

approve in writing) from the date of completion.

(f) *Assignment.* The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(g) *Refunds.* The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest) in form and substance satisfactory to the Contracting Officer.

(h) *Interim payments.* (1) Interim payments made prior to the final payment under the contract are contract financing payments. Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act.

(2) The designated payment office will make interim payments for contract financing on the \_\_\_\_\_ [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day after the designated billing office receives a proper payment request. In the event that the Govern-

ment requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(End of clause)

*Alternate I (Mar 2000).* If the nature of the work to be performed requires the Contractor to furnish material that the Contractor regularly sells to the general public in the normal course of business, and the price is under the limitations prescribed in 16.601(b)(3), add the following paragraph (6) to paragraph (b) of the basic clause:

(b)(6) If the nature of the work to be performed requires the Contractor to furnish material that the Contractor regularly sells to the general public in the normal course of business, the price to be paid for such material, notwithstanding the other requirements of this paragraph (b), shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Government, provided that in no event shall such price be in excess of the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

*Alternate II (Feb 2002).* If a labor-hour contract is contemplated, and if no specific reimbursement for materials furnished is intended, the Contracting Officer may add the following paragraph (i) to the basic clause:

(i) The terms of this clause that govern reimbursement for materials furnished are considered to have been deleted.

[48 FR 42478, Sept. 19, 1983, as amended at 51 FR 2667, Jan. 17, 1986; 61 FR 67419, Dec. 20, 1996; 65 FR 16283, Mar. 27, 2000; 66 FR 65361, Dec. 18, 2001]

#### **52.232-8 Discounts for Prompt Payment.**

As prescribed in 32.111(c)(1), insert the following clause:

##### **DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)**

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer,

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offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

[48 FR 42478, Sept. 19, 1983, as amended at 50 FR 26904, June 28, 1985; 54 FR 13337, Mar. 31, 1989; 62 FR 12712, Mar. 17, 1997; 66 FR 65361, Dec. 18, 2001]

**52.232-9 Limitation on Withholding of Payments.**

As prescribed in 32.111(c)(2), insert a clause substantially as follows, appropriately modified with respect to payment due dates in accordance with agency regulations, in solicitations and contracts when a supply contract, service contract, time-and-materials contract, labor-hour contract, or research and development contract is contemplated that includes two or more terms authorizing the temporary withholding of amounts otherwise payable to the contractor for supplies delivered or services performed:

LIMITATION ON WITHHOLDING OF PAYMENTS  
(APR 1984)

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; *provided*, that this limitation shall not apply to—

- (a) Withholdings pursuant to any clause relating to wages or hours of employees;
- (b) Withholdings not specifically provided for by this contract;
- (c) The recovery of overpayments; and

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(d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

(End of clause)

**52.232-10 Payments Under Fixed-Price Architect-Engineer Contracts.**

As prescribed in 32.111(d)(1), insert the following clause:

PAYMENTS UNDER FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (AUG 1987)

(a) Estimates shall be made monthly of the amount and value of the work accomplished and services performed by the Contractor under this contract which meet standards of quality established under this contract. The estimates shall be prepared by the Contractor and accompanied by any supporting data required by the Contracting Officer.

(b) Upon approval of the estimate by the Contracting Officer, payment upon properly executed vouchers shall be made to the Contractor, as soon as practicable, of 90 percent of the approved amount, less all previous payments; *provided*, that payment may be made in full during any months in which the Contracting Officer determines that performance has been satisfactory. Also, whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer may release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and acceptance by the Contracting Officer of the work done by the Contractor under the *Statement of Architect-Engineer Services*, the Contractor will be paid the unpaid balance of any money due for work under the statement, including retained percentages relating to this portion of the work. Upon satisfactory completion and final acceptance of the construction work, the Contractor shall be paid any unpaid balance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A *contract action* is any action resulting in a contract, as