

(1) THE TERM IS UNCONSCIONABLE ~~OR~~;

(2) THE TERM IS UNENFORCEABLE, AFTER WEIGHING FUNDAMENTAL PUBLIC POLICIES, INCLUDING FUNDAMENTAL PUBLIC POLICIES CONCERNING COMPETITION OR INNOVATION, UNDER § 21-105(A) OR (B) OF THIS TITLE; ~~OR~~

~~(2)~~ (3) SUBJECT TO § 21-301 OF THIS TITLE, THE TERM CONFLICTS WITH A TERM TO WHICH THE PARTIES TO THE LICENSE HAVE EXPRESSLY AGREED; OR

(4) THE TERM IS NOT AVAILABLE FOR VIEWING BEFORE AND AFTER ASSENT:

(I) IN A PRINTED LICENSE ~~OR~~; OR

(II) IN ELECTRONIC FORM THAT:

1. CAN BE PRINTED OR STORED FOR ARCHIVAL AND REVIEW PURPOSES BY THE LICENSEE; OR

2. IS MADE AVAILABLE BY A LICENSOR TO A LICENSEE, AT NO COST TO THE LICENSEE, IN A PRINTED FORM ON THE REQUEST OF A LICENSEE THAT IS UNABLE TO PRINT OR STORE THE LICENSE FOR ARCHIVAL AND REVIEW PURPOSES.

(B) IF A MASS-MARKET LICENSE OR A COPY OF THE LICENSE IS NOT AVAILABLE IN A MANNER PERMITTING AN OPPORTUNITY TO REVIEW BY THE LICENSEE BEFORE THE LICENSEE BECOMES OBLIGATED TO PAY AND THE LICENSEE DOES NOT AGREE, SUCH AS BY MANIFESTING ASSENT, TO THE LICENSE AFTER HAVING AN OPPORTUNITY TO REVIEW, THE LICENSEE IS ENTITLED TO A RETURN UNDER § 21-112 OF THIS TITLE AND, IN ADDITION, TO:

(1) REIMBURSEMENT OF ANY REASONABLE EXPENSES INCURRED IN COMPLYING WITH THE LICENSOR'S INSTRUCTIONS FOR RETURNING OR DESTROYING THE COMPUTER INFORMATION OR, IN THE ABSENCE OF INSTRUCTIONS, EXPENSES INCURRED FOR RETURN POSTAGE OR SIMILAR REASONABLE EXPENSE IN RETURNING THE COMPUTER INFORMATION; AND

(2) COMPENSATION FOR ANY REASONABLE AND FORESEEABLE COSTS OF RESTORING THE LICENSEE'S INFORMATION PROCESSING SYSTEM TO REVERSE CHANGES IN THE SYSTEM CAUSED BY THE INSTALLATION, IF:

(A) THE INSTALLATION OCCURS BECAUSE INFORMATION MUST BE INSTALLED TO ENABLE REVIEW OF THE LICENSE; AND

(B) THE INSTALLATION ALTERS THE SYSTEM OR INFORMATION IN IT BUT DOES NOT RESTORE THE SYSTEM OR INFORMATION AFTER REMOVAL OF THE INSTALLED INFORMATION BECAUSE THE LICENSEE REJECTED THE LICENSE.

(C) IN A MASS-MARKET TRANSACTION, IF THE LICENSOR DOES NOT HAVE AN OPPORTUNITY TO REVIEW A RECORD CONTAINING PROPOSED TERMS FROM THE LICENSEE BEFORE THE LICENSOR DELIVERS OR BECOMES OBLIGATED TO DELIVER