

(1) A TENDER OF PERFORMANCE OCCURS WHEN THE PARTY, WITH MANIFEST PRESENT ABILITY AND WILLINGNESS TO PERFORM, OFFERS TO COMPLETE THE PERFORMANCE.

(2) IF A PERFORMANCE BY THE OTHER PARTY IS DUE AT THE TIME OF THE TENDERED PERFORMANCE, TENDER OF THE OTHER PARTY'S PERFORMANCE IS A CONDITION TO THE TENDERING PARTY'S OBLIGATION TO COMPLETE THE TENDERED PERFORMANCE.

(3) A PARTY SHALL PAY OR RENDER THE CONSIDERATION REQUIRED BY THE AGREEMENT FOR A PERFORMANCE IT ACCEPTS. A PARTY THAT ACCEPTS A PERFORMANCE HAS THE BURDEN OF ESTABLISHING A BREACH OF CONTRACT WITH RESPECT TO THE ACCEPTED PERFORMANCE.

(D) EXCEPT AS OTHERWISE PROVIDED IN §§ 21-603 AND 21-604 OF THIS SUBTITLE, IN THE CASE OF A PERFORMANCE WITH RESPECT TO A COPY, THIS SECTION IS SUBJECT TO §§ 21-606 THROUGH 21-610 AND §§ 21-704 THROUGH 21-707 OF THIS TITLE.

21-602. LICENSOR'S OBLIGATION TO ENABLE USE.

(A) IN THIS SECTION, "ENABLE USE" MEANS TO GRANT A CONTRACTUAL RIGHT OR PERMISSION WITH RESPECT TO INFORMATION OR INFORMATIONAL RIGHTS AND TO COMPLETE THE ACTS, IF ANY, REQUIRED UNDER THE AGREEMENT TO MAKE THE INFORMATION AVAILABLE TO THE LICENSEE.

(B) A LICENSOR SHALL ENABLE USE BY THE LICENSEE PURSUANT TO THE CONTRACT. THE FOLLOWING RULES APPLY TO ENABLING USE:

(1) IF NOTHING OTHER THAN THE GRANT OF A CONTRACTUAL RIGHT OR PERMISSION IS REQUIRED TO ENABLE USE, THE LICENSOR ENABLES USE WHEN THE CONTRACT BECOMES ENFORCEABLE.

(2) IF THE AGREEMENT REQUIRES DELIVERY OF A COPY, ENABLING USE OCCURS WHEN THE COPY IS TENDERED TO THE LICENSEE.

(3) IF THE AGREEMENT REQUIRES DELIVERY OF A COPY AND STEPS AUTHORIZING THE LICENSEE'S USE, ENABLING USE OCCURS WHEN THE LAST OF THOSE ACTS OCCURS.

(4) IN AN ACCESS CONTRACT, ENABLING USE REQUIRES TENDERING ALL ACCESS MATERIAL NECESSARY TO ENABLE THE AGREED ACCESS.

(5) IF THE AGREEMENT REQUIRES A TRANSFER OF OWNERSHIP OF INFORMATIONAL RIGHTS AND A FILING OR RECORDING IS ALLOWED BY LAW TO ESTABLISH PRIORITY OF THE TRANSFERRED OWNERSHIP, ON REQUEST BY THE LICENSEE, THE LICENSOR SHALL EXECUTE AND TENDER A RECORD APPROPRIATE FOR THAT PURPOSE.

21-603. SUBMISSIONS OF INFORMATION TO SATISFACTION OF A PARTY.

IF AN AGREEMENT REQUIRES THAT SUBMITTED INFORMATION BE TO THE SATISFACTION OF THE RECIPIENT, THE FOLLOWING RULES APPLY: