

GENERAL TERMS AND CONDITIONS

(Contract for the use of refractory materials and products)

The numbering of these general conditions follows that of standard NF P 03-002 Marchés privés - Cahier types - Cahier des Clauses Administratives Générales applicable aux travaux de génie civil faisant l'objet de marchés privés in its October 2014 edition, except if certain conditions were to supplement the conditions set by the standard. In this case, these conditions will be given their own numbering. As certain conditions do not require clarification in these general conditions, their numbering is not repeated.

Article 1^{er} : Scope of application

1.1 The work covered by these general conditions applies to the demolition of the refractory lining of industrial thermal equipment, which is to be replaced, the removal of the lining after demolition, the supply of a specific replacement refractory lining developed by the contractor, its installation, the supervision of the work by the contractor in the event of subcontracting, and finally, assistance with the drying and temperature rise of the lining after the refractory materials and products have been installed.

Article 3 Terms and definitions

3.24 **Notwithstanding** Article 3.24 (Owner), the owner is deemed to be the contractor's principal.

Article 4: The contract

4.4 In the event of a contradiction between a general document and a specific document, the latter shall prevail.

4.4.1 Specific documents

4.4.1.1 The offer

4.4.1.2 The technical documents defined and numbered below:

- refractory design and installation drawings,
- overall plans,
- detail and supply drawings,
- characteristics of the materials and their technical data sheet,
- material safety data sheet,
Full list of supplies,
- Instructions for drying and installation at temperature,
- Instructions for the preparation, assembly and use of refractory materials,
- quality assurance documentation,
- Storage instructions,
- Dossier des Ouvrages Exécutés (DOE),
- Dossier d'Intervention Ultime sur l'Ouvrage (DIUO).

4.4.1.3. Order confirmation

In the event of a contradiction between these documents, the document with the lowest number takes precedence over the others.

These documents will be signed by the contractor and his client.

4.4.2 General documents :

4.4.2.2 The general administrative documents defined and numbered below:

Standard NF P03-002 cited above in the introduction in its latest edition, commercially available, subject to the modifications stipulated in the present general conditions and summarised in the last article hereof giving the list of derogations from the said standard. The sole purpose of this standard is to provide the contractor and his client with a "General Administrative Clauses Book" applicable to the work covered hereby.

In the absence of a project manager, the provisions of the aforementioned standard apply by analogy.

In the event of a contradiction between these documents, the document with the lowest number takes precedence over the others.

4.4.2.3 Technical standards in force :

ISO standards 836, 1927, 5019, 5417, 12678 and 13765 and their updates.

General documents published and available on the market are not attached to this contract and are deemed to be known by the customer.

Article 5: Health, safety and working conditions

Article 6: Representation of the Parties - Communication between them

6.3.1 and 6.3.2 Notwithstanding article 6.31 (Communications and notifications - General provisions) and 6.32 (Communications and notifications relating to a time limit) , communications and notifications are also validly made by e-mail with acknowledgement of receipt or by fax.

6.4 Notwithstanding Article 6.4 (Attendance at worksite meetings), worksite meetings are called by the contractor unless a project manager has been appointed to supervise the execution of the work covered hereby. The client may contest the minutes of site meetings within 7 calendar days of receiving them.

- by reservations recorded in the site report,
- by any other means specified in clauses 6.3.1 or 6.3.2 of standard NF P03-002 and these general terms and conditions.

Article 8: Technical conditions for carrying out the work

8.6 The services and supplies, if any, are specified in the tender.

Article 9 Contractor's remuneration

9.5. Notwithstanding Article 9.5 (Premiums for early payment and penalties for late payment), no premiums for early payment or penalties for late payment are provided for.

Article 10 Preparation period and performance period

Notwithstanding article 10 (time counted in calendar days), time periods are expressed in working days.

Notwithstanding Article 10.2, the preparation (engineering) and execution (supply of materials and products, assembly, supervision and drying) times are determined in the tender.

Article 11 Changes to the work

11.1.1 Notwithstanding Article 11.1.1 (Increase in the volume of work), the contractor is not obliged to carry out the additional work before the client has given his written agreement to the contractor on the price resulting from exceeding the initial volume of work.

Article 17: Acceptance

Notwithstanding article 17.2.3 (date of acceptance - report), the acceptance visit may not take place later than 4 months after the client takes possession.

Notwithstanding Article 17.2.4 (Entry into possession by the customer), the customer enters into possession of the work as soon as he brings the industrial equipment into service.

The period between taking possession and the acceptance visit is the industrialisation phase.

Article 18: Completion guarantee period

As the work is not covered by the provisions of articles 1792 et seq. of the Civil Code, notwithstanding paragraph 2 of article 18, the contractor is obliged to remedy the defects under the conditions set out in article 23 of these general conditions.

Article 19: Establishment of payment entitlements

Without prejudice to the provisions of Article 19.1 (Statements of situation), 20% of the price according to the offer is payable on confirmation of the order, 20% on submission of the engineering drawings, 25% on delivery of the materials and refractory products, 30% on completion of their assembly and 5% at the end of the period of the guarantee of perfect completion, subject to the provision by the client of a joint and several guarantee for an amount equal to the balance by a first-rank financial institution.

Article 20: Payments

20.5 Notwithstanding Article 20.5 (Retention of guarantee), no retention of guarantee is provided for.

Article 21: Default and disputes

21.2 Notwithstanding Article 21.2 (Settlement of disputes), any disputes arising from this contract shall be referred to the competent civil courts in Lyon. However, in the event of a dispute, the contractor or the client undertakes to have recourse to mediation before any recourse to the courts. The mediator will be chosen by mutual agreement by the parties from the list of legal experts attached to the French Courts of Appeal with jurisdiction in the field of industrial thermal engineering. Failing agreement on the identity of the mediator, the most diligent party may refer the matter to the competent summary proceedings judge for the appointment of the mediator, who may not, however, be chosen from among those previously refused by any of the parties.

Article 23: Liability and insurance

23.1 Notwithstanding Article 23.1 (Liability), the contractor's liability to the client is governed solely by the provisions of the tender.

Article 24: Retention of title

For materials and products, the contractor reserves ownership of said supplies, whether or not they are used, until they have been paid for in full. They will be removed from the contractor's premises at the cost, insurance and expense of the client.

Article 25: Exemptions from standard NF P 03-002

These general conditions derogate from articles 3.24, 6.3.1, 6.3.2, 6.4, 9.5, 10, 10.2, 11.1.1, 17.3.2, 17.2.4, 18, 20.5, 21.2, 23.1 of standard NF P03-002 cited in article 4.4.2.2.

Article 26: Applicable law

The refractory installation contract is governed by French domestic law.



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