

FAIR AND REASONABLE AND NOTIFY THE OTHER PARTY OF THE ESTIMATED QUOTA TO BE MADE AVAILABLE. IN MAKING THE ALLOCATION, THE PARTY CLAIMING EXCUSE MAY INCLUDE THE REQUIREMENTS OF REGULAR CUSTOMERS NOT THEN UNDER CONTRACT AND ITS OWN REQUIREMENTS.

(D) A PARTY THAT RECEIVES NOTICE PURSUANT TO SUBSECTION (B) OF THIS SECTION OF A MATERIAL OR INDEFINITE DELAY IN DELIVERY OF COPIES OR OF AN ALLOCATION UNDER SUBSECTION (C) OF THIS SECTION, BY NOTICE IN A RECORD, MAY:

(1) TERMINATE AND THEREBY DISCHARGE ANY EXECUTORY PORTION OF THE CONTRACT; OR

(2) MODIFY THE CONTRACT BY AGREEING TO TAKE THE AVAILABLE ALLOCATION IN SUBSTITUTION.

(E) IF, AFTER RECEIPT OF NOTICE UNDER SUBSECTION (B) OF THIS SECTION, A PARTY DOES NOT MODIFY THE CONTRACT WITHIN A REASONABLE TIME NOT EXCEEDING 30 DAYS, THE CONTRACT LAPSES WITH RESPECT TO ANY PERFORMANCE AFFECTED.

TERMINATION.

21-616. TERMINATION: SURVIVAL OF OBLIGATIONS.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON TERMINATION ALL OBLIGATIONS THAT ARE STILL EXECUTORY ON BOTH SIDES ARE DISCHARGED.

(B) THE FOLLOWING SURVIVE TERMINATION:

(1) A RIGHT BASED ON PREVIOUS BREACH OR PERFORMANCE OF THE CONTRACT;

(2) AN OBLIGATION OF CONFIDENTIALITY, NONDISCLOSURE, OR NONCOMPETITION TO THE EXTENT ENFORCEABLE UNDER OTHER LAW;

(3) A CONTRACTUAL USE TERM APPLICABLE TO ANY LICENSED COPY OR INFORMATION RECEIVED FROM THE OTHER PARTY, OR COPIES MADE OF IT, WHICH ARE NOT RETURNED OR RETURNABLE TO THE OTHER PARTY;

(4) AN OBLIGATION TO DELIVER, OR DISPOSE OF INFORMATION, MATERIALS, DOCUMENTATION, COPIES, RECORDS, OR THE LIKE TO THE OTHER PARTY, AN OBLIGATION TO DESTROY COPIES, OR A RIGHT TO OBTAIN INFORMATION FROM AN ESCROW AGENT;

(5) A CHOICE OF LAW OR FORUM;

(6) AN OBLIGATION TO ARBITRATE OR OTHERWISE RESOLVE DISPUTES BY ALTERNATIVE DISPUTE RESOLUTION PROCEDURES;

(7) A TERM LIMITING THE TIME FOR COMMENCING AN ACTION OR FOR GIVING NOTICE;