GPLv3 Final Discussion Draft Rationale

Free Software Foundation

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Foreword

This two-part document states the rationale for the changes in the final discussion draft of GPLv3. Part I provides a discussion of the most significant changes we have made since the release of the previous draft, organized by subject matter. Part II is an annotated markup version of the final draft, with ~~strikeout~~ indicating text present in the third discussion draft that we have removed and **bold** indicating text we have added. The annotations state the reasons for specific changes; some annotations refer the reader to Part I. We refer to the third and final discussion drafts of GPLv3 as "Draft 3" and the "Final Draft," respectively.

A public comment period lasting 29 days will begin on the date of our release of the Final Draft. At the end of that period we will formally promulgate the final version of GPLv3.

Part I
Discussion of Principal Changes

1 Apache License Compatibility

We are pleased to report that the Final Draft makes the Apache License, version 2.0, fully compatible with GPLv3. We are grateful to the Apache Software Foundation for working with us to achieve this long-sought goal.

The concerns we stated in the Draft 3 Rationale were based on varying literal readings of section 9 of the Apache license that differed from the interpretation of section 9 held by the ASF itself. During the course of productive discussions with the ASF following the release of Draft 3, we ascertained that, to the ASF, the words "by reason of" in the section 9 upstream indemnification clause meant nothing broader or vaguer than "directly as a result of." Read in this light, section 9 seems to us a reasonable and fair approach to protecting upstream developers, even though we do not wish to adopt such a provision in our own license.

The Final Draft makes the Apache indemnification clause compatible with GPLv3 by adding a new category of additional conditions in section 7 that may be applied, with appropriate copyright authorization, to material added to a covered work. Subsection 7f allows terms that require indemnification of upstream licensors and authors of the material by a downstream distributor who conveys with contractual assumptions of liability to the recipient, for any liability that such assumptions directly impose on those upstream parties.

Another change we have made to section 7 should make clearer that the trademark clause in section 6 of the Apache license is compatible with GPLv3. The new subsection 7e permits addition of terms that decline to grant rights under trademark law for use of trademarks. We have no objection to such terms, since they do not limit the rights of users beyond what applicable trademark law would itself require. However, mandatorily-worded trademark clauses that purport to use the power of copyright or contract to affirmatively prohibit users from exercising rights otherwise available under trademark law continue to be incompatible with the GPL.

The GPLv3 compatibility of the Apache license patent termination clause was accomplished in Draft 3 by the second specific example of an impermissible further restriction given in the third paragraph of section 10. We revised this clause in the Final Draft in order to avoid the use of the terms "contributor" and "contribution" (now "contributor version"), which we wished to confine to section 11 for greater readability. Given the way in which we defined "contribution" in Draft 3, the parenthetical wording in the Draft 3 version of the section 10 clause was actually broader than necessary to achieve Apache license compatibility. The Final Draft therefore replaces the

words “the Program (or the contribution of any contributor)” with “the Program or any portion of it” without affecting Apache license compatibility. We confirmed this conclusion in discussions with the ASF.

2 Cut-off Date in Section 11, Paragraph 7

In the Final Draft we have removed the square brackets surrounding the cut-off date at the end of section 11, paragraph 7 (corresponding to section 11, paragraph 5 in Draft 3). That is to say, the Final Draft limits the effect of this provision to deals involving discriminatory patent promises that do not predate the release of Draft 3.

The main reason for this is tactical. We believe we can do more to protect the community by allowing Novell to use software under GPL version 3 than by forbidding it to do so. This is because of paragraph 6 of section 11 (corresponding to paragraph 4 in Draft 3). It will apply, under the Microsoft/Novell deal, because of the coupons that Microsoft has acquired that essentially commit it to participate in the distribution of the Novell SLES GNU/Linux system.

Microsoft is scrambling to dispose of as many Novell SLES coupons as possible prior to the adoption of GPLv3. Unfortunately for Microsoft, those coupons bear no expiration date, and paragraph 6 has no cut-off date. Through its ongoing distribution of coupons, Microsoft will have procured the distribution of GPLv3-covered programs as soon as they are included in Novell SLES distributions, thereby extending patent defenses to all downstream recipients of that software by operation of paragraph 6.

A secondary reason is to avoid affecting other kinds of agreements for other kinds of activities. We have tried to take care in paragraph 7 to distinguish pernicious deals of the Microsoft/Novell type from business conduct that is not particularly harmful, but we cannot be sure we have entirely succeeded. There remains some risk that other unchangeable past agreements could fall within its scope.

In future deals, distributors engaging in ordinary business practices can structure the agreements so that they do not fall under paragraph 7. However, it will block Microsoft and other patent aggressors from further such attempts to subvert parts of our community.

3 User Products

Section 6 of Draft 3 contained a bracketed reference to the Magnuson-Moss Warranty Act, stating that interpretation of the term "consumer product" in that United States statute would control interpretation of the corresponding term in section 6. Many readers of Draft 3, particularly those outside the U.S., objected to the inclusion of a U.S. statutory reference in the GPL. This reference was merely intended to guide interpretation of the User Product definition in difficult cases, but we agree that it is better for a license designed for international use to avoid country-specific legal references. We recognize also that the interpretive history of a U.S. statute will be relatively inaccessible even to users in the U.S., let alone those in other countries.

In the Final Draft, therefore, we have replaced the Magnuson-Moss reference with three sentences that encapsulate the judicial and administrative principles established over the past three decades in the United States concerning the Magnuson-Moss consumer product definition. First, we state that doubtful cases are resolved in favor of coverage under the definition. Second, we indicate that the words "normally used" in the consumer product definition refer to a typical or common use of a class of product, and not the status of a particular user or expected or actual uses by a particular user. Third, we make clear that the existence of substantial non-consumer uses of a product does not negate a determination that it is a consumer product, unless such non-consumer uses represent the only significant mode of use of that product.

It should be clear from these added sentences that it is the general mode of use of a product that determines objectively whether or not it is a consumer product. One could not escape the effects of the User Products provisions by labeling what is demonstrably a consumer product in ways that suggest it is "for professionals," for example, contrary to what some critics of Draft 3 have suggested.

We have made one additional change to the User Products provisions of section 6. In Draft 3 we made clear that the requirement to provide Installation Information implies no requirement to provide warranty or support for a work that has been modified or installed on a User Product. The Final Draft adds that there is similarly no requirement to provide warranty or support for the User Product itself.

4 Conveying to Outside Contractors

Large enterprise users of free software often contract with non-employee developers, often working offsite, to make modifications intended for the user's private or internal use, and often arrange with other companies to operate their data centers. Whether GPLv2 permits these activities is not clear and may depend on variations in copyright law. The practices seem basically harmless, so we have decided to make it clear they are permitted.

GPLv3 now gives an explicit permission for a client to provide a copy of its modified software to a contractor exclusively for that contractor to modify it further, or run it, on behalf of the client. However, the client can only exercise this control over its own copyrighted changes to the GPL-covered program. The parts of the program it obtained from other contributors must be provided to the contractor with the usual GPL freedoms.

This permission is stated in section 2. It permits a user to convey covered works to contractors operating exclusively on the user's behalf, under the user's direction and control, and to require the contractors to keep the user's copyrighted changes confidential, but only if the contractor is limited to acting on the user's behalf, just as the user's employees would have to act.

The strict conditions in this provision are needed so that it cannot be twisted to fit other activities, such as making a program available to users or customers. By making the limits on this provision very narrow, we ensure that in all other cases the contractor gets the full freedoms of the GPL.

Part II

Annotated Markup of Final Discussion Draft

GNU General Public License

Final Discussion Draft ~~3~~ of Version 3, ~~28 March~~ **31 May** 2007

THIS IS A DRAFT, NOT A PUBLISHED VERSION OF THE GNU GENERAL PUBLIC LICENSE.

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Everyone is permitted to copy and distribute verbatim copies of this license document, but changing it is not allowed.

Preamble

The GNU General Public License is a free, copyleft license for software and other kinds of works.

The licenses for most software and other practical works are designed to take away your freedom to share and change the works. By contrast, the GNU General Public License is intended to guarantee your freedom to share and change ~~free software~~ **all versions of a program**—to make sure ~~the software is~~ **it remains** free **software** 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~~ **work released this way by its** authors ~~commit to using it~~. 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~~ **them** 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~~ **prevent others from denying** you these rights or ~~to ask~~ **asking** you to surrender the rights. Therefore, you have certain responsibilities if

you distribute copies of the software, or if you modify it**: responsibilities to respect the freedom of others**.

For example, if you distribute copies of such a program, whether gratis or for a fee, you must pass on to the recipients the same freedoms that you received. 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~~ **giving** you legal permission to copy, distribute and/or modify ~~the software~~ **it**.

For the developers' and authors' protection, the GPL clearly explains that there is no warranty for this free software. For both users' and authors' sake, the GPL requires that modified versions be marked as changed, so that their problems will not be ~~associated~~ **attributed** erroneously ~~with the~~ **to authors of** previous versions.

Some devices are designed to deny users access to install or run modified versions of the software inside them, although the manufacturer can do so. This is fundamentally incompatible with the ~~purpose~~ **aim** of ~~the GPL, which is to protect~~ **protecting** users' freedom to change the software ~~where changes are possible~~. The systematic pattern of such abuse occurs in the area of products for individuals to use, which is precisely where it is most unacceptable. Therefore, we have designed this version of the GPL to prohibit the practice for those products. If such problems arise substantially in other domains, we stand ready to extend this provision to those domains in future versions of the GPL, as needed to protect the freedom of users.

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~~ **those that** do, we wish to avoid the special danger that patents applied to a free program could make it effectively proprietary. To prevent this, the GPL assures that patents cannot be used to render the program non-free.

The precise terms and conditions for copying, distribution and modification follow.

TERMS AND CONDITIONS

0. Definitions.

"This License" refers to version 3 of the GNU General Public License.

"Copyright" also means copyright-like laws that apply to other kinds of works, such as semiconductor masks.

"The Program" refers to any copyrightable work licensed under this License. Each licensee is addressed as "you." "Licensees" and "recipients" may be individuals or organizations.

To "modify" a work means to copy from or adapt all or part of the work in a fashion requiring copyright permission, other than the making of ~~a verbatim~~ **an exact** copy. The resulting work is called a "modified version" of the earlier work or a work "based on" the earlier work. A "covered work" means either the unmodified Program or a work based on the Program.

~~A "contributor" is a party who licenses under this License a work on which the Program is based. Such a work is called the party's "contribution."~~[1]

To "propagate" a work means to do ~~(or cause others to do)~~ anything with it that**,** ~~requires~~ **without** permission**, would make you directly or secondarily liable for infringement** under applicable copyright law,[2] except executing it on a computer or making modifications that you do not share. Propagation includes copying, distribution (with or without modification), making available to the public, 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. Mere interaction with a user through a computer network, with no transfer of a copy, is not conveying.

~~A party's "essential patent claims" in a work are all patent claims owned or controlled by the party, whether already acquired or hereafter acquired, that would be infringed by some manner, permitted by this License, of making, using, or selling the work, but do not include claims that would be infringed only as a consequence of further modification of the work. For purposes of this definition, "control" includes the right to grant sublicenses in a manner consistent with the requirements of this License.~~[3]

An interactive user interface displays "Appropriate Legal No-

[1] We moved the definition of contributor and contributor version (the replacement for the term "contribution") to section 11, since in the Final Draft those terms are used only in that section. See n. 22.

[2] As we noted in the Draft 3 Rationale, the parenthetical wording "or cause others to do" introduced in Draft 3 was intended to explicitly incorporate concepts of secondary copyright liability into the definition of propagation. However, the wording we chose in Draft 3 was broader than necessary to do that job. Some readers pointed out that, if taken literally, it could make a customer the propagator of the work the customer receives. The revised definition of propagate achieves the intended result more precisely.

[3] We moved the definition of essential patent claims to section 11, since it is used only in that section. See n. 23.

tices" to the extent that it includes a convenient and prominently visible feature that (1) displays an appropriate copyright notice, and (2) tells the user that there is no warranty for the work (except to the extent that warranties are provided), that licensees may convey the work under this License, and how to view a copy of this License. If the interface presents a list of user commands or options, such as a menu, a prominent item in the list meets this criterion.[4]

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 form of a work.

A "Standard Interface" means an interface that either is an official standard defined by a recognized standards body, or, in the case of interfaces specified for a particular programming language, one that is widely used among developers working in that language.

The "System Libraries" of an executable work include anything, other than the work as a whole, that (a) is ~~normally~~ included in the **normal form** ~~distribution~~ of **packaging** a Major Component,[5] but which is not part of that Major Component, and (b) serves only to enable use of the work with that Major Component, or to implement a Standard Interface for which an implementation is available to the public in source code form. A "Major Component", in this context, means a major essential component (kernel, window system, and so on) of the specific operating system (if any) on which the executable work runs, or a compiler used to produce the work, or an object code interpreter used to run it.

The "Corresponding Source" for a work in object code form means all the source code needed to generate, install, and (for an executable work) run the object code and to modify the work, including scripts to control those activities. However, it does not include the work's System Libraries, or general-purpose tools or generally available free programs which are used

[4] We factored this definition out of subsection 5d. In doing so, we have tempered the 5d requirement somewhat in response to arguments by several readers that it was too restrictive of the right of modification. The term Appropriate Legal Notices is now also used in subsection 7b.

[5] We think that speaking of the "packaging" of a System Library with a Major Component is somewhat clearer than the notion of its being included in a "distribution" of such a component.

unmodified in performing those activities but which are not part of the work. For example, Corresponding Source includes interface definition files associated with source files for the work, and the source code for shared libraries and dynamically linked subprograms that the work is specifically designed to require, such as by intimate data communication or control flow between those subprograms and other parts of the work.

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

The Corresponding Source for a work in source code form is that same work.

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 Program. The output from running a covered work is covered by this License only if the output, given its content, constitutes a covered work. This License acknowledges your rights of fair use or other equivalent, as provided by copyright law.

~~Propagation of~~ **You may make, run and propagate** covered works that you do not convey, ~~and making modified versions of the Program that you do not convey, are permitted~~ without conditions~~,~~ so long as your license otherwise remains in force. **You may convey covered works to others for the sole purpose of having them make modifications exclusively for you, or provide you with facilities for running those works, provided that you comply with the terms of this License in conveying all material for which you do not hold copyright. Those thus making or running the covered works for you must do so exclusively on your behalf, under your direction and control, on terms that prohibit them from making any copies of your copyrighted material outside their relationship with you.**[6]

Conveying **under any other circumstances** is permitted **solely** under the conditions stated below. Sublicensing is not allowed; section 10 makes it unnecessary.

[6] See Part I, § 4.

3. ~~No Denying~~ **Protecting** Users' **Legal** Rights ~~through Technical Measures~~ **From Anti-Circumvention Law**.[7]

No covered work shall be deemed part of an effective technological measure under any applicable law fulfilling obligations under article 11 of the WIPO copyright treaty adopted on 20 December 1996, or similar laws prohibiting or restricting circumvention of such measures.

When you convey a covered work, you waive any legal power to forbid circumvention of technical measures to the extent such circumvention is effected by exercising rights under this License with respect to the covered work, and you disclaim any intention to limit operation or modification of the work as a means of enforcing, against the work's users, your or third parties' legal rights to forbid circumvention of technical measures.

4.[1] Conveying Verbatim Copies.

You may 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 notices stating that this License and any non-permissive terms added in accord with section 7 apply to the code; keep intact all notices of the absence of any warranty; and give all recipients a copy of this License along with the Program.

You may charge any price or no price for each copy that you convey, and you may offer support or warranty protection for a fee.

5.[2] Conveying Modified Source Versions.

You may convey a work based on the Program, or the modifications to produce it from the Program, in the form of source code under the terms of section 4 above, provided that you also meet all of these conditions:

a) The work must carry prominent notices stating that you modified it, and giving a relevant date.

[7] This section shields users from being subjected to liability under anti-circumvention law for exercising their rights under the GPL, so far as the GPL can do so. Some readers seem to have assumed that this provision contains a prohibition on DRM; it does not (no part of GPLv3 forbids DRM). We think that the title of section 3 may have contributed to this misunderstanding, and so we have replaced it with a more descriptive one.

b) The work must carry prominent notices stating that it is released under this License and any conditions added under section 7. This requirement modifies the requirement in section 4 to "keep intact all notices".

c) You must license the entire work, as a whole, under this License to anyone who comes into possession of a copy. This License will therefore apply, ~~unmodified except as permitted by~~ **along with any applicable** section 7 **additional terms**,[8] to the whole of the work, and all its parts, regardless of how they are packaged. 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.

d) If the 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 work (unless you provide a warranty), that licensees may convey the work under this License, and how to view a copy of this License. Specifically, if the interface presents a list of user commands or options, such as a menu, a command to display this information must be prominent in the list; otherwise, the work must display this information at startup.~~ **display Appropriate Legal Notices;** ~~However~~ **however**, if the Program has interactive interfaces that do not ~~comply with this subsection~~ **display Appropriate Legal Notices**, your work need not make them ~~comply~~ **do so**.[9]

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 are not used to limit the access or legal rights of the compilation's users beyond what the individual works permit. Inclusion of a covered work in an aggregate does not cause this License to apply to the other parts of the aggregate.

6.[3] Conveying Non-Source Forms.

You may convey a covered work in object code form under the terms of sections 4 and 5, provided that you also convey the machine-readable Corresponding Source under the terms of this License, in one of these ways:

[8] The revised wording concerning section 7 expresses more clearly what was stated by the previous wording.

[9] See n. 4.

a) Convey the object code in, or embodied in, a physical product (including a physical distribution medium), accompanied by the Corresponding Source fixed on a durable physical medium customarily used for software interchange.

b) Convey the object code in, or embodied 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, either (1) to give anyone who possesses the object code 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, or (2) to provide access to copy the Corresponding Source from a network server at no charge.

c) Convey individual copies of the object code with a copy of the written offer to provide the Corresponding Source. This alternative is allowed only occasionally and noncommercially, and only if you received the object code with such an offer, in accord with subsection 6b.

d) Convey the object code by offering access from a designated place (gratis or for a charge), and offer equivalent access to the Corresponding Source in the same way through the same place at no further charge. You need not require recipients to copy the Corresponding Source along with the object code. If the place to copy the object code is a network server, the Corresponding Source may be on a different server (operated by you or a third party) that supports equivalent copying facilities, provided you maintain clear directions next to the object code saying where to find the Corresponding Source. Regardless of what server hosts the Corresponding Source, you remain obligated to ensure that it is available for as long as needed to satisfy these requirements.

e) Convey the object code using peer-to-peer transmission, provided you 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.

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.

A "User Product" is either (1) a "consumer product**,**"~~,~~ which means any tangible personal property which is normally used for personal, family, or household purposes, or (2) anything designed or sold for incorporation into a dwelling. ~~[In cases of doubt concerning whether an item is a "consumer product", the interpretation of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq., shall provide the basis for interpretation, regardless of the choice of law determination for this License as a whole.]~~ **In determining whether a product is a consumer product, doubtful cases shall be resolved in favor of coverage. For a particular product received by a particular user, "normally used" refers to a typical or common use of that class of product, regardless of the status of the particular user or of the way in which the particular user actually uses, or expects or is expected to use, the product. A product is a consumer product regardless of whether the product has substantial commercial, industrial or non-consumer uses, unless such uses represent the only significant mode of use of the product.**[10]

"Installation Information" for a User Product means any methods, procedures, authorization keys, or other information required to install and execute modified versions of a covered work in that User Product from a modified version of its Corresponding Source. The information must suffice to ensure that the continued functioning of the modified object code is in no case prevented or interfered with solely because modification has been made.

If you convey an object code work under this section in, or with, or specifically for use in, a User Product, and the conveying occurs as part of a transaction in which the right of possession and use of the User Product is transferred to the recipient in perpetuity or for a fixed term (regardless of how the transaction is characterized), the Corresponding Source conveyed under this section must be accompanied by the Installation Information. But this requirement does not apply if neither you nor any third party retains the ability to install modified object code on the User Product (for example, the work has been installed in ROM).

The requirement to provide Installation Information does not include a requirement to continue to provide support service, warranty, or updates for a work that has been modified or installed by the recipient**, or for the User Product in which it has been modified or installed**.[11] Network access may be denied when the modification itself materially and adversely

[10] See Part I, § 3.

[11] See Part I, § 3.

affects the operation of the network or violates the rules and protocols for communication across the network.

Corresponding Source conveyed, and Installation Information provided, in accord with this section must be in a format that is publicly documented~~,~~ **(and** with an implementation available to the public in source code form**)**, and must require no special password or key for unpacking, reading or copying.

7. Additional Terms.

"Additional permissions" are terms that supplement the terms of this License by making exceptions from one or more of its conditions. Additional permissions that are applicable to the entire Program shall be treated as though they were included in this License, 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 permissions.

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. (Additional permissions may be written to require their own removal in certain cases when you modify the work.) You may place additional permissions on material, added by you to a covered work, for which you have or can give appropriate copyright permission.

Notwithstanding any other provision of this License, **for material you add to a covered work,** you may **(if authorized by the copyright holders of that material)** supplement the terms of this License with terms ~~effective under, or drafted for compatibility with, local law~~:[12]

[12]The limitation stated in Draft 3 to terms "effective under, or drafted for compatibility with, local law" was more confusing than useful. It highlighted one possible reason for placing additional conditions on material added to a covered work, the desire for compatibility with local legal requirements, but the more common use of this provision will be to permit combination of GPLv3-covered code with code covered by other separately written licenses made compatible with GPLv3 by operation of this provision. That added terms must be effective under applicable local law to be effectively placed on a GPL-covered work is obviously true. We therefore have deleted this wording.

The wording we added in the Final Draft makes clearer than before that additional conditions may only be applied to material a licensee adds to a covered work, and only if use of those terms is authorized by the copyright holders of that material. This also enables some simplification of the wording of the listed categories.

a. disclaiming warranty or limiting liability differently from the terms of section**s** 15 **and 16** of this License;[13] or

b. requiring preservation of specified reasonable legal notices or author attributions in ~~source or object code forms of~~ **that** material ~~added by you to a covered work~~ **or in the Appropriate Legal Notices displayed by works containing it**;[14] or

c. prohibiting misrepresentation of the origin of **that** material ~~added by you to a covered work~~, or requiring that modified versions of such material be marked in reasonable ways as different from the original version; or

d. limiting the use for publicity purposes of ~~specified~~ names of licensors or authors **of the material;** ~~,~~ or ~~of specified trade names, trademarks, or service marks, to the extent otherwise permitted by law~~

e. declining to grant rights under trademark law for use of some trade names, trademarks, or service marks;[15] **or**

f. requiring indemnification of licensors and authors of that material by anyone who conveys the material (or modified versions of it) with contractual assumptions of liability to the recipient, for any liability that these contractual assumptions directly impose on those licensors and authors.[16]

All other non-permissive additional terms are considered "further restrictions" within the meaning of section 10. If the Program as you received it, or any part of it, purports to be governed by this License, supplemented by a term that is a further restriction, you may remove that term. If a license document contains a further restriction but permits relicensing or conveying under this License, you may add to a covered work material governed by the terms of that license document, provided that the further restriction does not survive such relicensing or conveying.

[13] See n. 30.

[14] The typical licensing term made GPLv3-compatible by the first part of this clause is one which requires preservation of notices in source code itself or in materials accompanying the distribution of object code. We have broadened the clause slightly to also permit terms that require preservation of such notices in the Appropriate Legal Notices displayed by interactive user interfaces that comply with the requirements of subsection 5d.

[15] See Part I, § 1.

[16] See Part I, § 1.

If you add terms to a covered work in accord 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.

Additional terms, permissive or non-permissive, may be stated in the form of a separately written license, or stated as exceptions; the above requirements apply either way.[17]

8.[4] Termination.

You may not propagate or modify a covered work except as expressly provided under this License. Any attempt otherwise to propagate or modify it is void. If you violate this License, any copyright holder **of the work** may put you on notice by notifying you of the violation, by any reasonable means, provided 60 days have not elapsed since the most recent violation. Having put you on notice, the copyright holder may, at any time, terminate the rights (including any patent rights) that the copyright holder has granted to you under this License.

However, if this is ~~your~~ **the** first **time you have received notice of** violation of this License **(for any software)** with respect to a given copyright holder, and you cure the violation within 30 days following your receipt of the notice, then your license is automatically reinstated.[18]

In the event that your rights are terminated under this section, 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. **Unless and until your rights are restored by the copyright holders, you do not qualify to receive licenses for the same material under section 10.**[19]

[17] Section 7 applies regardless of whether an additional term is contained within a formal license document or is stated more informally as an exception to the terms of the GPL.

[18] The changes made in the first and second paragraphs of section 8 are clarifications of the previous wording. It is a copyright holder of the work being violated who can notify the violator of the violation and terminate the violator's rights. The cure opportunity is specifically available for violators who have not previously received notice of a GPLv3 violation from a particular copyright holder with respect to any GPLv3-covered software.

[19] This point is already implicit in the GPL. A violator cannot simply avoid termination of rights for certain material by obtaining a new copy of the material and claiming the benefit of automatic licensing under the first paragraph of section 10.

9.[5] Acceptance Not Required for Having Copies.

You are not required to accept this License in order to receive or run 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. However, nothing other than this License grants you permission to propagate or modify any covered work. These actions infringe copyright if you do not accept this License. Therefore, by modifying or propagating a covered work, you indicate your acceptance of this License to do so.

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An "entity transaction" is a transaction transferring control of an organization, or substantially all assets of one, or subdividing an organization, or merging organizations. If propagation of a covered work results from an entity transaction, each party to that transaction who receives a copy of the work also receives whatever licenses to the work the party's predecessor in interest had or could give under the previous paragraph, plus a right to possession of the Corresponding Source of the work from the predecessor in interest**, if the predecessor has it or can get it with reasonable efforts**.[20]

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[20] It is necessary to state this qualification because the predecessor in interest might not be able to obtain the Corresponding Source. For example, as one of the comments submitted to `gplv3.fsf.org` pointed out, a three-year written offer to provide the Corresponding Source might have expired by the time of the entity transaction.

[21] See Part I, § 1.

11. Patents.

A "contributor" is a copyright holder who authorizes use under this License of the Program or a work on which the Program is based. The work thus licensed is called the contributor's "contributor version."[22]

A contributor's "essential patent claims" are all patent claims owned or controlled by the contributor, whether already acquired or hereafter acquired, that would be infringed by some manner, permitted by this License, of making, using, or selling its contributor version, but do not include claims that would be infringed only as a consequence of further modification of the contributor version. For purposes of this definition, "control" includes the right to grant patent sublicenses in a manner consistent with the requirements of this License.[23]

Each contributor grants you a non-exclusive, worldwide, royalty-free patent license under the contributor's essential patent claims ~~in its contribution~~, to make, use, sell, offer for sale, import and otherwise run, modify and propagate the **contents of its** ~~contribution~~ **contributor version**.[24]

For purposes of the following three paragraphs, a "patent license" ~~means a patent license, a covenant not to bring suit for patent infringement, or~~ **is** any ~~other~~ express agreement or commitment, however denominated, not to enforce a patent**, and to "grant" a patent license to a party means to make such an agreement or commitment not to enforce a patent against the party**.[25]

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[22] This paragraph was relocated from section 0 and revised for clarity. See n. 1. The new definition of contributor makes clearer that contributors are a subset of the copyright holders of the Program. The definition corrects the failure of the previous definition to include copyright holders who make the Program itself available, rather than a work further upstream on which the Program is based. A comment submitted to `gplv3.fsf.org` alerted us to this problem.

We agree with those who argued that our use of the term "contribution" to mean the entire licensed work (and not just the contributor's copyrighted portions of it) was confusing. In the Final Draft we have replaced it with "contributor version," a term used with approximately the same meaning in the Mozilla Public License and its progeny.

[23] This paragraph was relocated from section 0. See n. 3. The definition was revised to make it specific to contributors and contributor versions, since the term essential patent claims is used in no other context.

[24] We specify that the patent license covers making, using and selling the contents of the contributor version to make clear that the permissions under the patent license extend to the entirety of the contributor version and any part of it.

[25] The definition of patent license has been made more concise, and we have clarified what

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it means to "grant" such a patent license, as used in the sixth and seventh paragraphs of section 11, given that patent non-assertion promises falling under the definition of patent license might not be stated as a formal grant of patent rights.

[26] We made minor changes to the wording of this provision for clarity.

[27] We factored out a definition of "discriminatory patent license" to permit some simplification and clarification of the provision. For a discussion of our removal of the brackets

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from the cut-off date, see Part I, § 2.

[28] We accompany the release of the Final Draft with a discussion draft of version 3 of the GNU Affero General Public License. The GNU AGPLv3 is identical in its terms and conditions to GPLv3 except for its section 13. The first paragraph of section 13 states the additional requirement for modified versions that support remote network interactive use:

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[30] Lawyers in the United States have alerted us to authority suggesting that, to be given full effect, a limitation of liability should not be included in the same provision as a warranty disclaimer. See, e.g., *Hawaiian Telephone Co. v. Microform Data Systems, Inc.*, 829 F.2d 919 (9th Cir. 1987). We are doubtful that such authority is properly applicable to free software copyright licenses, but we have divided section 15 into three sections in the interest of caution.

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