

Exercise 31-8**Endgame Exercise**

This provision is an exemplar from Chapter 15—straight from the original contract. Rewrite the provision to fix the substantive and drafting errors.

Termination. If either Party believes that the other Party is in material breach of this Agreement . . . , then the non-breaching Party may deliver notice of such breach to the other Party. In such notice, the non-breaching Party will identify the actions or conduct that it wishes such Party to take for an acceptable and prompt cure of such breach (or will otherwise state its good faith belief that such breach is incurable); provided, however, that such identified actions or conduct will not be binding on the other Party with respect to the actions that it may need to take to cure such breach. If the breach is curable, the allegedly breaching Party will have ninety (90) days to either cure such breach (except to the extent such breach involves the failure to make a payment when due, which breach must be cured within thirty (30) days following such notice) or, if a cure cannot be reasonably effected within such ninety (90) day period, to deliver to the non-breaching Party a plan for curing such breach which is reasonably sufficient to effect a cure within a reasonable period. If the breaching Party fails to (a) cure such breach within the ninety (90) day or thirty (30) day period, as applicable, or (b) use Commercially Reasonable Efforts to carry out the plan and cure the breach, the non-breaching Party may terminate this Agreement by providing written notice to the breaching Party.