

## ATTACHMENT A

### Operating Procedures of PrintTalk

#### 1.0. Purpose

The following sets forth the Operating Procedures of PrintTalk, an unincorporated association under the laws of Virginia, established for the purpose of providing rules for the regulation of the affairs of PrintTalk.

#### 2.0. Definitions

Terms used herein (words having initial uppercase letters) not otherwise defined below shall have that meaning set forth in the PrintTalk Membership Agreement.

- 2.1. **"Group Leader"** means a Member selected by a Simple Majority Vote of the Executive Committee to be the spokesperson and coordinator for a Working Group.
- 2.2. **"Simple Majority"** means, with respect to the voting on a proposal or issue brought before PrintTalk, any vote in which more than half of the non-abstaining, eligible Members (but in any event, not less than three eligible Members) casts votes affirmatively on such proposal or issue.
- 2.3. **"Implementation(s)"** means any technical implementation approved by the Executive Committee for PrintTalk architecture and/or its components.
- 2.4. **"Deployment"** means a reduction to practice of the "Implementation".
- 2.5. **"Super Majority"** means, with respect to the voting on a proposal or issue brought before the Members of PrintTalk, any such vote in which two-thirds (2/3) or more of the nonabstaining, eligible Members vote affirmatively, provided that the number of such Members represents (i) at least one-half (1/2) of all eligible Members and (ii) not less than three eligible Members.
- 2.6. **"Voting Period"** means a five (5) working day period (Monday—Friday excluding holidays) during which the Secretary will accept votes submitted by eligible Members, for a ballot submitted to such Members by the Secretary, commencing on such submission.
- 2.7. **"Working Group"** means a collection of at least three Members, with a charter and Group Leader, established by a Simple Majority Vote of the Executive Committee.

### **3.0. Actions, Activities and Meetings of PrintTalk**

- 3.1. Actions and Activities of PrintTalk. The general activities (as described in Section 1 of the Membership Agreement) of PrintTalk will include, but not be limited to, (i) promotion of Implementations on appropriate current and future computer system platforms, (ii) reviewing, considering, proposing and approving or disapproving future enhancements and additions to the Implementations, (iii) determining the requirements for Implementation conformance testing, and (iv) proposing future meeting agenda items.
- 3.2. Meetings. PrintTalk shall hold regular meetings. There shall be a minimum of one (1) meeting annually of the Members, and a minimum of two (2) meetings annually of the Executive Committee. The Secretary shall provide a written notice to the Members of the schedule for such regularly scheduled meetings. The Secretary shall also provide to each Member, not less than fourteen (14) days prior to the scheduled date for each such meeting, a written plan for such meeting, stating the location, date, hour, and agenda of such meeting. PrintTalk may also call special meetings, in which case a notice thereof will be provided to each Member not less than seven (7) days before the scheduled date for such special meeting, stating, in addition to the aforementioned, the special purpose or purposes for which such meeting has been called. Every member of the Executive Committee shall attend at least fifty percent (50%) of the Executive Committee meetings during each calendar year, provided that advance notice of such meetings had been given in accordance herewith. Meetings may be held in person and/or by teleconference.
- 3.3. Minute of Meetings. The Secretary shall be responsible for distribution of the minutes of all meetings of PrintTalk within ten (10) days after each meeting has been held, and may distribute the minutes electronically, provided, however, that the Secretary shall provide a draft of Executive Committee meeting minutes to Executive Committee members for review and comment as to accuracy at least fourteen (14) days before distribution thereof to the general Membership. The minutes published for meetings of both the general Membership and of the Executive Committee will indicate the outcome of any votes taken during or since the last meeting.

### **4.0. Establishment of the Executive Committee and Working Groups; Election and Appointment of Officers of PrintTalk.**

- 4.1. The Executive Committee. The Executive Committee shall be established annually at the first general meeting of each Fiscal Year, and shall consist of nine (9) members elected from the Founding and Regular Members. Such nine (9) Members shall be determined by a vote of the Founding and Regular Membership, and will be the Members receiving the highest cumulative number of votes in such vote. If two delegates receive the same number of

votes for the ninth position in the Executive Committee, the Technical Secretary shall cast the deciding vote subject to Section 6.1.g. below. To be eligible to serve on the Executive Committee, a Member must have electronic mail addressable through the Internet.

- 4.2. Working Groups. Any Member may propose to the President or Technical Secretary that a Working Group be created to address an issue relevant to PrintTalk provided that such Member shall participate in any resultant Working Group. The proposal for such Working Group will be presented in the form of a written charter which will include a statement of purpose for the Working Group, a description of tasks to be completed, and a timeline for completion of a final report for delivery to the Technical Secretary. After a reasonable amount of discussion, the Executive Committee will determine whether a Working Group should be created to address such issue. If the Executive Committee so determines, the Secretary shall poll the Members to determine whether any Members other than the proposing Member is willing to participate in such Working Group. Provided that at least three (3) Members are willing to so participate, the Secretary shall declare such Working Group convened, and the Members in such Working Group shall elect a Group Leader to act as spokesperson for such Working Group. Appropriate issues may also be added to, or deleted from, the charter of existing Working Groups, upon approval of the Executive Committee. A Working Group may meet in person, at various times and places designated by the Group Leader, or by electronic means, and shall provide reports to the Technical Secretary on its activities at least quarterly. Working Groups shall be created for a specified term. Each Working Group's charter may be renewed by the approval of the Executive Committee.
- 4.3. Appointment of the Technical Secretary. The Technical Secretary shall be appointed annually by the Executive Committee from the Founding and Regular Membership.
- 4.4. Appointment of the Marketing Secretary. The Marketing Secretary shall be appointed annually by the Executive Committee from the Founding and Regular Membership.
- 4.5. Election of the President and Vice President. The President and Vice President shall be elected annually by the Executive Committee from its membership, at the first meeting of PrintTalk for each Fiscal Year, and immediately after the Executive Committee has been formed for such Fiscal Year. To be eligible to serve as President or Vice President, a Member must have electronic mail addressable through the Internet.
- 4.6. Appointment of Secretary. The Secretariat shall appoint a Member or its staff as Secretary for PrintTalk, provided, however, that such appointment may be

changed by written notice provided by the Secretariat to the Executive Committee.

## **5.0. Duties of the Officers of PrintTalk**

- 5.1. Duties of the President. The President is ultimately responsible for the marketing and technical work of PrintTalk, but may, with the consent of the Executive Committee, delegate topics to various Working Groups. Further, the President shall:
  - 5.1.1. Convene and chair meetings of the Executive Committee and of the Members.
  - 5.1.2. Work with the Secretary to establish the agenda for meetings of the Executive Committee and of the general Membership.
  - 5.1.3. Act as the Members' liaison to the Secretariat.
  - 5.1.4. Act as a conduit of ideas and suggestions from non-Members into the Executive Committee.
- 5.2. Duties of the Secretary; The Secretary shall:
  - 5.2.1. Administer the general meetings of PrintTalk, including:
    - a. determining the time and locale of the meetings and informing the Members thereof;
    - b. working with the President to establish agendas for meetings and distributing such agendas to the appropriate Members; and
    - c. producing and distributing minutes of meetings, within thirty (30) days after each meeting.
    - d. obtain legal review of agendas, minutes and other documents as the Secretariat deems necessary.
  - 5.2.2. Administer any balloting conducted by PrintTalk among the Members. Such duties shall include:
    - a. working with Members to establish appropriate proposals and issues as subject matter requiring a decision by the Members, pursuant to the voting procedures set forth herein;
    - b. establishing each respective voting period;

- c. announcing pending ballots, tallying votes, and announcing the results of votes completed; and
    - d. determining Member eligibility to vote on specific matters.
- 5.2.3. Be responsible for the establishment and maintenance of a Web site for distributing information about the activities of PrintTalk and for distributing implementations and for other purposes agreed to by the Members.
- 5.2.4. Serve as treasurer of PrintTalk.
- 5.2.5. Determine on an annual basis and submit to the Executive Committee an annual budget and report of the activities of PrintTalk.
- 5.2.6. Forward Implementations approved by PrintTalk to the appropriate standards or specification bodies in a timely manner.
- 5.2.7. Send out invoices for PrintTalk Membership to each Member (except the Honorary Members) and PrintTalk Supporter not later than sixty (60) days before the end of the then-current Fiscal Year.
- 5.2.8. Maintain a list of the Members and PrintTalk Supporters and their delegates, including contact points accessible by FAX, electronic mail, telephone, and regular mail.
- 5.2.9. Establish and maintain means for telecommunications with PrintTalk, such as FAX, telephone, and electronic mail.
- 5.2.10. Act as a conduit of ideas and suggestions from non-Members into the Executive committee.
- 5.2.11. Provide a public relations and communications function for PrintTalk.
- 5.2.12. Recruit new Members and PrintTalk Supporters for PrintTalk.
- 5.3. Duties of the Technical Secretary; The Technical Secretary shall:
  - 5.3.1. Chair the Technical Working Group.
  - 5.3.2. In the event of a tie during a ballot of the Executive Committee or the general Membership, the Technical Secretary shall cast the deciding vote as specified in Section 6.1.g. below, provided that so doing would not violate the requirements of Section 6.1.i. below.

- 5.3.2. Collect written charters prepared in advocacy of the formation of a Working Group, and presentation of such charters to the Executive Committee.
  - 5.3.3. Ensure that the work of each working group, and the work of PrintTalk as a whole, progresses in a timely manner.
  - 5.3.4. Act as a technical expert to assist in the examination and evaluation of Implementations by standards or specification bodies.
  - 5.3.5. Act as a conduit of ideas and suggestions from non-Members into the Executive Committee.
  - 5.3.6. Assist PrintTalk in the recruitment of new Members and PrintTalk Supporters.
- 5.4. Duties of the Vice-President. The Vice-President shall fulfill the duties of the President, should the President be unable to do so.
- 5.5. Duties of the Marketing Secretary. The Marketing Secretary shall:
- 5.5.1 Chair the Marketing Working Group.
  - 5.5.2 Develop an annual marketing plan for PrintTalk.
  - 5.5.3 Work with the Secretary to determine a budget request for marketing activities for approval by the Executive Committee.
  - 5.5.4 Assist the Secretary in the development of marketing materials.
  - 5.5.5 Assist the Secretary in the development of content and format of the PrintTalk Web site.
  - 5.5.6 Assist the Secretary in the development of press releases on PrintTalk activities.
  - 5.5.7 Assist in the recruitment of new Members to PrintTalk.
- 5.6 Addition of Other Official Positions to PrintTalk. Any Member may make a formal proposal regarding the addition of official positions to PrintTalk, which proposal shall include a written description of the proposed duties and responsibilities of such official. Such proposals shall be subject to, and approved or disapproved by, the Executive Committee.
- 5.7 Functions outside the Purview of the Officers. PrintTalk and its Officers shall have no responsibility whatsoever for providing any of the following for any

results of the work of PrintTalk: a technical support service, testing of Deployments, testing of any software PrintTalk produces or approves, validation that products conform to PrintTalk Implementations, or the like.

## 6.0. **Voting Policies and Procedures of PrintTalk**

- 6.1. Voting Policies. PrintTalk shall use the following policies and procedures to make decisions on issues brought before PrintTalk.
- a. Each Member shall (i) submit the names of a primary and an alternate representative, reachable by electronic means, to the Secretary and (ii) each Founding and Regular Member shall be entitled to cast one (1) vote on each applicable issue, pursuant to Section 6.2.
  - b. Votes will be taken on ballots distributed to the Members entitled to vote by the Secretary, which ballots shall state a description of the issues(s) being decided and a mechanism whereby the Member may indicate whether it casts its vote affirmatively or negatively, or abstains from voting, on each such issue. The Secretary may distribute such ballots by electronic means.
  - c. Each Member may cast its votes in person at meetings of PrintTalk, or in absentia by electronic or written notice to the Secretary. Votes shall be considered valid only if received by the Secretary during the Voting Period.
  - d. A Member may not change a vote after it has cast such vote.
  - e. The Secretary will notify the primary and alternate representatives of each Member whenever it submits a ballot to the Members, and shall provide to each representative a copy thereof. Each Member shall be solely responsible for determining which of its representatives shall submit a response to any ballot. The Secretary shall accept only the first ballot received from any Member entitled to vote. If the Secretary does not receive such Member's completed ballot during the Voting Period, such Member's vote will be tallied as abstaining.
  - f. The Secretary may close voting before the end of the Voting Period, and determine results to be final, if the tallying of additional votes would not change the ultimate decision on an issue. The Secretary will announce when voting has been closed and the result thereof. The Secretary will also indicate the voting record of the Members.

- g. In the event of a tie vote in either the Executive Committee or the general Membership, the Technical Secretary shall cast the tie-breaking vote. The Technical Secretary shall not otherwise vote in either body. The Secretary shall not be eligible to vote.
- h. Executive Committee Members shall vote on all items on the Executive Committee agenda provided by the Secretary.
- i. Only one individual of a Member may vote on a matter and no individual may vote twice on the same matter.

6.2. Voting Rights. PrintTalk will take the actions indicated below, only on an approval of Members in accordance with this Section 6.2 below, provided, however, that if there are three or fewer votes cast in any vote by non-abstaining Members in PrintTalk, decisions regarding all of the matters set forth in this Section 6.2 below will require a unanimous approval vote of the eligible Members:

- a. **Upon Simple Majority Vote of the Executive Committee:** (i) creation of a Working Group; renewal of the charter of a Working Group, (ii) acceptance of agenda items for future meetings, (iii) adoption and amendment of the annual budget, which shall be proposed by the Secretary, (iv) approval of the use and support of additional languages for PrintTalk communications, (v) consent to delegation of a duty of the Secretary, and (vi) approval of marketing and promotional activities subject to budgetary constraint.
- b. **Upon Super Majority Vote of the Executive Committee:** (i) adoption of, or modification or addition to, a version of an Implementation, (ii) designation of a release of a version of an Implementation as a new Version or Revision and (iii) approval of a proposal by a Member regarding the addition of an official position to PrintTalk.
- c. **Upon a Super Majority Vote of the Founding and Regular Members:** (i) modification of the duties of the officers, (ii) dissolution or reformation of PrintTalk, and (iii) all other matters not specified in Section 6.2.a, b, or d.
- d. **Upon a Super Majority Vote of the Executive Committee, and a Simple Majority Vote of the Founding and Regular Members:** adoption of, or modification or addition to, supplementary Operating Procedures to govern the operation and activities of PrintTalk, provided that such Operating Procedures do not conflict with Sections 4.1, 5.5, 6.1, 7.3, 9.0 of these Operating Procedures or Section 3.0 of the Agreement.



- e. **Upon a Simple Majority Vote of the Membership entitled to vote:** (i) election of the President, Vice President, Technical Secretary and Marketing Secretary.

## **7.0. Relationship of PrintTalk with the Secretariat**

- 7.1. Relationship of PrintTalk to the Secretariat. PrintTalk shall retain the services of a Secretariat.
- 7.2. Appointment of the Secretary. The Secretariat shall provide a Secretary to PrintTalk. The Secretary shall fulfill the duties specified in Section 5 above or the secretariat shall designate an alternate staff member within the Secretariat to do so.
- 7.3. Participation of the Secretariat in PrintTalk. The Secretariat shall not be a Member of PrintTalk. The Secretariat shall be permitted to participate in proceedings of PrintTalk to the extent necessary to fulfill its obligations to PrintTalk, including the provision of a Secretary.

## **8.0. Information Exchange Procedures**

- 8.1. Generally, the meetings of PrintTalk and Working Groups of PrintTalk shall be conducted by Members on a non-confidential basis. All disclosure of information relating to PrintTalk matters shall be deemed to be non-confidential unless specifically disclosed pursuant to a separate written non-disclosure agreement(s) between the discloser and the individual recipient(s). The Members do not contemplate the exchange of competitively sensitive information.
- 8.2. Implementations produced by PrintTalk and the work-in-progress of the Working Groups are intellectual property of PrintTalk. To the extent that PrintTalk is not considered the owner thereof as a matter of law, then the Members and others participating in the development program agree to assign their rights to PrintTalk and execute whatever documents are reasonably requested by PrintTalk to document such assignment.
- 8.3. Intellectual Property Policy
  - 8.3.1. PrintTalk is not in a position to give authoritative or comprehensive information about the existence, validity or scope of patents, copyrights, trade secrets or other intellectual property rights (“IP Rights”). However, all known IP Rights regarding any technical submissions should be brought to PrintTalk’s attention. For example, Members should, from the time a technical proposal for an Implementation is considered, draw PrintTalk's attention to

any Relevant IP Rights (hereinafter defined) owned by or licensed to either such Member or its Affiliates (hereinafter defined) or otherwise known to them.

8.3.2. “Relevant IP Rights” means any issued or registered patent, copyright, application, trade secret or other intellectual property rights, which would be reasonably likely to be infringed or misappropriated by the practice of the Proposed Implementation.

8.3.3. “Proposed Implementation” means each proposal for each Implementation which is submitted to PrintTalk.

8.3.4 “Affiliates” means any entity which directly or indirectly Controls a Member, is Controlled by a Member, or is under common Control with a Member, so long as such Control exists. As used herein, “Control” means beneficial ownership of more than fifty percent (50%) of the voting stock or equity in an entity.

#### 8.4 IP Rights Statement

If a Proposed Implementation is adopted to become an Implementation, then each Member must, by the deadline announced, promptly provide the Secretariat with a written statement on behalf of itself and its Affiliates identifying the Relevant IP Rights that are owned by or licensed to the Member or any of its Affiliates or are otherwise known to the Member or any of its Affiliates. This statement must include a selection of option 8.4.1, 8.4.2 or 8.4.3 below and may not include additional provisions, conditions, or any other exclusion clauses in excess of what is provided for in such options. If no Relevant IP Rights are owned by or licensed to a Member or any of its Affiliates or otherwise known, then an affirmative disclosure to that effect must be submitted in writing to the Secretariat before the end of any respective deadline. Any Relevant IP Rights that are owned by or licensed to a Member or any of its Affiliates and are found after the IP Rights statement deadline are automatically subject to either paragraph 8.4.1 or 8.4.2. A Member’s options with respect to Relevant IP Rights are as follows:

8.4.1. The Relevant IP Rights holder may waive its right, under the Relevant IP Rights owned by or licensed to it and hence, the Implementation will be freely accessible to everybody with no conditions or royalties, with respect to such Relevant IP Rights.

8.4.2. The Relevant IP Rights holder is not prepared to waive its rights under the Relevant IP Rights but would be willing to grant licenses to the Members and PrintTalk on a non-discriminatory basis and on reasonable terms and conditions; provided that a similar grant

under the licensee's Relevant IP Rights, if any, is made available on the same basis. The terms and the procurement of such license grants are left to the parties concerned.

- 8.4.3. A Relevant IP Rights holder is not willing to comply with the provisions of either paragraph 8.4.1 or paragraph 8.4.2. (In such case, the Proposed Implementation shall be withdrawn and cannot be adopted as an Implementation).

## **9.0. Owner of Intellectual Property**

- 9.1. Implementations produced by PrintTalk and the work-in-progress of the Working Groups are intellectual property owned exclusively by PrintTalk. To the extent that PrintTalk is not considered the owner thereof as a matter of law then the Members and others participating in the development program agree to assign their rights to PrintTalk and execute whatever documents are reasonably requested by PrintTalk to document such assignment. PrintTalk may grant its rights in Implementations to anyone pursuant to the conditions stated in Attachment B.
- 9.2. This Section shall survive the non-voluntary or voluntary termination of Membership in PrintTalk pursuant to Paragraphs 3.8 and 3.9 of PrintTalk Membership Agreement.

## **10. Press Releases and the Like**

- 10.1. Members and PrintTalk Supporters shall not misrepresent the activities of PrintTalk or their role in PrintTalk in press releases or other public announcements concerning PrintTalk. Members and PrintTalk Supporters shall not issue press releases or other announcements concerning the activities of other Members or PrintTalk Supporters without first obtaining such Member's or PrintTalk Supporter's specific written permission. This Section does not apply to information, data and materials already in the public domain at the time of disclosure, use, press release or public announcement, or to information, data and materials disclosed by PrintTalk without any obligations of confidentiality or to any disclosure, use, press release, or public announcement required by law.
- 10.2. Press releases developed by the Secretariat for promotion of PrintTalk activities shall be reviewed and approved by the PrintTalk Executive Committee prior to release to the public. The review period for this process shall be forty eight (48) hours. Should the Secretary not hear from an Executive Committee member upon expiration of this period, he or she shall assume that said Member approves said press release.

**Final Draft, July 19, 2000**

## **ATTACHMENT B**

### **Limitation of Liability**

The following message shall be attached to all copies of Implementations produced by PrintTalk:

Copyright (C) 2000 PrintTalk

Permission is hereby granted, free of charge, to any person obtaining a copy of this Implementation and associated documentation files (the "Implementation"), to exploit the Implementation without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, and/or sublicense, copies of the Implementation, and to permit persons to whom the Implementation is furnished to do so, subject to the following conditions:

The above copyright notice and this permission notice shall be included in all copies or any material portion of the Implementation.

The Implementation is provided "as is", without warranty of any kind, express, implied, or otherwise, including but not limited to the warranties of merchantability, fitness for a particular purpose and noninfringement. In no event shall PrintTalk or the Secretariat or any other Member or PrintTalk Supporter be liable for any claim, damages or other liability, whether in an action of contract, tort or otherwise, arising from, out of, or in connection with the Implementation or the use or other exploitation thereby. By deploying the Implementation, you hereby agree to defend, indemnify and hold harmless PrintTalk and the Secretariat from and against any and all third party claims, damages, losses, costs, expenses, obligations, liabilities, actions, suits (including reasonable attorney's fees and expenses) that were caused by, resulted from, or otherwise arising from or related to, your deployment of the Implementation (including, without limitation, claims of intellectual property infringement or misappropriation).

Except as contained in this notice, the name of "PrintTalk" shall not be used in advertising or otherwise to promote the use or other dealings in this Implementation without prior written authorization from the PrintTalk.

The purpose of PrintTalk is to drive the rapid and consistent adoption of broadly published and open standards that will enable secure electronic commerce and application integration between e-commerce companies that assist print buyers in specifying, ordering and tracking their printing, and companies whose software manages and tracks the print manufacturing process. PrintTalk will define a "best practice" common and open communications interface between these companies. Members will support direct data exchange from any compliant print management system to any e-commerce application with no more than one hosted application between buyer and printer firewalls. The PrintTalk interface will be distributed free of any license fees or royalties, in order to enhance end-to-end connectivity of all companies.

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