

## 46.710 Contract clauses.

The clauses and *alternates* prescribed in this section *may* be used in *solicitations* and contracts in which inclusion of a *warranty* is appropriate (see [46.709](#) for *warranties* for *commercial products* and *commercial services*). However, because of the many situations that *may* influence the *warranty* terms and conditions appropriate to a particular *acquisition*, the *contracting officer* *may* vary the terms and conditions of the clauses and *alternates* to the extent necessary. The *alternates* prescribed in this section address the clauses; however, the conditions pertaining to each *alternate* *must* be considered if the terms and conditions are varied to meet a particular need.

(a)

(1) The *contracting officer* *may* insert a clause substantially the same as the clause at [52.246-17](#), *Warranty of Supplies* of a Noncomplex Nature, in *solicitations* and contracts for noncomplex items when a fixed-price supply contract is contemplated and the use of a *warranty* clause has been approved under agency procedures. If the contractor's design rather than the Government's design will be used, insert the word "design" before "material" in paragraph (b)(1)(i).

(2) If it is desirable to specify that necessary transportation incident to correction or replacement will be at the Government's expense (as might be the case if, for example, the cost of a *warranty* would otherwise be prohibitive), the *contracting officer* *may* use the clause with its *Alternate* II.

(3) If the *supplies* cannot be obtained from another source, the *contracting officer* *may* use the clause with its *Alternate* III.

(4) If a fixed-price incentive contract is contemplated, the *contracting officer* *may* use the clause with its *Alternate* IV.

(5) If it is anticipated that recovery of the warranted items will involve considerable Government expense for disassembly and/or reassembly of larger items, the *contracting officer* *may* use the clause with its *Alternate* V.

(b)

(1) The *contracting officer* *may* insert a clause substantially the same as the clause at [52.246-18](#), *Warranty of Supplies* of a Complex Nature, in *solicitations* and contracts for deliverable complex items when a fixed-price supply or research and development contract is contemplated and the use of a *warranty* clause has been approved under agency procedures. If the contractor's design rather than the Government's design will be used, insert the word "design" before "material" in paragraph (b)(1).

(2) If it is desirable to specify that necessary transportation incident to correction or replacement will be at the Government's expense (as might be the case if, for example, the cost of a *warranty* would otherwise be prohibitive), the *contracting officer* *may* use the clause with its *Alternate* II.

(3) If a fixed-price incentive contract is contemplated, the *contracting officer* *may* use the clause with its *Alternate* III.

(4) If it is anticipated that recovery of the warranted item will involve considerable Government

expense for disassembly and/or reassembly of larger items, the *contracting officer may* use the clause with its *Alternate IV*.

(c)

(1) The *contracting officer may* insert a clause substantially the same as the clause at [52.246-19](#), *Warranty of Systems and Equipment under Performance Specifications or Design Criteria*, in *solicitations* and contracts when performance specifications or design are of major importance; a fixed-price supply, service, or research and development contract for systems and equipment is contemplated; and the use of a *warranty* clause has been approved under agency procedures.

(2) If it is desirable to specify that necessary transportation incident to correction or replacement will be at the Government's expense (as might be the case if, for example, the cost of a *warranty* would otherwise be prohibitive), the *contracting officer may* use the clause with its *Alternate I*.

(3) If a fixed-price incentive contract is contemplated, the *contracting officer may* use the clause with its *Alternate II*.

(4) If it is anticipated that recovery of the warranted item will involve considerable Government expense for disassembly and/or reassembly of larger items, the *contracting officer may* use the clause with its *Alternate III*.

(d) The *contracting officer may* insert a clause substantially the same as the clause at [52.246-20](#), *Warranty of Services*, in *solicitations* and contracts for services when a fixed-price contract for services is contemplated and the use of *warranty* clause has been approved under agency procedures; unless a clause substantially the same as the clause at [52.246-19](#), *Warranty of Systems and Equipment under Performance Specifications or Design Criteria*, has been used.

(e)

(1) The *contracting officer may* insert a clause substantially the same as the clause at [52.246-21](#), *Warranty of Construction*, in *solicitations* and contracts when a fixed-price *construction* contract (see [46.705\(c\)](#)) is contemplated and the use of a *warranty* clause has been approved under agency procedures.

(2) If the Government specifies in the contract the use of any equipment by "brand name and model," the *contracting officer may* use the clause with its *Alternate I*.

**Parent topic:** [Subpart 46.7 - Warranties](#)