a separate time for Completion of such part is specified in the Contract. |
|  | GCC 36A.2 |  | The partial offloading under the Contract shall be treated as termination for the corresponding offloaded part of the Facilities. The modality to be adopted for such termination of Part Contract including recovery mechanism etc. shall be suitably tied up with the Contractor. Where no consensus could be arrived between Employer and Contractor in this regard, a suitable notice on the methodology to be adopted shall be issued and action be initiated based on the response received from the contractor. If no response is received, Employer shall notify the contractor on the methodology being adopted. |
|  | GCC 36A.3 |  | In case of partial offloading under the Contract, in case, the contractor has opted for taking interest bearing advances, the contractor shall refund the outstanding advance against the offloaded portion and the same would be adjusted. In case the contractor requests that the outstanding advance against the offloaded portion cannot be refunded due to their financial constraints, the additional advance would be considered as special advance and the rate of recovery of advance shall be enhanced in the live portion of the Contract so as to adjust the amount as per contractual provisions before attempting for recovery through other tools as available.  [In cases where Interest free advance is released with a time bound recovery, the same shall be adjusted as per the instalments/duration of recovery defined in the contract. (Applicable for cases where Interest Free Advance is extended to the Contractor)] |
|  | GCC 36A.4 |  | The Performance Security corresponding to offloaded part shall not be reduced till procurement and execution of offloaded part is concluded and the risk and cost component of the offloaded part is adjusted. |
|  | GCC 36A.5 |  | For the offloaded part of the Contract, the Employer may complete the Facilities itself or by employing any third party. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Employer and with an indemnification by the Employer for all liability including damage or injury to persons arising out of the Employer’s use of such equipment, any Contractor’s Equipment owned by the Contractor and on the Site in connection with the Facilities pursuant to the offloaded part for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities under the offloaded part.  Upon completion of the Facilities for offloaded part or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor’s Equipment will be returned to the Contractor at or near the Site and shall return such Contractor’s Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site. |
|  | GCC 36A.6 |  | Subject to GCC Sub-Clause 36A.7, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed under the offloaded part of the Contract as of the date of offloading/termination, the value of any unused or partially used Plant and Equipment on the Site related to the offloaded part, and any other sums determined pursuant to GCC Clause 36A.2. Any sums due to the Employer from the Contractor pertaining to the offloaded part, accruing prior to the date of offloading/termination, shall be deducted from the amount to be paid to the Contractor under this offloaded part of the Contract. |
|  | GCC 36A.7 |  | If the Employer completes the Facilities under the offloaded part, the cost of completing such Facilities by the Employer shall be determined.  If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 36A.6, plus the reasonable costs incurred by the Employer in completing the Facilities under the offloaded part, exceeds the Contract Price for the Facilities under the offloaded part, the Contractor shall be liable for such excess.  If such excess is greater than the sums due to the Contractor under GCC Sub-Clause 36A.6, the Contractor shall pay the balance to the Employer failing which Performance Security be encashed and necessary recovery be done, and if such excess is less than the sums due to the Contractor under GCC Sub-Clause 36A.6, the Employer shall pay the balance to the Contractor.  The Employer and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid. |
|  | GCC 36A.8 |  | In this GCC Clause 36A, the expression “Facilities executed” shall include all work executed, Installation Services provided, and all Plant and Equipment acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities under the offloaded Part, up to and including the date of offloading/termination of the Part. |
|  | GCC 36A.9 |  | Subsequent to off-loading, change percentage pursuant to GCC Clause 33 shall be based on revised scope of work and corresponding Contract Price. Offloaded part shall not be considered for the percentage of Change Proposal. |
| **GCC 36B: Facilitation** | | | |
|  | GCC 36B.1 |  | Pursuant to GCC Clause 14.4, in case, the Contractor is unable to provide sufficient materials, services or labor to execute and complete the Facilities at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities within the scheduled Time for Completion or any extension provided thereof as per the Contract, then the Employer may, without prejudice to any other rights it may possess under the Contract, facilitate the Contractor for such minor supply items or services, as it deems appropriate, to expedite timely completion of the Contract. Such facilitation extended shall however be under the overall obligation of the Contractor and the same shall be without prejudice to the warranty(ies) and guarantee(s) under the Contract. |
|  | GCC 36B.2 |  | The facilitation, as above, by Employer shall be applicable for smaller part of the Contract not exceeding 10% of the Contract Price. In case of facilitation beyond 10% of the Contract Price, the same shall be considered as Partial Offloading to the extent that such facilitation is to be considered as Termination of Contract due to Contractor’s default for the purpose of event-based Performance assessment of the Contractor in Employer’s future Contracts.  For the said purpose, the Contract Price means the Contract Price of the Facilities notwithstanding the Construction of the Contract. |
|  | GCC 36B.3 |  | Any expenditure incurred by POWERGRID towards such supplies or services shall be treated as an interest-bearing advance, interest rate of which shall be at the rate equal to twice the one year MCLR rate [One year Tenor rate p.a.] published by State Bank of India prevailing as on the date of intimation for Facilitation as per GCC Clause 36B.4. The advance i.e. expenditure incurred by POWERGRID towards facilitating the Contractor shall be adjusted with utilization of supplies or services extended during Facilitation at the time of corresponding bill payment for such supplies or services to the Contractor & the interest shall be recovered accordingly. However, the contractor may opt for earlier adjustment with other bills (before utilization) also & the interest shall be accordingly recovered till adjustment. |
|  | GCC 36B.4 |  | The said facilitation can be extended with or without the prior consent of the Contractor in the interest of the Contract completion. However, the contractor shall be intimated at least 15 days in advance for exercising the above option. |
|  | GCC 41 |  | **Contractor’s Claims**  If the Contractor considers himself to be entitled to any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall submit a notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance, unless otherwise specified.  If the Contractor fails to give notice of a claim within such period of 28 days, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.  The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.  The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Employer’s liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.  Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:   1. this fully detailed claim shall be considered as interim; 2. the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and 3. the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.   The Project Manager may agree with the Contractor or estimate~~:~~ different additional payment (if any) to which the Contractor is entitled under the Contract~~.~~  The payments in respect of such claims shall be settled once in a quarter, unless otherwise specified. |
|  | GCC 42, Section-V: SCC, Vol.-I of the Bidding Documents | - | **J. PRE DEFINED EVENTS**  42. POWERGRID has a Policy on Assessment of performance of bidders before recommending a bidder for award of Contract. For this purpose, performance of a bidder based on events (pre-defined events) encountered during execution of contract(s) (Own as well as Consultancy) awarded by POWERGRID (including SPVs under TBCB) shall also be considered. In case of triggering of these events, the bids from such bidders shall be considered non-responsive/not eligible for a period of one year reckoned from the date of issuance of letter to such effect. As per this Policy, pre-defined events are as below:   1. Termination# of Contract due to Contractor’s default 2. Encashment of CPG due to non-performance 3. Repeated failure of major Equipment while in service 4. Substantial portion of works (more than 50% of the Contract\*) is sub-contracted, under an existing Contract 5. More than 25% of the Contract price (awarded value), in aggregate, is paid to sub-contractors/suppliers as Direct payment, under an existing Contract, due to financial position of Contractor 6. Firm has been referred to NCLT under Insolvency & Bankruptcy Code *(IRP has been appointed or Liquidation proceedings have been initiated under IBC)*   *# Partial offloading under a Contract and/or Facilitation beyond 10% of the Contract Price shall also be treated as Termination.*  ***\*****For the purpose of working out 50% of the Contract, following shall be taken into account:*   1. *Scope of the contract which is permissible to be sub-contracted as per bidding documents, shall be excluded.* 2. *Scope of the Contract which primarily relates to the Qualification Requirement (QR) of the bidder.*   The Employer shall be the sole judge in this regard and the Employer’s interpretation on the aforesaid event(s) shall be final and binding.  In accordance with above policy of POWERGRID, in case of triggering of any of the above events under this Contract, the bid of the Contractor in future tenders shall be dealt in line with the above policy or its subsequent amendments, if any. |