

AN ARTICLE 2B MASS-MARKET SOFTWARE LICENSE

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Many of the terms in this license are found in current mass-market software licenses, but it is highly questionable whether they are all enforceable. Under Article 2B, they might *all* be enforceable. Before you say, "Yes, yes, but federal law will preempt the worst of these," let me remind you of Ray Nimmer's recent analysis of federal preemption of contract clauses:

There have been no cases in which [Copyright Act] Section 301 preemption was used successfully to challenge and invalidate a term of a contract that was enforceable as a matter of general state contract law.

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