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Version 1, February 1989

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(For example, a function in a library to compute square roots has a purpose that is entirely well-defined independent of the application. Therefore, Subsection 2d requires that any application-supplied function or table used by this function must be optional: if the application does not supply it, the square root function must still compute square roots.)

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4. You may copy and distribute the Library (or a portion or derivative of it, under Section 2) in object code or executable form under the terms of Sections 1 and 2 above provided that you accompany it with the complete corresponding machine-readable source code, which must be distributed under the terms of Sections 1 and 2 above on a medium customarily used for software interchange.

If distribution of object code is made by offering access to copy from a designated place, then offering equivalent access to copy the source code from the same place satisfies the requirement to distribute the source code, even though third parties are not compelled to copy the source along with the object code.

5. A program that contains no derivative of any portion of the Library, but is designed to work with the Library by being compiled or linked with it, is called a "work that uses the Library". Such a work, in isolation, is not a derivative work of the Library, and therefore falls outside the scope of this License.

However, linking a "work that uses the Library" with the Library creates an executable that is a derivative of the Library (because it contains portions of the Library), rather than a "work that uses the library". The executable is therefore covered by this License. Section 6 states terms for distribution of such executables.

When a "work that uses the Library" uses material from a header file that is part of the Library, the object code for the work may be a derivative work of the Library even though the source code is not. Whether this is true is especially significant if the work can be linked without the Library, or if the work is itself a library. The threshold for this to be true is not precisely defined by law.

If such an object file uses only numerical parameters, data structure layouts and accessors, and small macros and small inline functions (ten lines or less in length), then the use of the object file is unrestricted, regardless of whether it is legally a derivative work. (Executables containing this object code plus portions of the Library will still fall under Section 6.)

Otherwise, if the work is a derivative of the Library, you may distribute the object code for the work under the terms of Section 6. Any executables containing that work also fall under Section 6, whether or not they are linked directly with the Library itself.

6. As an exception to the Sections above, you may also combine or link a "work that uses the Library" with the Library to produce a work containing portions of the Library, and distribute that work under terms of your choice, provided that the terms permit modification of the work for the customer's own use and reverse engineering for debugging such modifications.

You must give prominent notice with each copy of the work that the Library is used in it and that the Library and its use are covered by this License. You must supply a copy of this License. If the work during execution displays copyright notices, you must include the copyright notice for the Library among them, as well as a reference directing the user to the copy of this License. Also, you must do one of these things:

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d) If distribution of the work is made by offering access to copy from a designated place, offer equivalent access to copy the above specified materials from the same place.

e) Verify that the user has already received a copy of these materials or that you have already sent this user a copy.

For an executable, the required form of the "work that uses the Library" must include any data and utility programs needed for reproducing the executable from it. However, as a special exception, the materials to be distributed need not include anything that is normally distributed (in either source or binary form) with the major components (compiler, kernel, and so on) of the operating system on which the executable runs, unless that component itself accompanies the executable.

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supply such function or table, the facility still operates, and performs whatever part of its purpose remains meaningful.

(For example, a function in a library to compute square roots has a purpose that is entirely well-defined independent of the application. Therefore, Subsection 2d requires that any application-supplied function or table used by this function must be optional: if the application does not supply it, the square root function must still compute square roots.)

These requirements apply to the modified work as a whole. If identifiable sections of that work are not derived from the Library, 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 them as separate works. But when you distribute the same sections as part of a whole which is a work based on the Library, the distribution of the whole must be on the terms of this License, whose permissions for other licensees extend to the entire whole, and thus to each and every part regardless of who wrote it.

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4. You may copy and distribute the Library (or a portion or derivative of it, under Section 2) in object code or executable form under the terms of Sections 1 and 2 above provided that you accompany it with the complete corresponding machine-readable source code, which must be distributed under the terms of Sections 1 and 2 above on a medium customarily used for software interchange.

If distribution of object code is made by offering access to copy from a designated place, then offering equivalent access to copy the source code from

the same place satisfies the requirement to distribute the source code, even though third parties are not compelled to copy the source along with the object code.

5. A program that contains no derivative of any portion of the Library, but is designed to work with the Library by being compiled or linked with it, is called a "work that uses the Library". Such a work, in isolation, is not a derivative work of the Library, and therefore falls outside the scope of this License.

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If such an object file uses only numerical parameters, data structure layouts and accessors, and small macros and small inline functions (ten lines or less in length), then the use of the object file is unrestricted, regardless of whether it is legally a derivative work. (Executables containing this object code plus portions of the Library will still fall under Section 6.)

Otherwise, if the work is a derivative of the Library, you may distribute the object code for the work under the terms of Section 6. Any executables containing that work also fall under Section 6, whether or not they are linked directly with the Library itself.

6. As an exception to the Sections above, you may also combine or link a "work that uses the Library" with the Library to produce a work containing portions of the Library, and distribute that work under terms of your choice, provided that the terms permit modification of the work for the customer's own use and reverse engineering for debugging such modifications.

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b) Use a suitable shared library mechanism for linking with the Library. A suitable mechanism is one that (1) uses at run time a copy of the library already present on the user's computer system, rather than copying library functions into the executable, and (2) will operate properly with a modified version of the library, if the user installs one, as long as the modified version is interface-compatible with the version that the work was made with.

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[fn1] <http://hacktivism.com/>

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[fn2] <http://hacktivism.com/about/declarations/>

[fn3] [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm)

[fn4] <http://www.un.org/Overview/rights.html>

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[fn5] Article 19, Universal Declaration of Human Rights.

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[fn6] Article 20(1), Universal Declaration of Human Rights.

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[fn7] Article 18, Universal Declaration of Human Rights.

[fn8] *Id.*

[fn9] Paragraph 17, Beijing Declaration of the Fourth United Nations Conference on Women (Sept. 15, 1995).

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[fn10] Article 12, Universal Declaration of Human Rights.

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[fn11] <http://www.gnu.org/philosophy/free-sw.html>

[fn12] [http://www.opensource.org/docs/definition\\_plain.php](http://www.opensource.org/docs/definition_plain.php)

We have therefore coined the term "enhanced source" to describe this License Agreement because we have sought to combine most of the freedom-promoting benefits of "free" or "open-source" software (including mandatory disclosure of any changes or modifications Licensees make to the source code, whenever they release modified versions of HESSLA-licensed Programs or other Derivative Works), with additional enhanced license and contractual terms that are intended to promote the freedom of end-users. The Hacktivismo Enhanced-Source Software

License Agreement promotes our objectives in an enhanced manner by including contractual terms that empower both Hacktivismo and qualified end-users with greater flexibility and leverage to maintain and recover human rights, through the mechanism of the contract itself including terms that are designed to enhance both our enforcement posture and that of qualified end-users in court.

To be sure, Hacktivismo enthusiastically endorses and supports the goals and objectives of the Free Software movement and those of the open source community. In particular, we owe a special debt of gratitude to the Free Software Foundation, to the Open Source Initiative, and to many exceedingly talented people who have contributed to Free Software and open source projects and endeavors over the years.

Ultimately, however, after reviewing the field of possibilities among previously-existing "open source" and "free" licenses, Hacktivismo has concluded that none of them fully meets our requirements. Writing our own License Agreement enables us to pursue our human rights objectives more effectively. This licensing endeavor represents a first step toward achieving our objectives, and no doubt informed feedback, scholarship, and learned commentary will enable us to pursue our objectives even more effectively in the future.

Benefits That Carry Over From Free Software: Before we explain how an "enhanced source" License Agreement specifically differs from a "free" or "open source" license, we believe it is helpful to explain in greater detail what the principal advantages, and freedom-enhancing aspects, of "free" software are.

When we speak of "free software," we refer to important personal freedoms, and not price. In addition to terms that are intended to promote the freedoms of Expression, Thought, Collective Action and Privacy (along with other human rights) of all end-users, the Hacktivismo Enhanced-Source Software License Agreement is also designed and intended to promote the following freedoms:

- \* You have the freedom to distribute copies of the software (and charge for this service if You wish);

- \* You have the freedom of access to the source code, to inspect and verify (and even to improve, if You can) the integrity and functionality of the software;

- \* So long as You do not subvert or infringe the freedoms of end-users by doing so, You have the freedom to change the software or to use parts of it in new Programs;

- \* You have the freedom to know You can do these things.

The licenses for most computer software programs are designed to take away Your freedom to share software or change source code. This kind of software is designated as proprietary or "closed." The Hacktivismo Enhanced-Source Software License Agreement -- like other license agreements that have served as inspiration for our work -- is intended to promote both Your freedom to share our software with others, and Your freedom to change and improve the software. Your right under this License Agreement to look at the source not only enables You to contribute Your own efforts to Hacktivismo's human rights projects, but also

serves as an additional level of assurance to You as an end-user that unwelcome, hidden surprises have not been inserted into the software, that could compromise Your rights and freedoms when You use the software.

HESSLA Helps Safeguard Additional End-User Freedoms: In order to understand why this License Agreement must be described as "enhanced source," and cannot strictly speaking be considered either a "free" or "open source" license agreement, it is helpful to consider the possibility that a programmer might insert malicious code, such as a computer virus, a keystroke logger, or "spyware" into a program that has previously been released under a "free software" license agreement.<sup>[fn13]</sup> The act of inserting malicious code into software, if done by a private individual or company (though many governments will contend they are not required to play by the same rules as the rest of us), may well violate criminal laws and result in civil tort liability. It is, of course, also possible to deter such malicious behavior by including, in a software license agreement, a specific contractual term that prohibits such behavior meaning that any licensee who violates the prohibition against malicious code can be sued by the licensor (or by third-party beneficiaries who the licensor has explicitly identified as alternate or additional enforcers of the agreement) for money damages and a court order forbidding any continued violation.

<sup>[fn13]</sup>In this regard, a the following hypothetical illustration should be particularly helpful. If an organization of computer security enthusiasts were to release, under the GNU General Public License ("GPL"), a program called "Grey Eminence 3000" ("GE3K") a remote-administration tool for Microsoft Windows, that helps illustrate how insecure this particular commercial product happens to be it should hardly be surprising that the United States Secret Service and Federal Bureau of Investigation, after making some loud and misleading apocalyptic noises about "computer hackers" to Congress and in the media (primarily in a largely successful effort to increase their technology budgets), would also study the software to see what it does, how it does it, and whether any of those capabilities happen to be features that law enforcement might find helpful. Of course, if the U.S. federal law enforcement community were to announce, several months later, that it had commissioned the development of "classified" quasi-viral computer-intrusion and surveillance software called "Magic Candle" the capabilities of which law enforcement does not plan to disclose to the public, and the source code for which will remain a closely-guarded secret then inquiring minds might become curious as to whether "Magic Candle" contains any of the GPLed code that was written for "GE3K" (or any other free or open-source software, for that matter). Needless to say, under the right factual circumstances, if any GPLed code from GE3K found its way into "Magic Candle," then the U.S. government or its software development contractor might well be obligated to reveal to the public all the source code for "Magic Candle." Nevertheless, so long as the "Magic Candle" source is never publicly released for comparison purposes, then everyone with legitimate questions about GPL compliance faces a chicken-and-egg problem. So long as the source of "Magic Candle" remains secret, detection of a GPL violation becomes dramatically more difficult (particularly so if, additionally, nobody outside law enforcement has access to the compiled executables), which means the worldwide community of Internet users and software developers has only the United States government's solemn assurance that no GE3K code was used

cold comfort at best.

Previous Licenses Provide More Limited Protection Against Government and Other Surveillance: No software license agreement that qualifies as "free" or "open source" may contain any restriction as a term of the license agreement that in any way qualifies any Licensee's prerogative (no matter who they are or what their motives may be) to make changes to code. In other words, an "open source" license agreement, to qualify for the "open source" label, may not even contain a term that prohibits the insertion of destructive viruses or "trojan horses" into derivative code. Likewise, no "free" or "open source" license agreement can in any way contain (as a license term) any restriction on the use of software not even a prohibition against unlawful surveillance or other malicious uses of the software.

The "open source" and "Free Software" communities rely principally on voluntary compliance<sup>[fn14]</sup> with the disclosure provisions of license agreements (although many "free" and "open source" license agreements, such as BSD-style licenses, do not require changed code to be disclosed, and in fact enable modified versions of programs to be "taken proprietary") and on social mechanisms of enforcement, as means to detect, prevent, deter, and remedy abuses.

<sup>[fn14]</sup>As the example in Note 13 illustrates, it is sometimes difficult to determine whether the source disclosure requirement of the GPL has been violated, such as when a modified version of a program has been distributed without source, precisely because detection of a disclosure violation depends in part on the disclosure of the source of derivative works in order to compare whether a putative derivative really does contain code derived from a GPLed parent work.

The Hactivismo Enhanced-Source Software License Agreement does not in any way sacrifice or surrender the enforcement techniques and safeguards available under license agreements such as the GNU General Public License. Rather, the HESSLA enhances the options available to Hactivismo and to qualified end-users, by providing additional enforcement options. Moreover, for the purpose of promoting the freedoms of both programmers and end-users, through the enforced mandatory disclosure of code modified by third-parties, this License Agreement has advantages over many of the licenses (such as BSD-style licenses) that fully qualify as "free" or "open-source" license agreements.

What makes this License Agreement an "enhanced source" License Agreement, instead of a "free software" license agreement, is that the Hactivismo Enhanced-Source Software License Agreement contains specific, very limited restrictions on modification and use of software by Licensees, as part of a calculated trade-off of rights and responsibilities that is intended to promote the freedom of end-users.

The Enhanced-Source Bargain Reinforces End-User Freedoms: To protect Your rights, we need to make restrictions that forbid anyone to deny You specific rights or to ask You to surrender these rights. To protect Your human rights as an end-user of this program or any work based on it, we need to make restrictions that forbid You and all other Licensees of this software (including, without limitation, any government Licensees) from using this code to subvert the human rights of any

end-user.

We protect Your rights and the rights of all end-users with two steps: (1) copyright the software, and (2) offer You this License Agreement which gives You qualified legal permission to copy, distribute and/or modify the software.

The restrictions shared by all Licensees translate into certain responsibilities for You and for everyone else (including governmental entities everywhere) if You distribute copies of the software, if You use it, or if You modify it.

In this regard, the methodology we employ is not materially different from the methodology Free Software Foundation employs in the GNU General Public License (the "GPL"). The methodology is to exchange the Author's permission to copy, change, and/or distribute a copyrighted work, for every Licensee's acceptance of terms and conditions that promote the licensor's objectives. In both this License Agreement and the GPL, the terms and conditions that each Licensee must accept are intended to discriminate against certain very narrow, limited kinds of human endeavor, that are inconsistent with the licensor's political objectives. In other words, the GPL requires each Licensee to promise not to engage in the activity of 'propertizing,' or 'taking proprietary,' modifications to GPLed code; modified code must also be released under the GPL, and cannot be released in the form of "closed" executables, or otherwise be made "proprietary." Likewise, the Hacktivismo Enhanced Source Software License Agreement discriminates against undesirable activity such as surveillance, introduction of certain kinds of malicious code, and human rights violations, as well as discriminating against "propertizing" behavior such as might violate the GPL. Subject to these narrow restrictions, Licensees under either license agreement enjoy very broad latitude to change, use, explore, modify, and distribute the software much broader than they would enjoy with typical "proprietary" software packages.

As with "copyleft" licenses such as the GPL, under the Hacktivismo Enhanced Source Software License Agreement, programmers (including, most importantly, programmers working for governments) do not have unfettered or completely unlimited "freedom" for purposes of what they can do with HESSLA-licensed code. Just as with the GPL, they do not have the "freedom" to convert HESSLA-licensed code into "closed" or "proprietary" code. People who create derivative works based on an HESSLA-licensed program and distribute those works have a corresponding obligation to "give back," and not merely to "take," HESSLA-licensed code.

If You distribute copies of such an HESSLA-licensed program, whether gratis or for a fee, You must give the recipients all the rights and responsibilities that You have. You must ensure that they, too, are told of the terms of this License Agreement, including the freedoms they have, and the kinds of uses and modifications that are forbidden. You must communicate a copy of this License Agreement to them as part of any copy, modification, or re-use of source or object code, so they know their rights and responsibilities.

Thus, the main difference between this License Agreement and the GPL is not the methodology we employ,<sup>[fn15]</sup> but the scope and breadth of the political objectives we seek to promote. Simply put, the political objectives we promote are somewhat broader than the explicit political goals that the Free Software

Foundation seeks to promote through the GPL. Our goals include a somewhat broader range of human rights than the specific copyright-related rights with which the GPL is principally concerned. But, while we are concerned with the entire field of human rights rather than a subset, we want to make it perfectly clear that we also embrace, share, and seek to promote, the goals we share with the Free Software movement.

[fn15] There is a modest difference, but it is not large, and mostly philosophical. Some experts on the GPL draw a distinction between a "contract" and a pure "license," by taking the position that a pure "license" does not impose "contractual" conditions on a Licensee only conditions that would otherwise (but for the license) be subsumed within with exclusive rights that the licensor has under copyright law. Thus, the licensor has the right to exclude anyone else from such activities as making copies, making derivative works, publicly performing a work, and other exclusive rights specified by statute. But, concerning the act of "using" a computer software program, in instances in which a copy is not made (or, in the trivial sense that a copy is made only temporarily from a storage medium to memory, to enable software to be "used"), the Free Software Foundation takes the position that United States law, at least, does not confer an exclusive right on the copyright holder (or, as others would argue, the United States statute qualifies the holder's exclusive right to copy), because the U.S. Copyright Act specifically exempts from the exclusive right to make copies, a copy made from (for example) a computer hard drive to volatile memory, in connection with the process of executing computer software. So far as we can determine, the Free Software Foundation does not argue that it is impossible "contractually" to impose conditions on use, as part of the bargain one strikes, when conditionally allowing Licensees to make copies of a program. Rather, for philosophical reasons, the Free Software Foundation voluntarily chooses not to include what it views as "contractual" conditions in the GPL. In this sense, Hactivismo takes the position that the HESSLA is clearly a "contract" and contains "contractual" terms, such that it should not be considered a "pure license," under the nomenclature employed by the Free Software Foundation. However, in our view, precisely because both the HESSLA and the GPL are clearly conditional grants of permission to do things from which the Licensee would otherwise be excluded (i.e., the Licensee must undertake certain obligations in exchange for permission to copy, modify, or distribute, a work), the key point is that the methodology is quite similar.

Compared with the GPL, aspects of the HESSLA give both end-users and programmers (including, most importantly, governmental end-users and programmers) marginally less leeway to make malicious use of the program, or to insert malicious code into a program, than they would have under a traditional "copyleft" software license. These aspects of the HESSLA (such as the requirement that the program cannot be used to violate human rights, or forbidding the insertion of "spy-ware" or surveillance mechanisms into derivative works) are included because our ultimate objective is to preserve and promote the human rights of end-users, including their privacy and their right of free expression.

In other words, unlike many programmers, we are not just in the business of developing and distributing open-standards technologies. We're also trying to empower end-users (including end-users in totalitarian regimes) with software

tools that promote fundamental freedoms while also seeking as best we can to protect these end-users from being arrested, beaten, or worse. Our objective of promoting end-user freedoms, including the freedoms of people in politically repressive countries, is precisely the factor that has led Hacktivism to develop this License Agreement instead of using another.

The HESSLA Also Includes Features To Enhance Government Accountability: To this end, we have sought and intend to ensure, to the fullest extent that law (including, without limitation, the law of contract and of copyright licensing) enables us to do so,<sup>[fn16]</sup> that no government or other institution may do anything with this computer software or the underlying source code without becoming a Licensee bound by the terms of this License Agreement, subject to the same restrictions on modification and use as anyone else.

[fn16] "Everyone has the right to an effective remedy by the competent national tribunals for acts violating . . . fundamental rights . . ." Article 8, United Nations Declaration of Human Rights.

Accordingly, this License Agreement includes several terms that are aimed explicitly at governmental entities, in order to maximize enforceability against such entities. Respect for the Rule of Law means that no governmental entity is above the law, and that no governmental entity should be permitted to use its status as a mechanism for circumventing the requirements of this License Agreement.

Any use, copying or modification of this software by any governmental official or governmental entity anywhere in the world is a voluntary act, which act the governmental official or entity is free to forego if it does not wish to be bound by this License Agreement. This License Agreement seeks to establish as clearly as possible two important checks on the improper use of government power. First, the voluntary election to use, copy, or modify, this software by any government or governmental official constitutes a waiver of all immunities that might otherwise be asserted, against enforcement of this License Agreement by the Author, or assertion by end-users or others of any human rights laws that may have been violated by a government employing the Software. Second, any such government or governmental official not only subjects itself to enforcement action in its own courts, but also explicitly and voluntarily subjects itself to enforcement action in the courts of other nations that are likely to be more objective, for the purpose of giving effect to the terms of this License Agreement.

Mechanism of Contract Acceptance: This License Agreement treats any use of the software as acceptance of the terms of this License Agreement. To understand the significance of this, it is important to distinguish between the law governing copyright and the law governing offer and acceptance for the purpose of contract formation (which gives the offeror the power to specify the manner of acceptance). The question of whether copyright confers an exclusive right of use on the author of a program is certainly an interesting one. Under United States law, see 17 U.S.C. 117(a)(1), a limited exception to the exclusive right to copy exists if one makes a second copy "created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner." This License Agreement presupposes that there is no

exclusive right to use in the Copyright Act, just an exclusive right to copy. However, You may not make a copy for anyone else unless they are subject to the terms of this License Agreement. Nor may You permit anyone to use Your copy or any other copy You have made unless they are subject to the terms of this License Agreement. You may not make a copy for Your own use or the use of anyone else without the Author's leave to make that copy. And any use, modification, copying, or distribution by anyone constitutes acceptance of the License Agreement, for purposes of contract law. In other words, the License Agreement is designed so that there is no loophole permitting anyone to claim the ability to use, copy, distribute, or modify the Program or any Software based on it without subjecting themselves voluntarily to its terms.

On "Shrinkwrap," "Click-Wrap," "Use-Wrap" and "Copy-Wrap" License Agreements: Arguably, some kinds of software license agreements have more in common with legislation than they do with the bargained-for, negotiated agreements that come to mind when most people think of "contracts." Particularly if a software licensor has sufficient market power to be deemed a monopoly, or if certain proposed expansions of the law of software licensing, masquerading as "codifications," are widely adopted, the ability of a private entity to impose legal prohibitions and duties on virtually everyone else as though the licensor has assumed powers that customarily belong to legislative bodies is both breathtaking and deeply troubling. Of course, we are hardly the first to distribute software under a license agreement that imposes conditions on a take-it-or-leave-it basis. This technique is, as everyone knows, extremely common with proprietary software. And some of the conditions unilaterally imposed by proprietary licensors range from the ridiculous to the obscene. But even certain kinds of "free" and "open-source" software licenses, such as the GPL, depend on the continued viability of legal rules that enable at least some reasonable conditions to be imposed by software licensors on a take-it-or-leave-it basis, with essentially automated methods of acceptance. Courts have been divided as to how far these kinds of licensor-driven automated agreements can go. And we cannot say that we will be unhappy if courts or legislatures ultimately reach a consensus that sharply limits what conditions licensors can impose through such mechanisms. However, while the law is still developing, we think nothing could be more appropriate than to enlist the techniques that institutions of power have used to limit freedom and instead to re-purpose the techniques of "copy-wrap" or "use-wrap" licensing by putting them to use for humanitarian purposes and using them to promote the human rights of end-users. To deny us the use of these techniques, courts and other law-making institutions would be required simultaneously to disarm, to the same degree, proprietary software manufacturers that possess vast market power. And, unlike the conditions imposed by many proprietary vendors, the conditions we impose through this License Agreement are hardly onerous for any end-user (unless, of course, the end-user wants to act maliciously or engage in surveillance).

No Warranty: Next, for each author's protection and our own, we want to make certain that everyone understands that there is no warranty for this software. And, if the software is modified by someone else and passed on, we want its recipients to know that what they have is not the original, so that any problems introduced by others will not reflect on the original authors' reputations.

Software Patents: Software patents constantly threaten any project such as this one. We wish to avoid the danger that redistributors of a HESSLA-licensed program will individually obtain patent licenses, in effect making the program proprietary. To prevent this, we have included terms by which any Author must, if it has patented (or licensed a patent covering) any technology embodied in any Program or Software released under this License Agreement, grant all HESSLA Licensees of the Program or Software a royalty-free license of that technology. Any Licensees who release derivative works, as permitted by this License Agreement, are required to grant a royalty-free patent license of any patented technology.

Anyone Can Release Original Software Under The HESSLA: Although this License Agreement is drafted with Hacktivism's objectives in mind, perhaps it will meet other authors' needs as well. If You are considering using this License Agreement for Your own software (meaning the code is not a work based on Hacktivism's program in which case all derivative works must be released under this License Agreement but rather Your code is original software that You have developed yourself) and if You have no special reason to prefer this License Agreement to some license that has a more robust and widely-understood track-record, then in most instances we encourage You to use the GPL (or, even better, release concurrently under both the HESSLA and the GPL), because a considerable body of interpretive literature and community custom has grown up around that License Agreement. The Open Software License, see < <http://www.rosenlaw.com/osl.html> >, is newer and has less of a track record. But You may also want to consider that licensing option (as well as the option of concurrent OSL/HESSLA licensing).

Any author of original software can release that software under this License Agreement, if You choose to do so; not just Hacktivism. Hacktivism is the author and owner of software released by Hacktivism under this License Agreement. But original software released by other Authors would be owned and licensed by them.

Ultimately, we think it is important to emphasize to other Authors that Programs they have written can be released under both the HESSLA and some other license simultaneously (for, example, a program that is presently GPLed by its Author can be released simultaneously under both the GPL and the HESSLA, at the Author's discretion). If You are an Author of original work, You need neither the permission of the Free Software Foundation nor of Hacktivism to elect to release software simultaneously under both licenses. The advantage of such a voluntary double-licensing is that it will enable developers to produce hybrid software packages (combining the functionality available through, say, Hacktivism's Six-Four APIs, with some of the functionality of one or more popular GPL-licensed communications programs) and to release the hybrid packages under the HESSLA, without causing those developers to run afoul of the GPL, the HESSLA or both. Such an arrangement maximizes the potential benefit to both the developer community and to end-users worldwide. Software released under a BSD-style license, as a general matter, can be used to produce a hybrid program, mixing HESSLA-licensed code with code that was previously subject to a BSD license. The HESSLA requires that, in such an instance, the hybrid code must be released under the HESSLA (to avoid weakening the end-user protections and affirmative rights afforded by the HESSLA). Hacktivism is more than happy to consult with any software developer about the license terms that should apply to any Software that is derivative of any Program of which Hacktivism is Author. If another Author

has released code under the HESSLA, then that Author has primary decision-making authority about the manner in which his her or its software is licensed, but Hacktivismo is happy to field any questions hat may be posed by such an Author or by any developer who is building on another Author's HESSLAed code.

License Revisions: This License Agreement is subject to revision, prior to the release of the Hacktivismo Enhanced-Source Software License Agreement, Version 1.0. We invite interested parties from the international academic and legal communities to offer comments and suggestions on ways to improve this License Agreement, prior to the time that The HESSLA version 1.0 is released.

The terms of the latest and most up-to-date version of this License Agreement, up to and including version 1.0, shall be deemed automatically to supersede the terms of any lower-numbered version of this License Agreement with respect to any Licensee who became a Licensee under the lower-numbered version of the HESSLA.

The terms of the latest and most up-to-date version of this License Agreement will always be published on the Hacktivismo Website, <http://www.hacktivismo.com/>.

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

#### TERMS AND CONDITIONS FOR COPYING, DISTRIBUTION, USE AND/OR MODIFICATION

0. DEFINITIONS. The following are defined terms that, whenever used in this License Agreement, have the following meanings:

0.1 Author: "Author" shall mean the copyright holder of an Original Work (the "Program") released by the Author under this License Agreement.

0.2 Copy: "Copy" shall mean everything and anything that constitutes a copy according to copyright law, without limitation. A "copy" does not become anything other than a "copy" merely because, for example, a governmental or institutional employee duplicates the Program or a part of it for another employee of the same institution or Governmental Entity, or merely because it is copied from one computer to another, or from one medium to another, or multiple copies are made on the same medium, within the same institutional or Governmental Entity.

0.3 Derivative Work: A "Derivative Work" or "work based on the Program" shall mean either the Program itself or any work containing the Program or a portion of it, either verbatim or with modifications and/or translated into another language. (Hereinafter, translation is included without limitation in the term "modification."). In the unlikely event that, and to the extent that, this contractual definition of "Derivative Work" is later determined by any tribunal or dispute-resolution body to be different is scope from the meaning of "derivative work" under the copyright law of any country, then the broadest and most encompassing possible definition either the contractual definition of "Derivative Work," or any broader and more encompassing statutory or legal definition, shall control. Acceptance of this contractually-defined scope of the term "Derivative Work" is a mandatory pre-condition for You to receive any of the benefits offered by this License Agreement.

0.3.1 Mere aggregation of another work not based on the Program with the Program (or with a Derivative Work based on the Program) on a volume of a storage or distribution medium does not bring the other work under the scope of this License Agreement.

0.4 License Agreement: When used in this License Agreement, the terms "this License" or "this License Agreement" shall mean The Hactivismo Enhanced-Source Software License Agreement, v. 0.1, or any subsequent version made applicable under the terms of Section 15.

0.5 Licensee: The term "Licensee" shall mean You or any other Licensee, whether or not a Qualified Licensee.

0.6 Original Work: "Original Work" shall mean a Program or other work of authorship, or portion thereof, that is not a Derivative Work.

0.7 Program: The "Program," to which this License Agreement applies, is the Original Work (including, but not limited to, computer software) released by the Author under this License Agreement.

0.8 Qualified Licensee: A "Qualified Licensee" means a Licensee that remains in full compliance with all terms and conditions of this License Agreement. You are no longer a Qualified Licensee if, at any time, You violate any terms of this License Agreement. Neither the Program nor any Software based on the Program may be copied, distributed, performed, displayed, used or modified by You, even for Your own purposes, unless You are a Qualified Licensee. A Licensee other than a Qualified Licensee remains subject to all terms and conditions of this License Agreement, and to all remedies for each cumulative violation as set forth herein. Loss of the status of Qualified Licensee signifies that violation of any terms of the License Agreement subjects a Licensee to loss of most of the benefits that Qualified Licensees enjoy under this License Agreement, and to additional remedies for all violations occurring after the first violation.

0.9 Software: "Software" or "the Software" shall mean the Program, any Derivative Work based on the Program or a portion thereof, and/or any modified version of the Program or portion thereof, without limitation.

0.10 Source Code: The term "Source Code" shall mean the preferred form of a Program or Original Work for making modifications to it and all available documentation describing how to access and modify that Program or Original Work.

0.10.1 For an executable work, complete Source Code means all the Source Code for all modules it contains, plus any associated interface definition files, plus the scripts used to control compilation and installation of the executable. However, as a special exception, the Source Code distributed need not include anything that is normally distributed (in either source or binary form) with the major components (compiler, kernel, and so on) of the operating system on which the executable runs, unless that component itself accompanies the executable.

0.10.2 "Object Code:" Because of certain peculiarities of current export-control rules, "object code" of the Program, or any modified version of the Program, or Derivative Work based on the Program, must not be exported except by way of distribution that is ancillary to the distribution of the Source Code. The

"Source Code" shall be understood as the primary content transferred or exported by You, and the "object code" shall be considered as merely an ancillary component of any such export distribution.

0.11 Strong Cryptography: "Strong Cryptography" shall mean cryptography no less secure than (for example, and without limitation) a 2048-bit minimum key size for RSA encryption, 1024-bit minimum key size for Diffie-Hellman (El Gamal), or a 256-bit minimum key size for AES and similar symmetric ciphers.

0.12 Substandard Key-Selection Technique: The term "Substandard Key-Selection Technique" shall mean a method or technique to cause encryption keys to be more easily guessed or less secure, such as by (i) causing the selection of keys to be less than random, or (ii) employing a selection process that selects among only a subset of possible keys, instead of from among the largest set of possible keys that can securely be used consistent with contemporary knowledge about the cryptographic techniques employed by You. The following illustrations elaborate on the foregoing definition:

0.12.1 If the key-generation or key-selection technique for the encryption algorithm You employ involves the selection of one or more prime numbers, or involves one or more mathematical functions or concatenations performed on one or more prime numbers, then each prime number should be selected from a very large set of candidate prime numbers, but not necessarily from the set of all possible prime numbers (e.g., inclusion of the number 1 in the candidate set, for example, may in some instances reduce rather than enhance security), and absolutely not from any artificially small set of candidate primes that makes the guessing of a key easier than would be the case if a secure key-generation technique were employed. In all instances, the primes should be selected at random from among the candidate set. If there is a customary industry standard for maximizing the security associated with the key-generation or key-selection technique for the cryptosystem You select, then (with attention also to the requirements of Section 0.11), You should employ a key-generation or selection technique no less secure than the customary industry standard for secure use of the cryptosystem.

0.12.2 If the key-generation or key-selection technique for the encryption algorithm You employ involves the selection of a random integer, or the transformation of a random integer through one or more mathematical processes, then the selection of the integer shall be at random from the largest possible set of all possible integers consistent with the secure functioning of the encryption algorithm. It shall not be selected from an artificially small set of integers (e.g., if a 256-bit random integer serves as the key, then You could not set 200 of the 256 bits as "0," and randomly generate only the remaining 56 bits producing effectively a 56-bit keylength instead of using the full 256 bits).

0.12.3 In other words, Your key-generation technique must promote security to the maximum extent permitted by the cryptographic method(s) and keylength You elect to employ, rather than facilitating eavesdropping or surveillance in any way. The example of GSM telephones, in which 16 of 56 bits in each encryption key were set at "0," thereby reducing the security of the system by a factor of 65,536, is particularly salient. Such artificial techniques to reduce the security of a cryptosystem by selecting keys from only a less-secure or suboptimal subset of possible keys, is prohibited and will violate this License Agreement if any such

technique is employed in any Software.

0.13 You: Each Licensee (including, without limitation, Licensees that have violated the License Agreement and who are no longer Qualified Licensees, but who nevertheless remain subject to all requirements of this License Agreement and to all cumulative remedies for each successive violation), is referred to as "You."

0.13.1 Governmental Entity: "You" explicitly includes any and all "Governmental Entities," without limitation. "Governmental Entity" or "Governmental Entities," when used in this License Agreement, shall mean national governments, sub-national governments (for example, and without limitation, provincial, state, regional, local and municipal governments, autonomous governing units, special districts, and other such entities), governmental subunits (without limitation, governmental agencies, offices, departments, government corporations, and the like), supra-national governmental entities such as the European Union, and entities through which one or more governments perform governmental functions or exercise governmental power in coordination, cooperation or unison.

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14.6.1 Consistent with Subparagraphs 14.2.1 through 14.2.4, this waiver shall explicitly be understood to constitute a waiver not only against suit, but also against execution against property, for purposes of the Foreign Sovereign Immunities Act of 1976 (as amended). All United States Governmental Entities shall be understood to have agreed to a corresponding waiver of immunity against (i) suit in the courts of other sovereigns, and (ii) execution against property of the United States located within the territory of other countries.

14.7 Governmental Persons, (i) who violate this License Agreement (whether that person's Governmental Entity contends the person's action was, or was not, authorized or official), or (ii) who are personally involved in any activity, policy or practice of a governmental entity that violates this License Agreement (whether that person's Governmental Entity contends the person's action was, or was not, authorized or official), or (iii) that use, copy, change, modify, perform, display or distribute, the Software or any part thereof, when their Governmental Entity is not permitted to do so, or is not a Qualified Licensee, or has violated the terms of this License Agreement, each and all individually waive and shall not be permitted to assert any defense of official immunity, "good faith" immunity, qualified immunity, absolute immunity, or other immunity based on his or her governmental status.

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14.9.1 The Waiver by any Governmental Entity of a country other than the United States shall be understood explicitly to constitute a waiver for purposes of the Foreign Sovereign Immunities Act of 1976 (see Subparagraphs 14.2.1 to 14.2.4, inclusive, supra), and all United States Governmental Entities shall be understood to have agreed to a waive correspondingly broad in scope with respect to actions brought in the courts of other sovereigns.

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```
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```

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