

(B) A RELEASE CONTINUES FOR THE DURATION OF THE INFORMATIONAL RIGHTS RELEASED IF THE RELEASE DOES NOT SPECIFY ITS DURATION AND DOES NOT REQUIRE AFFIRMATIVE PERFORMANCE AFTER THE GRANT OF THE RELEASE BY:

- (1) THE PARTY GRANTING THE RELEASE; OR
- (2) THE PARTY RECEIVING THE RELEASE, EXCEPT FOR RELATIVELY INSIGNIFICANT ACTS.

(C) IN CASES NOT GOVERNED BY SUBSECTION (B) OF THIS SECTION, THE DURATION OF A RELEASE IS GOVERNED BY § 21-308 OF THIS TITLE.

TERMS OF RECORDS.

21-208. ADOPTING TERMS OF RECORDS.

EXCEPT AS OTHERWISE PROVIDED IN § 21-209 OF THIS SUBTITLE, THE FOLLOWING RULES APPLY:

(1) A PARTY ADOPTS THE TERMS OF A RECORD, INCLUDING A STANDARD FORM, AS THE TERMS OF THE CONTRACT IF THE PARTY AGREES TO THE RECORD, SUCH AS BY MANIFESTING ASSENT.

(2) THE TERMS OF A RECORD MAY BE ADOPTED PURSUANT TO PARAGRAPH (1) OF THIS SECTION AFTER BEGINNING PERFORMANCE OR USE IF THE PARTIES HAD REASON TO KNOW THAT THEIR AGREEMENT WOULD BE REPRESENTED IN WHOLE OR PART BY A LATER RECORD TO BE AGREED ON AND THERE WOULD NOT BE AN OPPORTUNITY TO REVIEW THE RECORD OR A COPY OF IT BEFORE PERFORMANCE OR USE BEGINS. IF THE PARTIES FAIL TO AGREE TO THE LATER TERMS AND DID NOT INTEND TO FORM A CONTRACT UNLESS THEY SO AGREED, § 21-202(E) OF THIS SUBTITLE APPLIES.

(3) IF A PARTY ADOPTS THE TERMS OF A RECORD, THE TERMS BECOME PART OF THE CONTRACT WITHOUT REGARD TO THE PARTY'S KNOWLEDGE OR UNDERSTANDING OF INDIVIDUAL TERMS IN THE RECORD, EXCEPT FOR A TERM THAT IS UNENFORCEABLE BECAUSE IT FAILS TO SATISFY ANOTHER REQUIREMENT OF THIS TITLE.

21-209. MASS-MARKET LICENSE.

(A) A PARTY ADOPTS THE TERMS OF A MASS-MARKET LICENSE FOR PURPOSES OF § 21-208 OF THIS SUBTITLE ONLY IF THE PARTY AGREES TO THE LICENSE, SUCH AS BY MANIFESTING ASSENT, BEFORE OR DURING THE PARTY'S INITIAL PERFORMANCE OR USE OF OR ACCESS TO THE INFORMATION. A TERM IS NOT PART OF THE LICENSE IF:

- (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