

PrintTalk Membership Agreement

The undersigned hereby agrees to become a Member or Supporter of PrintTalk, an unincorporated association under the laws of Virginia, according to the terms of this Membership Agreement and to conform to all of the applicable terms and conditions set forth herein.

1.0. Purpose and Scope

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.

2.0. Definitions

- 2.1. **"Agreement"** means this PrintTalk agreement.
- 2.2. **"President"** means the elected President of PrintTalk, who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.3. **"Fiscal Year"** means the fiscal year of PrintTalk, and which shall begin on January 1 of each calendar year.
- 2.4. **"Founding Member"** means an original Member of PrintTalk, as identified in Section 3.1 below.
- 2.5. **"Honorary Member"** means any Member who is not subject to payment of dues hereunder, and has no right to vote on matters before PrintTalk.
- 2.6. **"Member"** means a Founding Member, Regular Member, and Honorary Member, unless the text states otherwise.
- 2.7. **"Implementation(s)"** means any technical implementation approved by the Executive Committee for PrintTalk architecture and/or its components.
- 2.8. **"Deployment"** means a reduction to practice of the “Implementation(s)”.
- 2.9. **"Operating Procedures"** means the operating procedures attached hereto, including any changes that may be duly made by the Members by written amendment thereto.
- 2.10. **"Regular Member"** means a Member who agrees to the conditions of section 3.2 of this membership agreement and is accepted by the Secretariat for a one (1) year term of participation in PrintTalk.
- 2.11. **"PrintTalk Supporter"** means a company who agrees to the conditions of section 3.3

of this membership agreement and is accepted by the Secretariat for a one (1) year term of participation in PrintTalk and has no right to vote on matters before PrintTalk.

- 2.12. "**Secretariat**" means the organization that shall act as the secretary to PrintTalk hereunder. The Secretariat shall not be a Member. The current Secretariat is NPES The Association for Suppliers of Printing, Publishing and Converting Technologies ("NPES"). NPES' counsel is the law firm of Skadden, Arps, Slate, Meagher & Flom LLP ("SASM&F"), and NPES may consult the firm in connection with matters arising from NPES' activities as Secretariat. Nothing in this Agreement is intended to or shall be construed to create an attorney-client relationship between the counsel to the Secretariat and any Member of PrintTalk, and each Member of PrintTalk hereby agrees not to provide confidential information to such counsel or to assert in the future that such counsel is prohibited from representing any other person (including a Member) in a matter adverse to a Member by virtue of such counsel's association with the secretariat or PrintTalk.
- 2.13. "**Secretary**" means the secretary of PrintTalk, who shall be a staff member of the Secretariat appointed by the Secretariat and who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.14. "**Executive Committee**" means, collectively, nine (9) members elected from the Founding and Regular Members.
- 2.15. "**Technical Secretary**" means the elected Technical Secretary of PrintTalk, who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.16. "**Marketing Secretary**" means the elected Marketing Secretary of PrintTalk, who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.17. "**Vice President**" means the elected Vice President of PrintTalk, who shall have the duties set forth in Section 5 of the Operating Procedures.

3.0 Term and Termination of Membership and PrintTalk; Relationship between Secretariat and PrintTalk.

- 3.1 **Founding Members**. The Founding Members of PrintTalk are Avanti Computer Systems, Cirqit.com, Collabria, Inc., Graphic Arts IT, GraphiTech Computer Systems, httprint, Impresse, MediaFlex.com, MicroInk, Noosh, Inc., Pace Systems, Parsec Corporation, Press-tige Software, Printable.com, printChannel.com, Printers Software, Inc., Profit Control Systems, Inc., Streamline Solutions and WAM!NET.
- 3.2 **Adding Regular Members to PrintTalk**. The Secretariat, in consultation with the Officers, may accept additional companies that develop software for graphic arts as Regular Members in PrintTalk, provided that such Members meet reasonably objective participation criteria to be established by PrintTalk, which shall include at a minimum: (i) commitment to the purposes of PrintTalk, (ii) commitment to first deployment of the PrintTalk implementation on the Member's computer system or separate product **within 6 months of joining**, (iii) subsequent software releases after first deployment shall support the then current PrintTalk implementation as a standard component (iv) willingness to execute the then current form of the Agreement, (v) active participation, in the sense of regular attendance at meetings and participation in Working Groups, and

(vi) public endorsement of PrintTalk's purpose, scope and timeframe in the form of a press release within 14 calendar days of joining PrintTalk.

- 3.3 **PrintTalk Supporters**. The Secretariat, in consultation with the Officers, may accept additional companies that develop software for graphic arts and who support the principals of PrintTalk but can not or will not commit to a six month implementation schedule provided that such companies meet reasonably objective participation criteria to be established by PrintTalk, which shall include at a minimum: (i) commitment to the purposes of PrintTalk, (ii) where applicable, commitment to deploy the PrintTalk implementation on the PrintTalk Supporter's computer system or separate product, (iii) willingness to execute the then current form of the Agreement, (iv) active participation, in the sense of regular attendance at meetings and participation in Working Groups, and (v) public endorsement of PrintTalk's purpose, scope and timeframe in the form of a press release within 14 calendar days of joining PrintTalk.
- 3.4 **Representation**. Each Member shall be entitled to send at least one representative to each formally scheduled meeting of PrintTalk. At the Secretary's discretion, a limit may be set on the number of representatives Members may send to any meeting.
- 3.5 **Term of Membership in PrintTalk**. Regular Members may participate in PrintTalk for one (1) year terms, renewable in accordance with Section 4.0 of the Operating Procedures. Such Terms shall commence at the beginning of the Fiscal Year, provided, however, that Members may join at any time during a year and pay a membership fee prorated on the basis of the time remaining until the end of the Fiscal Year.
- 3.6 **Duration of PrintTalk**. PrintTalk shall continue unless and until dissolved by a Super Majority vote of the Members.
- 3.7 **Change in Secretariat**. In the event that PrintTalk Members decide, by a Super Majority vote in accordance with Section 6.2(c) of the Operating Procedures, to transfer the Secretariat to a different organization, PrintTalk shall provide written notice thereof to the then-current Secretariat three (3) months prior to the end of the Secretariat's fiscal year. In such an event, the then-current Secretariat would have no residual duties or responsibilities to PrintTalk after its tenure. The current Secretariat is NPES. The Secretariat may resign as Secretariat of PrintTalk and terminate its participation at any time by providing three (3) months written notice of resignation to [the President of PrintTalk]. In such an event, the resigning Secretariat would have no residual duties or responsibilities to PrintTalk after the expiration of 3 months.
- 3.8 **Non-Voluntary Termination of Membership in PrintTalk**. In the event of a material default or breach of this Agreement by a Member or PrintTalk Supporter, if such Member or PrintTalk Supporter does not cure such default or breach within thirty (30) days after its receipt of written notice thereof from the Secretary, such Member's or PrintTalk Supporter's participation and/or membership in PrintTalk may be terminated by the Executive Committee at any time thereafter by written notice. The Member or PrintTalk Supporter may appeal this action to a vote of the full membership of PrintTalk. A terminated Member or PrintTalk Supporter shall be responsible for payment of any amounts due to PrintTalk at the time of its termination.
- 3.9 **Voluntary Termination of Membership**. Any Member of PrintTalk or PrintTalk Supporter may resign from PrintTalk and terminate its participation in PrintTalk at any time by providing written notice of resignation to the Secretary. The Member or

PrintTalk Supporter acknowledges and agrees that PrintTalk membership fees, if any, are non-refundable. A resigning Member shall be responsible for payment of any amounts due at the time of its resignation.

4.0. Costs, Expenses and Resources

Each Member or PrintTalk Supporter shall be solely responsible for its own costs and expenses incurred in matters and activities related to PrintTalk or otherwise arising out of this Agreement. PrintTalk Supporters and Members, except Honorary Members, shall be required to pay an annual PrintTalk membership fee to the Secretariat to cover the administrative expenses of PrintTalk. This membership fee will cover the expenses that PrintTalk incurs in its normal operations or any other activity duly approved by the Members. Any extraordinary expense shall be approved by the Members in advance of expenditure and funded by an additional levy on the Members and PrintTalk Supporters. Any membership fee funds in excess of twenty-five percent (25 %) of the aggregate yearly fees of the membership remaining after such ordinary expenses have been paid at the end of any Fiscal Year will be credited proportionately to the Members and PrintTalk Supporters. Membership fees will be due and payable annually to the Secretariat, on or before the beginning of each Fiscal Year (prorated for initial partial terms; all Members have same Membership term). The Secretary will issue an invoice for the membership fee to each Member and PrintTalk Supporter except Honorary Members not later than thirty (30) days before the end of each Fiscal Year. Any Member or PrintTalk Supporter that does not pay such fee within sixty (60) days after receipt of the invoice therefor will be in default of this Agreement, and its Membership in PrintTalk may be terminated at any time thereafter by PrintTalk; provided, however, that except as otherwise provided, such Member or PrintTalk Supporter shall have no liability to PrintTalk or any Member or PrintTalk Supporter for its failure to pay such fee.

5.0. General

- 5.1. **Limitation of Liability.** The results of the work of PrintTalk shall be promulgated on an "as is" basis, with no warranty whatsoever. A sample of the disclaimer to be used whenever the results of work of PrintTalk are incorporated in the products or the specifications of any of the Members is set forth in Attachment B hereto, which disclaimer shall be incorporated in all documents and any source code provided by PrintTalk to anyone. In no event shall PrintTalk, any Member, any PrintTalk Supporter or the Secretariat be liable to any other Member or PrintTalk Supporter or the Secretariat for any damages, including punitive, special, incidental, or consequential damages, including loss of profits that were caused by, resulted from, or otherwise arising from or related to PrintTalk activities, including, without limitation, the deployment of an Implementation.
- 5.2. **Indemnity.** Each Member and PrintTalk Supporter 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 that Member or PrintTalk Supporter's deployment of an Implementation (including, without limitation, claims of intellectual property infringement or misappropriation).
- 5.3. **Independent Action.** Members, PrintTalk Supporters and officers of PrintTalk participate in PrintTalk voluntarily, solely to advance the purposes of PrintTalk set forth in Section 1.0 above. Each Member and PrintTalk Supporter shall remain free to

design, develop, market, modify or distribute any non-PrintTalk products or services without restriction. Participation in PrintTalk shall not be deemed to constitute a partnership, joint venture, or other joint activity. No Member or PrintTalk Supporter shall have authority, actual or implied, to bind any other Member in any way, to make any commitments or representations on behalf of another Member or PrintTalk Supporter, or to act as an agent of another Member or PrintTalk Supporter. Participation in PrintTalk shall not grant to any Member or PrintTalk Supporter the right to use the name or trademarks of any other Member or PrintTalk Supporter in any publicity or advertising without the other Member's or PrintTalk Supporter's prior written consent.

- 5.4. **Compliance with Laws**. PrintTalk shall not take any action whatsoever in violation of any federal, state, or local law or regulation, and it is the intention of PrintTalk and its Members to comply with all laws, including specifically antitrust laws. It shall be the responsibility of all Members to take such steps as necessary to ensure their compliance with all laws in connection with their participation in PrintTalk. No Member or its representative(s) shall take any action in connection with PrintTalk that is not in furtherance of the lawful objectives of PrintTalk.
- 5.5. **Assignment**. Neither this Agreement nor any rights or obligations under this Agreement, in whole or in part, are assignable or otherwise transferable without the prior written approval of the Secretariat and any attempted assignment or transfer shall be void and without effect, provided however, that this Agreement may be assigned to a purchaser of all, or substantially all, of a party's assets, or to an entity with which a Member or PrintTalk Supporter is merging, without such approval.
- 5.6. **No Other Rights**. No license, rights or title in or to software or other intellectual property of the Members or PrintTalk Supporters, other than as provided to PrintTalk pursuant to Sections 8.2, 8.4.1, 8.4.2 and 9.1 of the Operating Procedures, are provided hereunder, either expressly or by implication, estoppel or otherwise.
- 5.7. **Complete Agreement**. This Agreement and its Attachments constitutes the complete and exclusive statement of the Agreement between the parties, and supersedes all previous proposals, verbal or written, and all other communications or understandings between the parties relating to the subject matter of this Agreement. Each party acknowledges that it has not relied upon any representation or statement not contained herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by all parties hereto. This Agreement may be executed in counterparts, each of which shall constitute an original of this Agreement.

One of the following Membership levels must be checked:

- Founding Member
- Regular Member
- PrintTalk Supporter
- Honorary Member

COMPANY: _____

By: _____

NAME (PRINT OR TYPE)

TITLE

DATE

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