GPLv3 Second Discussion Draft Rationale

This document states the rationale for the changes in the second discussion draft of GPLv3. We present the changes themselves in the form of markup, with ~~strikeout~~ indicating text we have removed from the draft and **bold** indicating text we have added. Footnotes state the reasons for specific changes. Several of these reasons refer to opinions we are releasing with the second discussion draft.

We refer to the first and second discussion drafts of GPLv3 as "Draft1" and "Draft2," respectively.

GNU General Public License

Discussion Draft ~~1~~ **2** of Version 3, ~~16 Jan~~ **27 July** 2006

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Preamble

The licenses for most software are designed to take away your freedom to share and change it. By contrast, the GNU General Public License is intended to guarantee your freedom to share and change free software—to make sure the software is free for all its users. We, the Free Software Foundation, use the GNU General Public License for most of our software; it applies also to any other program whose authors commit to using it. ~~(Some Free Software Foundation software is covered by the GNU Lesser General Public License instead.)~~[1] You can apply it to your programs, too.

When we speak of free software, we are referring to freedom, not price. Our General Public Licenses are designed to make sure that you have the freedom to distribute copies of free software (and charge for this service if you wish), that you receive source code or can get it if you want it, that you can change the software or use pieces of it in new free programs~~;~~**,** and that you know you can do these things.

To protect your rights, we need to make requirements that forbid anyone to deny you these rights or to ask you to surrender the rights. ~~These restrictions~~

[1] This parenthetical reference to the GNU LGPL is unnecessary and is less relevant now that we have written the new version of the LGPL as a set of permissive exceptions to the GNU GPL in accord with section 7.

~~translate to~~ **Therefore, you have** certain responsibilities ~~for you~~ if you distribute copies of the software, or if you modify it.

For example, if you distribute copies of such a program, whether gratis or for a fee, you must give the recipients all the rights that you have. You must make sure that they, too, receive or can get the source code. And you must show them these terms so they know their rights.

Developers that use the GNU GPL protect your rights with two steps: (1) assert copyright on the software, and (2) offer you this License which gives you legal permission to copy, distribute and/or modify the software.

For the developers' and ~~author's~~ **authors'** protection, the GPL clearly explains that there is no warranty for this free software. ~~If the software is modified by someone else and passed on, the GPL ensures that recipients are told that what they have is not the original, so that any problems introduced by others will not reflect on the original authors' reputations.~~ **For both users' and authors' sake, the GPL requires that modified versions be marked as changed, so that their problems will not be associated erroneously with the original version.**

~~Some countries have adopted laws prohibiting software that enables users to escape from Digital Restrictions Management.~~ **Some computers are designed to deny users access to install or run modified versions of the software inside them.** ~~DRM~~ **This** is fundamentally incompatible with the purpose of the GPL, which is to protect users' freedom~~;~~ **to change the software.** ~~therefore~~ **Therefore**, the GPL ensures that the software it covers will ~~neither be subject to, nor subject other works to, digital restrictions from which escape is forbidden~~ **not be restricted in this way**.[2]

Finally, every program is threatened constantly by software patents. **States should not allow patents to restrict development and use of software on general-purpose computers, but in places where they do, we** ~~We~~ wish to avoid the special danger that redistributors of a free program will individually obtain patent licenses, in effect making the program proprietary. To prevent this, the GPL ~~makes it clear~~ **assures** that ~~any patent must be licensed for everyone's free use or not licensed at all~~ **patents cannot be used to render the program non-free**.[3]

[2]DRM becomes nastier when based on Treacherous Computing and other changes in computer hardware which deny users the possibility of running modified or alternate programs. When these measures are applied to GPL-covered software, the freedom to run the program becomes a sham. In the statement on DRM in the Preamble we now emphasize this fact rather than the imposition of laws used to enforce and supplement these technical restrictions.

[3]The patent licensing practices that section 7 of GPLv2 (corresponding to section 12 of GPLv3) was designed to prevent are one of several ways in which software patents threaten to make free programs non-free and to prevent users from exercising their rights under the GPL. GPLv3 takes a more comprehensive approach to combatting the danger of patents.

~~The precise terms and conditions for copying, distribution and modification follow.~~[4]

~~GNU GENERAL PUBLIC LICENSE~~

TERMS AND CONDITIONS ~~FOR COPYING, DISTRIBUTION AND MODIFICATION~~[5]

0. Definitions.

~~A "licensed program" means any program or other work distributed under this License.~~[6] ~~"The Program" refers to any such program or work, and a "work based on the Program" means either the Program or any derivative work under copyright law: that is to say, a work containing the Program or a portion of it, either modified or unmodified.~~[7] **In this License, each licensee is addressed as "you," while "the Program" refers to any work of authorship licensed under this License.** ~~Throughout this License, the term "modification" includes, without limitation, translation and extension.~~ **A "modified" work includes, without limitation, versions in which material has been translated or added.**[8] **A work "based on" another work means any modified version, formation of which requires permission under applicable copyright law.** A "covered work" means either the **unmodified** Program or ~~any~~ **a** work based on the Program.[9] ~~Each licensee is addressed as "you".~~

[4] This statement is redundant and therefore unnecessary. In addition, while the requirements of the GPL specifically concern copying, distribution, and modification, as these terms are commonly understood by free software users, the GPL speaks of other aspects of users' rights, as for example in affirming the right to run the unmodified Program.

[5] See n. 4.

[6] In Draft1 the term "licensed program" was defined but never used.

[7] Our efforts to internationalize the terminology of GPLv3 were incomplete in Draft1, as can be seen in the definition of "work based on the Program," which continued to use the United States copyright law term of art "derivative work." Some have suggested that the use of "containing" in this definition is not clear. We replace this definition with a generalized definition of "based on" that is neutral with respect to the vocabularies of particular national copyright law systems. See Opinion on Denationalization of Terminology.

[8] We replace the definition of "modification" with a definition of "modified" (work), which we then use as the basis for our new generalized definition of "based on." This in turn provides us with an alternative to the definitions in GPLv2 and Draft1 that incorporated the United States copyright law term "derivative work." See Opinion on Denationalization of Terminology.

We regard the well-established term "extension" (of a program), used in the now-replaced definition of "modification," to be equivalent to adding material to the program. We note that copyright law, and not arbitrary file boundaries, defines the extent of the Program.

[9] See nn. 7–8 and Opinion on Denationalization of Terminology. We have generalized the definition of "based on" beyond "work based on the Program"; note that a "work based on the Program" no longer includes the Program.

To "propagate" a work means doing anything with it that requires permission under applicable copyright law, ~~other than~~ **except** executing it on a computer**,** or making ~~private~~ modifications **that you do not share**.[10] ~~This~~ **Propagation** includes copying, distribution (with or without modification), **making available to the public,**[11] ~~sublicensing,~~ and in some countries other activities as well. **To "convey" a work means any kind of propagation that enables other parties to make or receive copies, excluding sublicensing.**[12]

A party's "essential patent claims" in a work are all patent claims that the party can give permission to practice, whether already acquired or to be acquired, that would be infringed by making, using, or selling the work.[13]

1. Source Code.

The "source code" for a work means the preferred form of the work for making modifications to it. "Object code" means any non-source version of a work.

[10] We replace the term "private" in the definition of "propagate" with wording that describes behavior. "Private" has many, often conflicting, meanings in legal and common usage.

[11] The copyright laws of many countries other than the United States, as well as certain international copyright treaties, recognize "making available to the public" or "communication to the public" as one of the exclusive rights of copyright holders. See Opinion on Denationalization of Terminology.

[12] See Opinion on Denationalization of Terminology. In Draft1 we defined "propagate" in order to free the license from dependence on national copyright law terms of art. However, Draft1 continued to use the term "distribute," a term that varies in scope in those copyright law systems that recognize it, while applying the conditions for distribution to all kinds of propagation that enable other parties to make or receive copies. This approach proved confusing, and showed the incompleteness of our efforts to internationalize the license. Draft2 now provides a new definition of "convey" and replaces "distribute" with "convey" throughout its terms and conditions, apart from a few idiomatic references to software distribution that are not meant to incorporate the copyright law term of art.

Because we now expressly prohibit sublicensing under section 2 (see n. 34), we have also excluded it from the definition of the new term "convey" (and removed it as an illustrative example of propagation).

[13] As part of our effort to clarify the wording of the express patent license of Draft1, resulting in the covenant not to assert patent claims of Draft2, we provided a new definition of "essential patent claims" to specify, more precisely than we did in Draft1, the set of patent claims that are licensed (or, as we now formulate it, subject to the covenant not to assert). Most notably, we removed the reference to "reasonably contemplated use," which several members of our discussion committees argued was unclear. We also used the verbs that, in most countries, define the basic exclusive powers of patent holders (making, using, and selling the claimed invention). See Opinion on Covenant Not to Assert Patent Claims.

Having factored out and revised the definition of "essential patent claims," we realized that we could also use it to clarify the patent retaliation clause of section 2. See Opinion on Patent Retaliation.

The "System Libraries"[14] **of an executable work**[15] **include every subunit such that (a) the identical subunit is normally included as an adjunct in the distribution of either a major essential component (kernel, window system, and so on) of the specific operating system (if any) on which the object code runs, or a compiler used to produce the object code, or an object code interpreter used to run it, and (b) the subunit (aside from possible incidental extensions) serves only to enable use of the work with that system component or compiler or interpreter, or to implement a widely used or standard interface for which an implementation is available to the public in source code form.**[16]

The "~~Complete~~ Corresponding Source ~~Code~~"[17] for a work in object code form means all the source code needed to ~~understand, adapt, modify, compile, link~~ **generate**, install, and **(for an executable work)**[18] run the **object code and to modify the** work,[19] ~~excluding~~ **except its System Libraries, and except** general-purpose tools **or generally available free programs which are** used **unmodified** in performing those activities but which are not part of the work. For example, ~~this~~ **Corresponding Source** includes ~~any~~ scripts used to control those activities, **interface definition files associated with the program source files,** and ~~any~~ **the source code for** shared libraries and dynamically linked subprograms that the work is **specifically** designed to require,[20] such as by ~~intimate~~ **complex** data communica-

[14] The definition of Corresponding Source ("Complete Corresponding Source Code" in Draft1) is the most complex definition in the license. In our efforts to make the definition clearer and easier to understand, we removed the exception in the final paragraph of section 1 and rewrote it as the definition of the new term "System Libraries," which we then use in the first paragraph of the definition of Corresponding Source.

[15] The definition of System Libraries is inapplicable to non-executable object code works; with this definition, such works have no System Libraries.

[16] In Draft1, a system component that implemented a standard interface qualified for the system library exception if the implementation required "no patent license not already generally available for software under this License." This wording was read by many to mean that the system library exception imposed an affirmative duty to investigate third-party patents, something which we had never intended. Our general concern was to ensure that there would be no obstacle to supporting the implementation in free software; now we have specified this without explicit reference to patents. The revised wording in the definition of System Libraries removes the reference to patents while requiring the interface to have a freely-available reference implementation.

[17] We made the trivial change of shortening "Complete Corresponding Source Code" to "Corresponding Source," an abbreviation we had already used in section 6 of Draft1.

[18] For non-software works covered by the GPL, the concept of "running" of object code will generally be meaningless.

[19] In revising this part of the definition of Corresponding Source, we have responded to concerns that some of our wording, which we meant to be expansive, and particularly the verbs "understand" and "adapt," was too vague or open-ended. In defining what source code is included in Corresponding Source, we now focus on source code that is necessary to generate and (if applicable) execute the object code form of the work and to develop, generate and run modified versions.

[20] We clarify that the shared libraries and dynamically linked subprograms that are included in

tion[21] or control flow between those subprograms and other parts of the work~~, and interface definition files associated with the program source files~~.

The ~~Complete~~ Corresponding Source ~~Code~~ also includes any encryption or authorization ~~codes~~ **keys**[22] necessary to install and/or execute ~~the~~ **modified versions from** source code ~~of the work, perhaps modified by you,~~ in the recommended or principal context of use, such that ~~its functioning in all circumstances is identical to that of the work, except as altered by your modifications~~ **they can implement all the same functionality in the same range of circumstances.**[23] **(For instance, if the work is a DVD player and can play certain DVDs, it must be possible for modified versions to play those DVDs. If the work communicates with an online service, it must be possible for modified versions to communicate with the same online service in the same way such that the service cannot distinguish.)**[24] ~~It also includes any decryption codes necessary to access or unseal the work's output.~~[25] ~~Notwithstanding this, a code~~ **A key** need not be included in cases where use of the work normally implies the user already has ~~it~~ **the key and can read and copy it, as in privacy applications where users generate their own keys. However, the fact that a key is generated based on the object code of the work or is present in hardware that limits its use does not alter the requirement to include it in the Corresponding Source.**[26]

The Corresponding Source may include portions which do not formally

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Corresponding Source are those that the work is "specifically" designed to require, making it clearer that they do not include libraries invoked by the work that can be readily substituted by other existing implementations.

[21] We substitute "complex" for "intimate," which some readers found unclear.

[22] We replaced the term "codes" with "keys" to avoid confusion with source code and object code.

[23] We believe that this wording is clearer than the wording it replaces.

[24] The previous version of this paragraph was read more broadly than we had intended. We now provide specific examples to illustrate to readers the kinds of circumstances in which users must receive keys along with the source code in order for their ability to modify software to be real rather than nominal. See Opinion on Digital Restrictions Management.

[25] Our reference to decryption codes generated much comment, and was misunderstood by many readers. It was intended to ensure that the program was not limited to production of encrypted data that the user was unable to read. We eventually concluded that this is unnecessary; as long as users are truly in a position to install and run their modified versions of the program, they could if they wish modify the original program to output the data without encrypting it. We have decided, therefore, to remove this sentence from the draft.

[26] The mere fact that use of the work implies that the user *has* the key may not be enough to ensure the user's freedom in using it. The user must also be able to read and copy the key; thus, its presence in a special register inside the computer does not satisfy the requirement. In an application in which the user's personal key is used to protect privacy or limit distribution of personal data, the user clearly has the ability to read and copy the key, which therefore is not included in the Corresponding Source. On the other hand, if a key is generated based on the object code, or is present in hardware, but the user cannot manipulate that key, then the key must be provided as part of the Corresponding Source.

state this License as their license, but qualify under section 7 for inclusion in a work under this License.[27]

The ~~Complete~~ Corresponding Source ~~Code~~ need not include anything that users can regenerate automatically from other parts of the ~~Complete~~ Corresponding Source ~~Code~~.

~~As a special exception, the Complete Corresponding Source Code need not include a particular subunit if (a) the identical subunit is normally included as an adjunct in the distribution of either a major essential component (kernel, window system, and so on) of the operating system on which the executable runs or a compiler used to produce the executable or an object code interpreter used to run it, and (b) the subunit (aside from possible incidental extensions) serves only to enable use of the work with that system component or compiler or interpreter, or to implement a widely used or standard interface, the implementation of which requires no patent license not already generally available for software under this License.~~[28]

2. Basic Permissions.

All rights granted under this License are granted for the term of copyright on the Program, and are irrevocable provided the stated conditions are met. This License explicitly affirms your unlimited permission to run the **unmodified**[29] Program. The output from running it is covered by this License only if the output, given its content, constitutes a ~~work based on the Program~~ **covered work**. This License acknowledges your rights of "fair use" or other equivalent, as provided by copyright law.

This License ~~gives unlimited~~[30] ~~permission~~ **permits you** to ~~privately modify~~ **make** and run **privately modified versions of** the Program,[31] **or have others make and run them on your behalf.**[32] ~~provided you do not~~ **However, this permission**

[27] This paragraph was previously the final paragraph of section 6; it is more appropriately included in the definition of Corresponding Source.

[28] As we point out in n. 14, we replaced this paragraph with our new definition of "System Libraries" in the second paragraph of section 1.

[29] We add "unmodified," even though "the Program" is defined as the work as it is received by the licensee, to more clearly distinguish this permission from the permission in the following paragraph, which is subject to patent retaliation.

[30] Strictly speaking, this permission, unlike the permission to run the unmodified Program, is not unlimited, since it may be terminated under the conditions stated in this paragraph.

[31] As we explain further in the Opinion on Patent Retaliation, we have revised this wording for clarity.

[32] Inherent in the right to modify a work is the right to have another party modify it on one's behalf. We mention this explicitly to make clear that one cannot avoid the effects of the patent retaliation

terminates, as to all such versions, if you bring suit **against anyone** for patent infringement ~~against anyone~~ **of any of your essential patent claims in any such version,** for making, using**, selling** or ~~distributing~~ **otherwise conveying** ~~their own works~~ **a work** based on the Program **in compliance with this License**.[33]

Propagation of covered works **other than conveying** is permitted without limitation ~~provided it does not enable parties other than you to make or receive copies~~. **Sublicensing is not allowed; section 10 makes it unnecessary.**[34] ~~Propagation which does enable them to do so~~ **Conveying** is permitted ~~, as "distribution",~~ under the conditions ~~of sections 4-6~~ **stated** below.[35]

3. ~~Digital Restrictions Management~~ No Denying Users' Rights Through Technical Measures.[36]

~~As a free software license, this License intrinsically disfavors technical attempts to restrict users' freedom to copy, modify, and share copyrighted works. Each of its provisions shall be interpreted in light of this specific declaration of the licensor's intent.~~[37] Regardless of any other provision of this License, no permission is given ~~to distribute covered works that illegally invade users' privacy, nor~~[38] for modes of

clause by contracting out the development of the modified version.

[33]See Opinion on Patent Retaliation. The changes we have made in this paragraph more precisely define the permission as well as the kind of lawsuit that activates termination of the permission. For example, as noted in n. 13, we make use of the new defined term "essential patent claims."

[34]The explicit prohibition of sublicensing ensures that enforcement of the GPL is always by the copyright holder. Usually, sublicensing is regarded as a practical convenience or necessity for the licensee, to avoid having to negotiate a license with each licensor in a chain of distribution. The GPL solves this problem in another way, through its automatic licensing provision.

[35]To simplify and clarify the text, we make use of the new defined term "conveying." See n. 12 and Opinion on Denationalization of Terminology.

[36]In Draft1 only part of this section concerned Digital Restrictions Management, so the title was misleading. In Draft2 none of the section directly concerns DRM; parts of it are designed to thwart legal means of stopping users from changing free software that comes with DRM, but that is an indirect connection. We have retitled the section to state its direct focus. Our license must do what it can to resist the effects of technical measures to deny users' rights to copy, modify, and share software, and of the laws that prohibit escape from these measures. See Opinion on Digital Restrictions Management.

[37]These sentences were intended to guide judicial interpretation of the license to resolve any ambiguities in favor of protecting users against technical restrictions on their freedom. We deleted this sentence as part of focusing the GPL's requirements on protecting the freedom to modify DRM-ridden software, rather than at the DRM itself.

[38]The clause referring to illegal invasions of users' privacy was intended to provide developers a weapon, based in copyright, to combat spyware and malware, in order to supplement enforcement efforts of public authorities. The considerable public reaction to this provision, however, was overwhelmingly negative, and we therefore have decided to remove it.

~~distribution~~ **conveying** that deny users that run covered works the full exercise of the legal rights granted by this License.

No covered work constitutes part of an effective technological **"**protection**"** measure **under section 1201 of Title 17 of the United States Code.**~~: that is to say, distribution of a covered work as part of a system to generate or access certain data constitutes general permission at least for development, distribution and use, under this License, of other software capable of accessing the same data.~~ **When you convey a covered work, you waive any legal power to forbid circumvention of technical measures that include use of the covered work, and you disclaim any intention to limit operation or modification of the work as a means of enforcing the legal rights of third parties against the work's users.**[39]

4.[1] Verbatim Copying.

You may copy and ~~distribute~~ **convey** verbatim copies of the Program's source code as you receive it, in any medium, provided that you conspicuously and appropriately publish on each copy an appropriate copyright notice; keep intact all license notices and notices of the absence of any warranty; **and** give all recipients**,** ~~of~~ **along with** the Program**,** a copy of this License ~~along with the Program;~~ and ~~obey any additional terms present on parts of the Program in accord with~~ **the central list (if any) required by** section 7. **The recipients of these copies will possess all the rights granted by this License (with any added terms under section 7).**[40]

You may charge ~~a fee~~ **any price or no price** for ~~the physical act of transferring a copy~~ **each copy that you convey**,[41] and you may ~~at your option~~ offer **support or**

[39]We revised the second paragraph of section 3 extensively, breaking it up into two sentences. The first sentence now makes specific reference to the anticircumvention provisions of the U.S. Digital Millennium Copyright Act. The second sentence is more generally directed, but its waiver and disclaimer respond specifically to the features of the anticircumvention provisions of the European Union Copyright Directive and its associated implementing legislation. Although our general approach in drafting GPLv3 has been to remove references to particular regimes of copyright law, and particularly those of the United States, the peculiar features of the different U.S. and European approaches to anticircumvention, and the graveness of the danger these laws pose to free software, demanded a more specialized solution. In particular, the EUCD appears to give implementers of technical restriction measures the power to waive the operation of anticircumvention law. The DMCA is worded differently; we believe its effects are best resisted by way of a declaration that covered works are not part of its "protection" measures. See Opinion on Digital Restrictions Management.

[40]The principal changes in the first paragraph of section 4 concern the possible presence of additional terms on all or part of the Program. We removed wording that was inconsistent with section 7; the job it did is now done in section 7 itself. We also added wording that makes clear that the conveyor must provide the central list of additional terms required by section 7, and that recipients receive full GPL rights, supplemented by any additional terms that were placed on the Program.

[41]The original wording of this clause was meant to make clear that the GPL permits one to charge

warranty protection for a fee.[42]

5.[2] ~~Distributing~~ **Conveying** Modified Source Versions.

~~Having modified a copy of the Program under the conditions of section 2, thus forming a work based on the Program, you~~ **You** may copy and ~~distribute~~ **convey** ~~such modifications or~~ **a** work **based on the Program, or the modifications to produce it from the Program,**[43] in the form of source code under the terms of section 4 above, provided that you also meet all of these conditions:

a. The modified work must carry prominent notices stating that you changed the work and the date of any change.

b. You must license the entire ~~modified~~ work, as a whole, under this License to anyone who comes into possession of a copy. This License must apply, unmodified except as permitted by section 7 below, to the whole of the work**, and all its parts, regardless of how they are packaged**.[44] This License gives no permission to license the work in any other way, but it does not invalidate such permission if you have separately received it.

c. If the modified work has interactive user interfaces, each must include a convenient feature that displays an appropriate copyright notice, and tells the user that there is no warranty for the program (or that you provide a warranty), that users may ~~redistribute~~ **convey** the modified work under ~~these conditions~~ **this License**, and how to view a copy of this License together with the central list (if any) of other terms in accord with section 7. **Specifically,** ~~If~~ **if** the interface presents a list of user commands or options, such

for the distribution of software. Despite our efforts to explain this in the license and in other documents, there are evidently some who believe that the GPL allows charging for services but not for selling software, or that the GPL requires downloads to be gratis. We referred to charging a "fee"; the term "fee" is generally used in connection with services. Our original wording also referred to "the physical act of transferring." The intention was to distinguish charging for transfers from attempts to impose licensing fees on all third parties. "Physical" might be read, however, as suggesting "distribution in a physical medium only." In our revised wording we use "price" in place of "fee," and we remove the term "physical."

[42]There is no harm in explicitly pointing out what ought to be obvious: that those who convey GPL-covered software may offer commercial services for the support of that software.

[43]Conveying a patch that is used to produce a modified version is equivalent to conveying the modified version itself.

[44]We add to subsection 5b a simpler restatement of a point that was previously made in a more cumbersome way in the text following subsection 5c. Distributors may not use artful subdivision of a modified work to evade the GPL's copyleft requirement.

> as a menu, a command to display this information must be prominent in the list~~.~~**;** ~~Otherwise~~ **otherwise**, the modified work must display this information at startup~~—except in the case that the Program has such interactive modes and does not display this information at startup~~. **However, if the Program has interactive interfaces that do not comply with this subsection, your modified work need not make them comply.**[45]

~~These requirements apply to the modified work as a whole.~~[46] ~~If~~ **To the extent that** identifiable sections of ~~that~~ **the modified** work, added by you, are not derived from the Program, and can be reasonably considered independent and separate works in themselves, then this License, and its terms, do not apply to those sections when you ~~distribute~~ **convey** them as separate works**, not specifically** for use ~~not~~ in combination with the Program.[47] ~~But when you distribute the same sections for use in combination with covered works, no matter in what form such combination occurs, the whole of the combination must be licensed under this License, whose permissions for other licensees extend to the entire whole, and thus to every part of the whole. Your sections may carry other terms as part of this combination in limited ways, described in section 7.~~[48]

~~Thus, it is not the intent of this section to claim rights or contest your rights to work written entirely by you; rather, the intent is to exercise the right to control the distribution of derivative or collective works based on the Program.~~[49]

A compilation of a covered work with other separate and independent works, which are not by their nature extensions of the covered work, in or on a volume of a storage or distribution medium, is called an "aggregate" if the **compilation and its resulting** copyright ~~resulting from the compilation is~~ **are** not used to limit the **access or** legal rights of the compilation's users beyond what the individual works permit. ~~Mere inclusion~~ **Inclusion** of a covered work in an aggregate does not cause this License to apply to the other parts of the aggregate.

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[45]Responding to several public comments, we have rewritten the last sentence of subsection 5c to make it clearer. The substance is unchanged.

[46]Subsection 5b makes this sentence redundant.

[47]A separately-conveyed component that is designed only to be used in combination with and as part of a specific GPL-covered work ought to be considered part of that work, and not as a separate work.

[48]The paragraph following subsection 5c was needlessly abstruse, as was made clear to us during the discussion process. We have made it shorter and, we think, clearer, removing wording duplicative of statements made elsewhere (such as in subsection 5b) and limiting use of the term "combination," which troubled many readers.

[49]We have deleted this statement of intent; we consider it unnecessary. It also had the disadvantage of using terminology specific to U.S. copyright law.

6.[3] **Conveying** Non-Source ~~Distribution~~ **Forms.**

You may copy and ~~distribute~~ **convey** a covered work in ~~Object Code~~ **object code** form under the terms of sections 4 and 5, provided that you also ~~distribute~~ **convey** the machine-readable ~~Complete~~ Corresponding Source ~~Code (herein the "Corresponding Source")~~ under the terms of this License, in one of these ways:

a. ~~Distribute~~ **Convey** the ~~Object Code~~ **object code** in a physical product (including a physical distribution medium), accompanied by the Corresponding Source ~~distributed~~ **fixed** on a durable physical medium customarily used for software interchange**.**~~; or,~~

b. ~~Distribute~~ **Convey** the ~~Object Code~~ **object code** in a physical product (including a physical distribution medium), accompanied by a written offer, valid for at least three years and valid for as long as you offer spare parts or customer support for that product model, to give any third party~~, for a price no more than ten times your cost of physically performing source distribution,~~ a copy of the Corresponding Source for all the software in the product that is covered by this License, on a durable physical medium customarily used for software interchange**, for a price no more than your reasonable cost of physically performing this conveying of source.**[50]~~; or,~~

[b1. **Convey the object code in a physical product (including a physical distribution medium), accompanied by a written offer, valid for at least three years and valid for as long as you offer spare parts or customer support for that product model, to provide access to copy the Corresponding Source from a network server at no charge.**][51]

c. ~~Privately distribute~~ **Convey individual copies of** the ~~Object Code~~ **object code** with a copy of the written offer to provide the Corresponding Source.

[50]Responding to arguments made in several public comments, we have decided to restore the requirement, relaxed in Draft1, that the price of the copy of the Corresponding Source be limited to the reasonable cost of physically performing source distribution.

[51]We present for consideration and discussion this proposed new option for providing Corresponding Source by a written offer to make the Corresponding Source available for download from a network server. In the past, downloading was not a convenient option for most users in most circumstances. This is no longer true in many places where broadband net access is common.

Moreover, there are now services that will download material, store it on a CD or DVD, and mail it to the customer for a reasonable price, comparable to the cost of occasionally preparing and mailing a source disk. (For example, we know of one business that charges U.S. $8.52 to burn and ship a DVD containing between 2GB and 4.7GB of data from the U.S. to any country outside the U.S.) The availability of such services suggests that option 6b1 will be no worse than option 6b, even for users in countries where access to broadband is uncommon.

This alternative is allowed only ~~for occasional noncommercial distribution~~ **occasionally and noncommercially**, and only if you received the ~~Object Code~~ **object code** with such an offer, in accord with ~~Subsection b above~~ **subsection 6b or 6b1**.[52] ~~Or,~~

d. ~~Distribute~~ **Convey** the ~~Object Code~~ **object code** by offering access ~~to copy it~~ from a designated place, and offer equivalent access to ~~copy~~ the Corresponding Source in the same way through the same place **at no extra charge**.[53] You need not require recipients to copy the Corresponding Source along with the ~~Object Code~~ **object code**.

   [If the place to copy the ~~Object Code~~ **object code** is a network server, the Corresponding Source may be on a different server that supports equivalent copying facilities, provided you have explicitly arranged with the operator of that server to keep the Corresponding Source available for as long as needed to satisfy these requirements, and provided you maintain clear directions next to the ~~Object Code~~ **object code** saying where to find the Corresponding Source.]

e. **Convey the object code using peer-to-peer transmission provided you know that, and inform other peers where, the object code and Corresponding Source of the work are being offered to the general public at no charge under subsection 6d.**[54]

~~Distribution of the~~ **The** Corresponding Source **conveyed** in accord with this section must be in a format that is publicly documented, ~~unencumbered by patents,~~ **with an implementation available to the public in source code form,**[55] and must require no special password or key for unpacking, reading or copying.

~~The Corresponding Source may include portions which do not formally state this License as their license, but qualify under section 7 for inclusion in a work under this License.~~[56]

[52] We have revised the wording of this option for clarity. The subsection is meant to facilitate personal, noncommercial sharing of copies between individuals.

[53] We now specify what we believe was previously implicit: if binaries are offered for download from a network server, the Corresponding Source made available through the network server in accord with this subsection must be offered at no extra charge.

[54] See Opinion on BitTorrent Propagation.

[55] Our primary objective here was to ensure that the distributor use a generally-recognized mechanism for packaging source code. However, many read the requirement that the distribution format be "unencumbered by patents" as creating a duty to investigate third-party patents. In Draft2, as with the clause in the system library exception (now the definition of System Libraries) concerning standard implementations, we have removed the reference to patents and instead require the public availability of an implementation in source code form.

[56] We have moved this sentence to the definition of Corresponding Source in section 1.

A separable portion of the object code, whose source code is excluded from the Corresponding Source as a System Library, need not be included in conveying the object code work.[57]

7. ~~License Compatibility~~ **Additional Terms**.[58]

~~When you release a work based on the Program, you may include your own terms covering added parts for which you have, or can give, appropriate copyright permission, as long as those terms clearly permit all the activities that this License permits, or permit usage or relicensing under this License. Your terms may be written separately or may be this License plus additional written permission. If you so license your own added parts, those parts may be used separately under your terms, but the entire work remains under this License. Those who copy the work, or works based on it, must preserve your terms just as they must preserve this License, as long as any substantial portion of the parts they apply to are present.~~

You may have received the Program,[59] **or parts of it, under terms that supplement the terms of this License. These additional terms may include additional permissions, as provided in subsection 7a, and additional requirements, as provided in subsection 7b. When you convey copies of a covered work, unless the work also permits use under a previous version of this License, it must list, in one central place in the source code, the complete set of additional terms governing all or part of the work.**[60]

a. **Additional Permissions.**

Additional permissions make exceptions from one or more of the requirements of this License.[61] **A license document containing a clause that permits relicensing or conveying under this License shall be treated as a list of additional**

[57] We made this change, taking advantage of the definition of System Libraries, to make explicit what has been implicit: that the object code distribution of a GPL-covered work does not imply responsibility to distribute any System Library on which the work depends.

[58] As we explain in the Opinion on Additional Terms, we have extensively rewritten section 7. We changed the section title because license compatibility as it is conventionally understood is only one of several aspects of the issue of placement of additional terms on a GPL-covered program.

[59] In Draft1 section 7 did not directly address the possibility of additional terms being placed on the entire Program by the original author. See Opinion on Additional Terms.

[60] This is a restatement of the central list requirement, along with the exception for "version 2 or later" works, that was previously placed at the end of section 7. It recognizes that additional terms may cover the whole work as well as parts of it.

[61] We offer version 3 of the GNU LGPL as a model for the use of additional permissions as exceptions from requirements of the GPL.

permissions, provided that the license document makes clear that no requirement in it survives such relicensing or conveying.[62]

Any additional permissions that are applicable to the entire Program are treated as though they were included in this License, as exceptions to its conditions, to the extent that they are valid under applicable law. If additional permissions apply only to part of the Program, that part may be used separately under those permissions, but the entire Program remains governed by this License without regard to the additional terms.[63]

~~Aside from additional permissions, your terms may add limited kinds of additional requirements on your added parts, as follows:~~

b. **Additional Requirements.**

Additional requirements are terms that further constrain use, modification or propagation of covered works. This License affects only the procedure for enforcing additional requirements, and does not assert that they can be successfully enforced by the copyright holder.[64] **Only these kinds of additional requirements are allowed by this License:**[65]

0) ~~a) They may~~ **terms that** require ~~the~~ preservation of ~~certain copyright notices, other~~ **specified reasonable** legal notices~~, and/or~~ **or** author attributions~~,~~**; or**

1) ~~and may~~ **terms that** require that the origin of the ~~parts~~ **material** they cover not be misrepresented, ~~and/or~~ **or** that ~~altered~~ **modified** versions of ~~them~~ **that material** be marked ~~in the source code, or marked there~~ in specific reasonable ways~~,~~ as different from the original version~~.~~**; or**

[62] Free software licenses that are nominally permissive and non-copyleft either are assumed to contain an implied relicensing clause or expressly permit distribution "under another license." Some of these licenses, however, fail to make clear whether all of their requirements are extinguished by the relicensing clause, or whether some of the requirements continue to burden downstream users of code that is nominally distributed under the terms of some other license.

We address this problem in subsection 7a. A formal license containing a relicensing clause is automatically compatible with GPLv3, as though that formal license contained no additional requirements, but only if that license makes clear that the relicensing clause extinguishes all additional requirements in it. Otherwise, the relicensing clause is ignored for purposes of analyzing compatibility with GPLv3; each additional requirement must be considered to determine whether it falls within the list of allowed additional requirements given in subsection 7b.

[63] The second sentence of this paragraph restates more clearly what was stated in the first paragraph of Draft1 section 7. The first sentence of this paragraph is new; it describes the effect of an additional permission that applies to the whole work.

[64] We require enforcement of additional requirements to be by the procedure given in section 8.

[65] We have rewritten the list of allowed additional requirements for clarity, and we have added a catchall requirement category.

2) ~~b) They may state a disclaimer of~~ warranty ~~and~~ **or** liability **disclaimers** ~~in terms different~~ **that differ** from ~~those used~~ **the disclaimers** in this License~~.~~**; or**

3) ~~c) They may~~ **terms that** prohibit or limit the use for publicity purposes of specified names of ~~contributors~~ **licensors or authors**,[66] ~~and they may~~ **or that** require that certain specified **trade names,** trademarks**, or service marks not** be used for publicity purposes **without express permission, other than** ~~only~~ in ~~the~~ ways that are fair use under **applicable** trademark law**;** ~~except with express permission.~~ **or**

4) ~~d) They may~~ **terms that** require**,** ~~that the work contain functioning facilities that allow~~ **if a modified version of the material they cover is a work intended to interact with users through a computer network, that those** users **be able** to ~~immediately~~ obtain copies of ~~its~~ **the** ~~Complete~~ Corresponding Source ~~Code.~~ **of the work through the same network session;**[67] **or**

5) ~~e) They may impose software patent retaliation, which means~~ **terms that wholly or partially terminate, or allow termination of,** permission for use of ~~your added parts terminates or may be terminated, wholly or partially, under stated conditions,~~ **the material they cover,** for ~~users closely related to any party that has filed~~ **a user who files** a software patent lawsuit (~~i.e.~~**that is**, a lawsuit alleging that some software infringes a patent)~~.~~ **not filed in retaliation or defense against the earlier filing of another software patent lawsuit, or in which the allegedly infringing software includes some of the covered material, possibly in combination with other software; or** ~~The conditions must limit retaliation to a subset of these two cases: 1. Lawsuits that lack the justification of retaliating against other software patent lawsuits that lack such justification. 2. Lawsuits that target part of this work, or other code that was elsewhere released together with the parts you added, the whole being under the terms used here for those parts.~~[68]

6) **terms that are precisely equivalent in type and extent to a requirement expressly stated in this License, or that deny permission for activities**

[66] "Contributor" is a term defined in several other free software licenses, but not used in our licenses. We replace it here with the equivalent terms of art "licensor" and "author."

[67] We have addressed concerns regarding the phrase "functioning facilities" and the potential applicability of the wording of subsection 7d of Draft1 to modified code not intended for public network use.

[68] The wording of subsection 7e of Draft1, concerning compatible patent retaliation clauses, was particularly difficult for readers to understand. We have entirely rewritten it, without changing any of its substance.

that are clearly not permitted, expressly or otherwise, by this License.[69]

~~No other additional conditions are permitted in your terms; therefore, no other conditions can be present on any work that uses this License. This License does not attempt to enforce your terms, or assert that they are valid or enforceable by you; it simply does not prohibit you from employing them.~~

All other additional requirements, including attorney's fees provisions, choice of law, forum, and venue clauses, arbitration clauses, mandatory contractual acceptance clauses, requirements regarding changes to the name of the work, and terms that require that conveyed copies be governed by a license other than this License, are prohibited.[70]

c. Terms Added or Removed By You.

~~When others modify the work, if they modify your parts of it, they may release such parts of their versions under this License without additional permissions, by including notice to that effect, or by deleting the notice that gives specific permissions in addition to this License. Then any broader permissions granted by your terms which are not granted by this License will not apply to their modifications, or to the modified versions of your parts resulting from their modifications. However, the specific requirements of your terms will still apply to whatever was derived from your added parts.~~

When you convey a copy of a covered work, you may at your option remove any additional permissions from that copy, or from any part of it.[71] **Some additional permissions require their own removal in certain cases when you modify the work.**[72]

Additional requirements are allowed only as stated in subsection 7b. If the Program as you received it purports to impose any other additional require-

[69]We add this catchall category for other requirements that do not fall neatly into one of the previously listed categories but which, in a sense, are not "additional" because the GPL clearly makes the same requirement, or clearly does not permit what the requirement prohibits. This category might include certain requirements, worded differently from but exactly equivalent to those of the GPL, contained in the terms of other license documents.

[70]We now provide a non-exhaustive list of examples of other kinds of conditions that are disallowed additional requirements under the GPL. Questions commonly arise about whether certain of these terms, such as attorney's fees provisions and choice of law clauses, are compatible with the GPL. Some such provisions are typically found in license documents drafted from a contract-oriented perspective; to the drafters or users of these licenses it may not be obvious why we consider them to be requirements in the context of a pure copyright license.

[71]We no longer formally require removal of an additional permission to be by one who modifies.

[72]See, for example, subsection 2b of LGPLv3.

ment, you may remove that requirement.[73]

You may place additional permissions, or additional requirements as allowed by subsection 7b, on material, added by you to a covered work, for which you have or can give appropriate copyright permission. Adding requirements not allowed by subsection 7b is a violation of this License that may lead to termination of your rights under section 8.

If you add terms to a covered work in accordance with this section, you must place, in the relevant source files, a statement of the additional terms that apply to those files, or a notice indicating where to find the applicable terms.[74]

~~Unless the work also permits distribution under a previous version of this License, all the other terms included in the work under this section must be listed, together, in a central list in the work.~~

8.[4] Termination.

You may not propagate~~,~~ **or** modify ~~or sublicense~~[75] the Program except as expressly provided under this License. Any attempt otherwise to propagate~~,~~ **or** modify ~~or sublicense~~ the Program is void~~, and any copyright holder may terminate your rights under this License at any time after having notified you of the violation by any reasonable means within 60 days of any occurrence~~. **If you violate this License, any copyright holder may put you on notice by notifying you of the violation, by any reasonable means, provided 60 days have not elapsed since the last violation. Having put you on notice, the copyright holder may then terminate your license at any time.**[76] However, parties who have received copies, or rights, from you under this License will not have their licenses terminated so long as they remain in full compliance.

[73] Unlike additional permissions, additional requirements that are allowed under subsection 7b may not be removed. The revised section 7 makes clear that this condition does not apply to any other additional requirements, however, which are removable just like additional permissions. Here we are particularly concerned about the practice of program authors who purport to license their works under the GPL with an additional requirement that contradicts the terms of the GPL, such as a prohibition on commercial use. Such terms can make the program non-free, and thus contradict the basic purpose of the GNU GPL; but even when the conditions are not fundamentally unethical, adding them in this way invariably makes the rights and obligations of licensees uncertain.

[74] The version of section 7 in Draft1 required additional terms to be in writing. The final paragraph of section 7 in Draft2 states in further detail how the written notice of applicable additional terms must be provided.

[75] Because sublicensing is now expressly prohibited under section 2, section 8 need not refer to it.

[76] We have rephrased the non-automatic termination procedure to make it easier to understand.

9.[5] ~~Not a Contract~~ **Acceptance Not Required for Having Copies.**[77]

You are not required to accept this License in order to receive **or run**[78] a copy of the Program. **Ancillary propagation of a covered work occurring solely as a consequence of using peer-to-peer transmission to receive a copy likewise does not require acceptance.**[79] However, nothing else grants you permission to propagate or modify the Program or any covered works. These actions infringe copyright if you do not accept this License. Therefore, by modifying or propagating the Program (or any covered work), you indicate your acceptance of this License to do so, and all its terms and conditions.

10.[6] Automatic Licensing of Downstream Users.

Each time you ~~redistribute~~ **convey** a covered work, the recipient automatically receives a license from the original licensors, to ~~propagate and~~ **run,** modify **and propagate** that work, subject to this License, including any additional terms introduced through section 7. You may not impose any further restrictions on the recipients' exercise of the rights thus granted or affirmed, except ~~(when modifying the work)~~ in the limited ways permitted by section 7. **Therefore, you may not impose a license fee, royalty, or other charge for exercise of rights granted under this License.**[80] You are not responsible for enforcing compliance by third parties

[77] We received a number of forceful objections to the title of section 9 of Draft1, principally from lawyers. This surprised us, since our section titles were not intended to have legal significance, and, moreover, the content of section 9 was essentially unchanged from section 5 of GPLv2. We have changed the title of section 9 to one that summarizes the first sentence of the section.

Section 9 means what it says: mere receipt or execution of code neither requires nor signifies contractual acceptance under the GPL. Speaking more broadly, we have intentionally structured our license as a unilateral grant of copyright permissions, the basic operation of which exists outside of any law of contract. Whether and when a contractual relationship is formed between licensor and licensee under local law do not necessarily matter to the working of the license.

[78] The GPL makes no condition on execution of the Program, as section 2 affirms, just as it makes no condition on receipt of the Program.

[79] See Opinion on BitTorrent Propagation.

[80] Draft1 removed the words "at no charge" from what is now subsection 5b, the core copyleft provision, for reasons related to our current changes to the second paragraph of section 4: it had contributed to a misconception that the GPL did not permit charging for distribution of copies. The purpose of the "at no charge" wording was to prevent attempts to collect royalties from third parties. The removal of these words created the danger that the imposition of licensing fees would no longer be seen as a license violation.

We therefore have added a new explicit prohibition on imposition of licensing fees or royalties in section 10. This section is an appropriate place for such a clause, since it is a specific consequence to this License.

If propagation results from a transaction transferring control of an organization, each party to that transaction who receives a copy of the work also receives a license and a right to possession of the Corresponding Source of the work from the party's predecessor in interest.[81]

11. ~~Licensing of~~ Patents.[82]

~~When you distribute a covered work, you grant a patent license~~[83] ~~to the recipient, and to anyone that receives any version of the work, permitting, for any and all versions of the covered work, all activities allowed or contemplated by this License, such as installing, running and distributing versions of the work, and using their output.~~[84] ~~This patent license is nonexclusive, royalty-free and worldwide,~~[85] ~~and~~

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of the general requirement that no further restrictions be imposed on downstream recipients of GPL-covered code.

[81]The parties in mergers and acquisitions of businesses place a premium on reduction of uncertainty regarding the rights and liabilities being transferred. This is, of course, true of transactions involving businesses with assets that include GPL-covered software. There appears to be particular concern about whether and when such transactions activate the distribution-related requirements of the GPL for software that previously has been used and modified internally. With such concerns in mind, some members of our discussion committees have proposed that we allow assignment of the GPL, while others have suggested complex changes to the definition of propagation or licensee.

For our part, we agree entirely that the GPL should not create obstacles in corporate control transactions, but we do have concerns about the clever structuring of transactions specifically to avoid the consequences of the GPL. As one example, a business that uses certain GPL-covered software internally may seek to sell a division but keep control of a trade secret embodied in its improvements to that software. In such a case, the business might attempt to keep the source code for itself and give only the binary to the buyer. This, we believe, should not be allowed.

In Draft2 we have addressed these issues not by altering definitions of terms or allowing assignment, both of which we believe might have undesirable consequences, but by treating control transactions as a special case to be handled by automatic licensing. Under the new second paragraph of section 10, a party to a control transaction who receives any part or form of a GPL-covered work automatically receives, in addition to all upstream licenses in the chain of propagation, a license and a right to possession of the Corresponding Source from the predecessor in interest.

[82]We removed the reference to "licensing" in the title of this section. Section 11 is no longer concerned solely with granting of and distribution under patent licenses. We have replaced the express patent license grant with a covenant not to assert patent claims, and the new paragraph on reservation of implied rights is not limited to implied patent licenses.

[83]The patent license grant of Draft1 is replaced in Draft2 with a covenant not to assert patent claims. See n. 87 and Opinion on Covenant Not to Assert Patent Claims.

[84]In the corresponding wording of the covenant not to assert we refer simply to "your exercise of rights under this License."

[85]These qualifications are unnecessary when the formalism of a patent license is replaced with a covenant, as it is here, or with a warranty.

~~covers all patent claims you control or have the right to sublicense, at the time you distribute the covered work or in the future, that would be infringed or violated by the covered work or any reasonably contemplated use of the covered work.~~[86]

You receive the Program with a covenant from each author and conveyor of the Program, and of any material, conveyed under this License, on which the Program is based, that the covenanting party will not assert (or cause others to assert) any of the party's essential patent claims in the material that the party conveyed, against you, arising from your exercise of rights under this License. If you convey a covered work, you similarly covenant to all recipients, including recipients of works based on the covered work, not to assert any of your essential patent claims in the covered work.[87]

If you ~~distribute~~ **convey** a covered work**,** knowingly relying on a **non-sublicensable** patent license **that is not generally available to all**,[88] you must **either (1)** act to shield downstream users against the possible patent infringement claims from which your license protects you**, or (2) ensure that anyone can copy the Corresponding Source of the covered work, free of charge and under the terms of this License, through a publicly-available network server or other readily accessible means**.[89]

Nothing in this License shall be construed as excluding or limiting any implied license or other defenses to infringement that may otherwise be available

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[86]The last part of the last sentence of the express patent license is replaced, in the covenant not to assert, by the reference to essential patent claims, defined in section 0.

[87]As we explain further in the Opinion on Covenant Not to Assert Patents, we have redrafted the express patent license of Draft1 as a covenant not to assert patent claims. We believe that the new wording, which makes use of the defined terms "essential patent claims" and "based on," is simpler and clearer than the wording of the patent license, and is responsive to the extensive commentary on the express patent license that we received from the public and the discussion committees.

In Draft1, no express patent license was given by the author of the Program. Under the covenant of Draft2, however, the original licensor undertakes to make the same covenant as any other subsequent conveyor. It is primarily for this reason that the covenant is structured in two parts (specifying the rights of the licensee as covenantee, and the obligations of the licensee as covenantor).

[88]If patent licenses are sublicensable or generally available to all, they do not give rise to the problem of shifting risk of patent infringement liability downstream, which this paragraph is intended to target.

[89]After gathering opinion on the second paragraph of section 11 during the discussion process, we decided to offer a specific form of shielding that would satisfy the objectives of the paragraph. A distributor of a covered work under benefit of a patent license can ensure that the Corresponding Source is made publicly available, free of charge, for all to access and copy, such as by arranging for the Corresponding Source to be available on a public network server. We keep the more general shielding requirement as an option because we do not wish to insist upon public distribution of source code. Distributors complying with this section may prefer to provide other means of shielding their downstream recipients.

to you under applicable patent law.[90]

12.[7] ~~Liberty or Death for the Program~~ **No Surrender of Others' Freedom.**[91]

If conditions are imposed on you (whether by court order, agreement or otherwise) that contradict the conditions of this License, they do not excuse you from the conditions of this License. If you cannot ~~distribute~~ **convey** the Program, or other covered work, so as to satisfy simultaneously your obligations under this License and any other pertinent obligations, then as a consequence you may not ~~distribute~~ **convey** it at all. For example, if **you accept** a patent license ~~would not permit~~ **that prohibits** royalty-free ~~redistribution~~ **conveying** by ~~all~~ those who receive copies directly or indirectly through you, then the only way you could satisfy both it and this License would be to refrain entirely from ~~distribution~~ **conveying the Program**.[92]

~~It is not the purpose of this section to induce you to infringe any patents or other exclusive rights or to contest their legal validity. The sole purpose of this section is to protect the integrity of the free software distribution system. Many people have made generous contributions to the wide range of software distributed through that system in reliance on consistent application of that system; it is up to the author/donor to decide if he or she is willing to distribute software through any other system and a licensee cannot impose that choice.~~[93]

[90] Without this provision, it might be argued that any implied patent licenses or other patent infringement defenses otherwise available by operation of law are extinguished by, for example, the express covenant not to assert. We consider it important to preserve these rights and defenses for users to the extent possible. Moreover, the availability of implied licenses or similar rights may be necessary in order for certain kinds of shielding under the second paragraph to be effective.

[91] We have replaced the title of this section with one that more closely reflects its purpose and effect, which is to prevent distribution that operates to give recipients less than the full set of freedoms that the GPL promises them. The previous title was not entirely accurate, in that the program is not necessarily "dead" if an attempt to distribute by one party under a particular set of circumstances activates the section. The program may remain free for other users facing other circumstances.

[92] The example given here is reworded slightly to make it clearer that it is acceptance of the patent license (a self-imposition of conditions) that activates the section, and that the effective terms of the patent license must actually prohibit exercise of GPL freedoms by downstream recipients. A distributor who accepts a patent license that does not activate this section may nonetheless be required to comply with the second paragraph of section 11.

[93] This paragraph provides a statement of purpose but does not contain a substantive term or condition. Our experience with GPLv2 convinces us that it is no longer necessary, if indeed it ever was.

[13.[8] Geographical Limitations.

If the ~~distribution~~ **conveying** and/or use of the Program is restricted in certain countries either by patents or by copyrighted interfaces, the original copyright holder who places the Program under this License may add an explicit geographical ~~distribution~~ limitation **on conveying,** excluding those countries, so that ~~distribution~~ **conveying** is permitted only in or among countries not thus excluded. In such case, this License incorporates the limitation as if written in the body of this License.]

14.[9] Revised Versions of this License.

The Free Software Foundation may publish revised and/or new versions of the GNU General Public License from time to time. Such new versions will be similar in spirit to the present version, but may differ in detail to address new problems or concerns.

Each version is given a distinguishing version number. If the Program specifies that a certain numbered version of this License "or any later version" applies to it, you have the option of following the terms and conditions either of that numbered version or of any later version published by the Free Software Foundation. If the Program does not specify a version number of this License, you may choose any version ever published by the Free Software Foundation.

[15.[10] Requesting Exceptions.[94]

If you wish to incorporate parts of the Program into other free programs ~~whose distribution conditions are different~~ **under other licenses**, write to the author to ask for permission. For software which is copyrighted by the Free Software Foundation, write to the Free Software Foundation; we sometimes make exceptions for this. Our decision will be guided by the two goals of preserving the free status of all derivatives of our free software and of promoting the sharing and reuse of software generally.]

NO WARRANTY

[94] We have bracketed section 15 for possible removal from the final version of GPLv3. Though this section has value in teaching users that authors may grant permissive exceptions to the strong copyleft of the GPL, we now provide a framework for such exceptions within the license, in section 7. Section 15 is, in a sense, a provision that exists outside the terms of the GPL (it is neither a permission nor a requirement). It may be more appropriate to transfer it to a FAQ or other educational document.

16.[11] **Disclaimer of Warranty.**[95]

There is no warranty for the Program, to the extent permitted by applicable law. Except when otherwise stated in writing the copyright holders and/or other parties provide the Program "as is" without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. The entire risk as to the quality and performance of the Program is with you. Should the Program prove defective, you assume the cost of all necessary servicing, repair or correction.

17.[12] **Limitation of Liability.**[96]

In no event unless required by applicable law or agreed to in writing will any copyright holder, or any other party who may modify and/or ~~redistribute~~ **convey** the Program as permitted above, be liable to you for damages, including any general, special, incidental or consequential damages arising out of the use or inability to use the Program (including but not limited to loss of data or data being rendered inaccurate or losses sustained by you or third parties or a failure of the Program to operate with any other programs), even if such holder or other party has been advised of the possibility of such damages.

~~18.~~ [97]

~~Unless specifically stated, the Program has not been tested for use in safety critical systems.~~

END OF TERMS AND CONDITIONS[98]

[95] We added a descriptive title for this section.

[96] We added a descriptive title for this section.

[97] We added the new disclaimer of section 18 assuming that it would be welcomed by developers and distributors of safety-critical free software. The reaction to section 18 from this constituency has instead generally been negative. Companies involved in distributing safety-critical applications have recommended that we remove the disclaimer, pointing out that it may be preferable to rely on the general warranty and liability disclaimers of sections 16 and 17 in the usual case and to add a special disclaimer under section 7 when appropriate. In light of these comments, we have decided to remove section 18 from the GPLv3 draft.

[98] We have removed from this draft the appended section on "How to Apply These Terms to Your New Programs." For brevity, the license document can instead refer to a web page containing these instructions as a separate document.