

(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 RECEIVED FROM THE PARTY IN BREACH CONCERNING DISPOSITION OF THEM.

(5) THE LICENSEE SHALL PAY THE LICENSOR THE REASONABLE VALUE OF ANY USE AFTER CANCELLATION PERMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION.

(6) THE OBLIGATIONS UNDER THIS SUBSECTION APPLY TO ALL INFORMATION, INFORMATIONAL RIGHTS, DOCUMENTATION, MATERIALS, AND COPIES RECEIVED BY THE PARTY AND ANY COPIES MADE THEREFROM.

(D) A TERM PROVIDING THAT A CONTRACT MAY NOT BE CANCELED PRECLUDES CANCELLATION BUT DOES NOT LIMIT OTHER REMEDIES.

(E) UNLESS A CONTRARY INTENTION CLEARLY APPEARS, AN EXPRESSION SUCH AS "CANCELLATION," "RESCISSION", OR THE LIKE MAY NOT BE CONSTRUED AS A RENUNCIATION OR DISCHARGE OF A CLAIM IN DAMAGES FOR AN ANTECEDENT BREACH.

21-803. CONTRACTUAL MODIFICATION OF REMEDY.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION AND IN § 21-804 OF THIS SUBTITLE:

(1) AN AGREEMENT MAY PROVIDE FOR REMEDIES IN ADDITION TO OR IN SUBSTITUTION FOR THOSE PROVIDED IN THIS TITLE AND MAY LIMIT OR ALTER THE MEASURE OF DAMAGES RECOVERABLE UNDER THIS TITLE OR A PARTY'S OTHER REMEDIES UNDER THIS TITLE, SUCH AS BY PRECLUDING A PARTY'S RIGHT TO CANCEL FOR BREACH OF CONTRACT, LIMITING REMEDIES TO RETURNING OR DELIVERING COPIES AND REPAYMENT OF THE CONTRACT FEE, OR LIMITING REMEDIES TO REPAIR OR REPLACEMENT OF THE NONCONFORMING COPIES; AND

(2) RESORT TO A CONTRACTUAL REMEDY IS OPTIONAL UNLESS THE REMEDY IS EXPRESSLY AGREED TO BE EXCLUSIVE, IN WHICH CASE IT IS THE SOLE REMEDY.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF PERFORMANCE OF AN EXCLUSIVE OR LIMITED REMEDY CAUSES THE REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE, THE AGGRIEVED PARTY MAY PURSUE OTHER REMEDIES UNDER THIS TITLE.

(C) FAILURE OR UNCONSCIONABILITY OF AN AGREED EXCLUSIVE OR LIMITED REMEDY MAKES A TERM DISCLAIMING OR LIMITING CONSEQUENTIAL OR INCIDENTAL DAMAGES UNENFORCEABLE UNLESS THE AGREEMENT EXPRESSLY MAKES THE DISCLAIMER OR LIMITATION INDEPENDENT OF THE AGREED REMEDY.

(D) CONSEQUENTIAL DAMAGES AND INCIDENTAL DAMAGES MAY BE EXCLUDED OR LIMITED BY AGREEMENT UNLESS THE EXCLUSION OR LIMITATION IS UNCONSCIONABLE. EXCLUSION OR LIMITATION OF CONSEQUENTIAL DAMAGES FOR