

# Terms of Service

Thank you for visiting Printfection. The following Terms of Service (“TOS”) are a legal agreement between you and Printfection, LLC (“Printfection”, “we” or “us”) concerning your use of the website located at [www.printfection.com](http://www.printfection.com) (the “Web Site”). Your use of the Web Site or the services made available through the Web Site (the “Services”) constitutes your acceptance of these TOS. If you do not agree to these TOS, you are not permitted to access the Web Site or to use the Services.

## 1. Services

Printfection offers a variety of services, which may include (but may not be limited to) the following.

Custom Merchandise. Through the Web Site you may customize merchandise such as apparel, drink coasters, mouse pads and other merchandise (the “Items”) with the artwork you choose. This customized merchandise will be referred to in these TOS as “Custom Merchandise”. Printfection may allow you to store your Custom Merchandise designs on the Web Site, but Printfection may remove such designs at any time in its sole discretion.

Physical Merchandise. You may choose to send us your merchandise or purchase Custom Merchandise for us to store and fulfill upon your request which will be referred to in these TOS as “Physical Merchandise”. If you send us your merchandise we will present it on the Web Site as Custom Merchandise for you to manage.

Fulfillment Services. We will store your Physical Merchandise and drop-ship it, at your cost, directly to the location of your choice. All shipments of Physical Merchandise will be shipped Ex Works (Incoterms 2010) at a facility of our choice. While we do not plan to dispose of Physical Merchandise, we cannot store it indefinitely. If we, in our sole discretion, decide to stop storing your Physical Merchandise, we will provide you with at least 60 days’ (10 days’ in the event these TOS are terminated) notice (the “Notice Period”). At any time during the Notice Period you may direct us to ship your Physical Merchandise, at your cost, to you or to the person or company of your choice. If the Notice Period expires and you have not directed us to ship your Physical Merchandise, your Physical Merchandise will be considered abandoned and we may dispose of your Physical Merchandise in our sole discretion.

Store. Printfection also offers services that allow its users to sell their Custom Merchandise through their own on-line store contained on the Web Site (“Store”). Users who would like to establish a Store must enter into a separate Store Owner Agreement.

Other Services. Printfection may, at its option offer a number of other additional services in the future through its Web Site, such as message boards or newsletters. If additional services are offered, Printfection may in its sole discretion adopt additional rules, regulations or terms of service concerning the additional services.

1.1 Sending Us Merchandise. If you send us Physical Merchandise, whether strictly for custom printing or for the Fulfillment Services, you shall not send any live animals, chemicals, explosives, hazardous materials, illegal drugs, illegal merchandise, or any other items that may be considered harmful, illegal, or a violation of applicable laws, regulations or policies of common carriers. You represent and warrant that you have all necessary rights to send us such merchandise and to have us perform the Services requested for the same. You shall be solely responsible for all taxes (including without limitation use taxes), duties, tariffs and other similar charges related to the sending, storage, use and/or sale of Physical Merchandise. You shall indemnify and hold us harmless from and against any and all damages, liabilities, costs, claims, fines, and penalties suffered by us, including consequential damages, reasonable attorney’s fees and all costs of litigation, arising out of your violation of this Section.

1.2 Ownership and Risk of Loss. Between you and us, you are, and will remain at all times, the sole owner of your Physical Merchandise. If you purchase Physical Merchandise from Printfection, title to such Physical Merchandise shall pass to you when such Physical Merchandise is displayed on your account on the Web Site as available to be drop-shipped to the location of your choice. Except as otherwise provided in this Section, you bear all risk of loss of your Physical Merchandise. Notwithstanding the foregoing, if your Physical Merchandise is lost, stolen, destroyed, damaged, or unaccounted for solely due to the grossly negligent or willful acts of

Printfection or any of its personnel (“Lost Merchandise”) we will replace the Lost Merchandise or reimburse you for the reasonable replacement cost of the Lost Merchandise, in our sole discretion.

## 2. License for Services and Web Site

Printfection grants you a personal, non-transferable, limited, revocable license to access and use the Web Site and the Services for their intended purposes only, subject to your compliance with these TOS. You may not collect or otherwise use information contained on the Web Site for any purpose which is not directly related to your use of the Web Site or Services, including, but not limited to any Prohibited Purpose as determined by Printfection. Examples of “Prohibited Purposes” as used in this Section include but are not limited to the creation of unauthorized derivative works based on the Web Site, making copies of the website for purposes other than standard web browser caching, or use of the information for the purpose of competing with Printfection. Any use of the Services or the Web Site that violates the TOS or the limited license contained herein, may result in the immediate, without prior notice, termination and revocation of the license granted to you.

## 3. Rules & Policies

3.1 Prohibited Uses. Under the limited license granted in Section 2 above, you may only use the Services as expressly permitted by Printfection. Without limiting the foregoing, you may not use the Web Site or the Services for any of the following:

- any use that interferes with a third parties ability to use or enjoy the Services;
- any use of the Services that threatens, harasses or intimidates any other user of the Services or any third party;
- impersonating another individual or entity;
- any use of use of spiders, robots or any other device or process to monitor the activity on or copy pages from the Web Site, except in the operation or use of web page search engine functions or hit counters contained on your Store web page;
- reverse engineering, decompiling or disassembling any software or other technology used in conjunction with the Web Site or the Services;
- collecting or attempting to collect any electronic information concerning any users of the Services or Web Site, such as e-mail addresses or other personal information unless such collection is done in conjunction with the legitimate operation of a Store or otherwise expressly authorized by Printfection;
- interfering or disrupting the Web Site or Services by using viruses, spyware, or any other programs or technology designed to disrupt or damage any software or hardware;
- use of any meta tags, search terms, key terms, or keywords which contain Printfection’s name, trademarks, or the unauthorized use of any name or trademarks of any other person or entity;

Any use or action that directly or indirectly assists or encourages any third party to engage in the above mentioned prohibited uses or otherwise violate these TOS.

3.2 Privacy Policy. In the course of offering the Services and operating the Web Site, Printfection collects certain personal and non-personal information from you. By entering into these TOS, you agree to Printfection’s collection, use and disclosure of your personal information in accordance with the Prinfection.com [Privacy Policy](#).

## 4. Custom Merchandise Rules and License

4.1 User Supplied Content. To create Custom Merchandise, Printfection allows you to upload images, graphics, text, or other content (collectively, “User Supplied Content”) to the Web Site.

4.2 Delivery of Content. You agree that your use of User Supplied Content in connection with the Service shall be in accordance with the User Supplied Content Policy. Printfection may, in its sole and exclusive discretion, determine whether any User Supplied Content complies with such policy and is appropriate for use with the Service. Printfection, may in its sole discretion determine that the User

Supplied Content does not satisfy the User Supplied Content Policy, and refuse to allow you to use User Supplied Content in connection with the Service.

4.3 Licensing User Supplied Content to Printfection. You hereby grant to Printfection a royalty-free, worldwide, transferable, nonexclusive, right and license to use your User Supplied Content, in all media existing now or created in the future, as Printfection deems necessary to allow Printfection to satisfy its obligations to you in connection with the Service. This license remains in effect for the duration that the User Supplied Content is stored on the Web Site. Printfection may sublicense the rights that you grant it in this Section to a third party subcontractor only for purposes of producing your Items and providing the Services to you. You retain any and all rights in and to the User Supplied Content including, but not limited to any copyright or trademark rights.

## 5. Printfection Platform Applications

5.1 Printfection Platform. The Printfection Platform is a set of APIs and services provided by Printfection that enable third-party developers ("Platform Developers") to create websites and applications that retrieve data made available by Printfection and its users ("Platform Applications").

5.2 Developer Terms. Platform Developers may use the Printfection Platform and create Platform Applications only in accordance with the terms and conditions set forth in an agreement entered into between Printfection and the Platform Developer ("Developer Terms"). Our standard Developer Terms consist of the Printfection Developer Terms of Service and the related Printfection Platform Application Guidelines. We may from time to time enter into separate agreements with certain third party Platform Developers that contain different or additional terms, provided however, that each such separate agreement will require the third party Platform Developer to only display your information in accordance with your privacy settings. The standard Developer Terms are subject to change without prior notice at any time, in the Company's sole discretion, so you should review these documents from time to time. All use of the Printfection Platform is provided "as is" and at your own risk.

5.3 Users who install Platform Applications must agree to the terms and conditions set forth in the Platform Application Terms of Service ("Application User Terms") and in these TOS. The Application User Terms are subject to change without prior notice at any time, in the Company's sole discretion, so you should review these terms each time you install an application and from time to time. Platform Developers may require you to agree to their own terms of service, privacy policies and/or other policies as a condition of using Platform Applications. Platform Applications have not been approved, endorsed, or reviewed in any manner by Printfection, and we are not responsible for your use of or inability to use any Platform Applications, including the content, accuracy, or reliability of such Application and the privacy practices or other policies of Developers. YOU USE SUCH PLATFORM APPLICATIONS AT YOUR OWN RISK.

5.4 If you use any Platform Applications, such Platform Applications may access and share certain information about you with others in accordance with your privacy settings as further described in our Privacy Policy. Platform Developers are required to agree to restrictions on access, storage and use of such information. However, while we have undertaken contractual and technical steps to restrict possible misuse of such information by such Platform Developers, we do not screen or approve Platform Developers, and we cannot and do not guarantee that all Platform Developers will abide by such restrictions and agreements. Please report any suspected misuse of information through the Printfection Platform as described in our Privacy Policy.

## 6. Representations and Warranties

6.1 Representations and Warranties of the Parties. The parties represent and warrant to each other that: (i) they have the full power and authority to enter into and perform under these TOS, (ii) the execution and performance of their obligations under these TOS do not constitute a breach of or conflict with any other agreement or arrangement by which you or it is bound, and (iii) these TOS are a legal, valid and binding obligation of the party entering into these TOS, enforceable in accordance with their terms and conditions.

6.2 User Representations and Warranties. You represent and warrant to Printfection that: (i) your use of the Services will not infringe the copyright, trademark, patent, trade secret, right of privacy, right of publicity or any other legal right of any third party and will comply with all applicable laws, rules, and regulations, (ii) you are the true owner of the User Supplied Content and that the content is free from any and all liens, encumbrances, or any other restrictions on your right to display or use the content, and that there are to the best of

your knowledge no pending or threatened claims, demands or litigation concerning any of the User Supplied Content, (iii) Printfection will not be required to make any payments such as licensing fees or royalties to any third party in connection with the User Supplied Content, (iv) the User Supplied Content does not violate Section 3.1 of this TOS, and (v) Physical Merchandise you send to us is free of all liens, and no liens will be placed upon your Physical Merchandise due to your acts or omissions.

## 7. Warranty Disclaimer

PRINTFECTION PROVIDES THE WEB SITE AND THE SERVICES (INCLUDING THE PRINTFECTION PLATFORM SERVICE), ANY PLATFORM APPLICATIONS, AND THE SITE CONTENT ON AN "AS IS" AND "AS AVAILABLE" BASIS. PRINTFECTION DOES NOT REPRESENT OR WARRANT THAT THE WEB SITE, AND/OR THE SERVICES, AND/OR ANY PLATFORM APPLICATIONS, OR THEIR USE: (i) WILL BE UNINTERRUPTED, (ii) WILL BE FREE OF INACCURACIES OR ERRORS, (iii) WILL MEET YOUR REQUIREMENTS. PRINTFECTION MAKES NO WARRANTIES OTHER THAN THOSE MADE EXPRESSLY IN THESE TOS, AND HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT.

## 8. Limitations

8.1 EXCLUSION OF DAMAGES. PRINTFECTION WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES (INCLUDING DAMAGES RELATING TO LOST PROFITS, LOST DATA OR LOSS OF GOODWILL) ARISING OUT OF, RELATING TO OR CONNECTED WITH THE USE OF SERVICES, WEB SITE OR ANY PLATFORM APPLICATION, BASED ON ANY CAUSE OF ACTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 LIMITATION OF LIABILITY. IN NO EVENT WILL THE LIABILITY OF PRINTFECTION IN CONNECTION WITH THESE TOS, THE WEB SITE AND THE SERVICES EXCEED THE AMOUNTS PAID BY YOU TO PRINTFECTION DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE ACTS GIVING RISE TO SUCH LIABILITY.

## 9. Indemnification

9.1 You will indemnify and hold Printfection and its employees, representatives, agents, affiliates, directors, officers, managers and shareholders (the "Indemnified Parties") harmless from any damage, loss, or expense, including without limitation, attorneys' fees and costs, incurred in connection with any third-party claim, demand or action (a "Claim") brought against any of the Indemnified Parties alleging that you have breached any of these TOS through any act or omission. If you are required to indemnify Printfection under this Section, Printfection will have the right to control the defense, settlement, and resolution of any Claim at your sole expense. You may not settle or otherwise resolve any Claim without Printfection's prior express written consent.

## 10. Termination

Printfection may suspend or terminate your use of the Web Site and/or the Services and/or any Platform Application (or any portion, aspect or feature of the Service or the Site or any Platform Application), for any reason, or no reason, at any time if it believes, in its sole and absolute discretion, that you have breached a term of these TOS. Notwithstanding Printfection's termination of your permission to use the Web Site and/or Services and/or any Platform Application, the following provisions of these TOS will survive: Sections 1.1, 1.2, 3 and 7 through 19, along with any other provision of these TOS that by its terms would survive expiration or termination. If you or Printfection terminates your use of the Web Site and/or the Services and/or any Platform Application, Printfection may delete any User Supplied Content or other materials posted on the site or through any Platform Application relating to your use of the Services on Printfection's servers or otherwise in its possession and Printfection will have no liability to you or any third party for doing so.

## 11. Notice

All notices required or permitted to be given under these TOS will be in writing and delivered to the other party by any of the following methods: (i) U.S. mail, (ii) overnight courier, (iii) electronic mail or (iv) if notice is given by Printfection, by a posting on the main page of the Web Site. If you give notice to Printfection, you must use the following address: 3700 Quebec St, Unit 100-136, Denver, CO 80207. If Printfection provides notice to you, Printfection will use the contact information provided by you to Printfection. All notices will be deemed received as follows: (i) if by delivery by U.S. mail, seven (7) business days after dispatch, (ii) if by overnight courier, on the date receipt is confirmed by such courier service, or (iii) if by electronic mail, 24 hours after the message was sent, if no "system error" or other notice of non-delivery is generated. If applicable law requires that a given communication be "in writing," you agree that email communication will satisfy this requirement.

## 12. Dispute Resolution

Any and all disputes arising out of, relating to or connected with these TOS or your use of any part of the Services or the Web Site will be exclusively resolved under confidential binding arbitration held in City and County of Denver, Colorado before and in accordance with the Rules of the American Arbitration Association, by a sole arbitrator applying Colorado law (without regard for conflicts of law principles). The arbitrator's award will be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under these TOS will be joined to an arbitration involving any other party subject to these TOS, whether through class arbitration proceedings or otherwise. Any action to enforce an arbitrator's award will be brought in a federal or state court located in the City and County of Denver, Colorado. Each party hereby irrevocably submits to the personal jurisdiction of the Federal and Colorado State courts in the City and County of Denver, Colorado. By entering into these TOS, you hereby irrevocably waive any right you may have to join claims with those of others in the form of a class action or similar procedural device. Any claim arising out of, relating to or connected with these TOS or your use of any part of the Services or the Web Site must be asserted individually. Notwithstanding anything to the contrary in this Section, Printfection may seek equitable relief, including, without limitation, injunctive relief and specific performance, without the requirement of posting a bond or other security or proving money damages are insufficient, from a court of competent jurisdiction.

## 13. Choice of Law

These TOS, and any other Agreement incorporated by reference in these TOS shall be governed by laws of the State of Colorado, without regard to its conflicts of laws principals.

## 14. Assignment

The TOS will be binding upon each party hereto and its successors and permitted assigns. These TOS cannot be assignable or transferable by you without the prior written consent of Printfection.

## 15. Entire Agreement

These TOS, all of the policies and other Agreements mentioned in this TOS, which are each hereby incorporated herein by reference, contain the entire understanding of the parties regarding its subject matter, and supersedes all prior and contemporaneous agreements and understandings between the parties regarding its subject matter.

## 16. No Waiver

No failure or delay by a party in exercising any right, power or privilege under these TOS will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.

## 17. No Partnership or Joint Venture

You and Printfection are independent contractors, and no agency, partnership, joint venture, or employee-employer relationship is intended or created by these TOS.

## 18. Severability

The invalidity or unenforceability of any provision of these TOS will not affect the validity or enforceability of any other provision of these TOS, all of which will remain in full force and effect.

## 19. General

19.1 Intellectual Property Rights. All intellectual property rights and all other rights, title and interest in and to the Services and Web Site, except as expressly provided for in the TOS are and shall remain the exclusive property of Printfection. Such rights include, but are not limited to, any and all trademark rights including rights to the mark PRINTFECTION; all copyrights in and to the Web Site, and any proprietary rights used in providing the Service, including, but not limited to computer software and hardware interfaces. You, cannot acquire any right, title or interest in or to the above mentioned rights through your use of the Services or Web Site under this TOS or otherwise.

19.2 Rights to Submissions and Other Information. By your use of the Services or Web Site, you consent and agree that any questions, comments, suggestions, ideas, or any other information whether submitted via e-mail, telephone, US mail, Fax, contest submission, or appearing on any message board or chat group, excluding any User Supplied Content as defined herein ( collectively "Submitted Information"), you hereby grant Printfection permission to use such Submitted Information for marketing and other promotional purposes without any payment to you, including the right to sublicense. Furthermore you agree that Printfection will have no obligation to keep any Submitted Information confidential. You will not bring a claim and hereby forever waive any and all claims against Printfection based on "droit moral", moral rights, or any other legal or equitable theory from Printfection's use of the Submitted Information.

19.3 Age. In order to use the Services, you must be of sufficient age that you can lawfully enter into and form contracts under applicable law (generally 18 years of age). If you are under the age of 18, but at least 13 years of age, you may use the Services only under the supervision of a parent or legal guardian who agrees to be bound by these TOS. The Services are not intended for and may not be used by children under the age of 13.

19.4 Monitoring. Printfection reserves the right, but does not assume the obligation, to monitor transactions and communications that occur through the Web Site. If Printfection determines, in its sole and absolute discretion, that you or another Printfection user will breach a term or condition of these TOS or that such transaction or communication is inappropriate, Printfection may cancel such transaction or take any other action to restrict access to or the availability of any material that may be considered objectionable, without any liability to you or any third party.

19.5 Modification of the Service. Printfection reserves the right to add, delete and/or modify any of the terms and conditions contained in this TOS, at any time and in its sole discretion, by posting a change notice or a new agreement on the Printfection Web Site. For

certain changes to the TOS, Printfection, may at its option, notify you by email at the email address in our then current records. If any modification is unacceptable to you, your only recourse is to discontinue the use of our Web Site and Services. Your continued use of the Printfection Web Site following the posting of a change notice or new TOS on the Web Site will constitute affirmative and binding acceptance by you of the changes.

19.6 Third-Party Services. Printfection may, in its absolute discretion use third parties to provide the Services or any component thereof. These third party independent contractors and vendors are not related to Printfection and Printfection does not exercise any control or supervision over such contractors and vendors or the services that they provide. You agree that Printfection will not be liable to you in any way for Printfection's use of such third party independent contractors and vendors. In some cases, you may choose to work with these third parties directly. You understand that Printfection is not associated with those third parties, and that such third parties may have their own terms of use and other policies which govern your use of their services.

19.7 Compliance with TOS and Applicable Law. You must comply with all of the terms and conditions of these TOS, the applicable agreements and policies referred to herein, and all applicable laws, regulations and rules when you use the Services and the Web Site.