21-705. COPY: CONTRACT WITH PREVIOUS VESTED GRANT OF RIGHTS.

IF AN AGREEMENT GRANTS A RIGHT IN OR PERMISSION TO USE INFORMATIONAL RIGHTS WHICH PRECEDES OR IS OTHERWISE INDEPENDENT OF THE DELIVERY OF A COPY, THE FOLLOWING RULES APPLY:

(1)   A PARTY MAY REFUSE A TENDER OF A COPY WHICH IS A MATERIAL BREACH AS TO THAT COPY, BUT REFUSAL OF THAT TENDER DOES NOT CANCEL THE CONTRACT.

(2)   IN A CASE GOVERNED BY PARAGRAPH (1) OF THIS SUBSECTION, THE TENDERING PARTY MAY CURE THE BREACH BY SEASONABLY PROVIDING A CONFORMING COPY BEFORE THE BREACH BECOMES MATERIAL AS TO THE WHOLE CONTRACT.

(3)   A BREACH THAT IS MATERIAL WITH RESPECT TO A COPY ALLOWS CANCELLATION OF THE CONTRACT ONLY IF THE BREACH CANNOT BE SEASONABLY CURED AND IS A MATERIAL BREACH OF THE WHOLE CONTRACT.

21-706. COPY: DUTIES UPON RIGHTFUL REFUSAL.

(A)   EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AFTER RIGHTFUL REFUSAL OR REVOCATION OF ACCEPTANCE OF A COPY, THE FOLLOWING RULES APPLY:

(1)   IF THE REFUSING PARTY RIGHTFULLY CANCELS THE CONTRACT, § 21-802 OF THIS TITLE APPLIES AND ALL CONTRACTUAL USE TERMS CONTINUE.

(2)   IF THE CONTRACT IS NOT CANCELED, THE PARTIES REMAIN BOUND BY ALL CONTRACTUAL OBLIGATIONS.

(B)   ON RIGHTFUL REFUSAL OR REVOCATION OF ACCEPTANCE OF A COPY, THE FOLLOWING RULES APPLY TO THE EXTENT CONSISTENT WITH § 21-802 OF THIS TITLE:

(1)   ANY USE, SALE, DISPLAY, PERFORMANCE, OR TRANSFER OF THE COPY OR INFORMATION IT CONTAINS, OR ANY FAILURE TO COMPLY WITH A CONTRACTUAL USE TERM, IS A BREACH OF CONTRACT. THE LICENSEE SHALL PAY THE LICENSOR THE REASONABLE VALUE OF ANY USE. HOWEVER, USE FOR A LIMITED TIME WITHIN CONTRACTUAL USE TERMS IS NOT A BREACH, AND IS NOT AN ACCEPTANCE UNDER § 21-609(A)(5) OF THIS TITLE, IF IT:

(A)   OCCURS AFTER THE TENDERING PARTY IS SEASONABLY NOTIFIED OF REFUSAL;

(B)   IS NOT FOR DISTRIBUTION AND IS SOLELY PART OF MEASURES REASONABLE UNDER THE CIRCUMSTANCES TO AVOID OR REDUCE LOSS; AND

(C)   IS NOT CONTRARY TO INSTRUCTIONS CONCERNING DISPOSITION OF THE COPY RECEIVED FROM THE PARTY IN BREACH.

(2)   A PARTY THAT REFUSES A COPY SHALL: