

## **CloudBadging Terms of Service**

### **1. Your Relationship with CloudBadging**

1.1 Your use of CloudBadging products, software, services, including without limitation, subscription services and the CloudBadging Web site (referred to collectively as the “Services” in this document) is subject to the terms of a legal agreement between you and CloudBadging. When used in this document to identify a business, “CloudBadging.com” or “CloudBadging” means Plasco, LLC, whose principal place of business is at 1501 NW 163<sup>rd</sup> Street, Miami, FL 33169. This document explains how that legal agreement is made up, and sets out some of the terms of that agreement.

1.2 Unless otherwise agreed in writing with CloudBadging, your agreement with CloudBadging will always include, at a minimum, the terms and conditions set out in this document. These are referred to below as the “Universal Terms”.

1.3 Your agreement with CloudBadging will also include the terms of any of our Subscription Agreement, Privacy Policy, other written agreements, and legal notices to the extent applicable to the Services, in addition to the Universal Terms. All of these are referred to below as the “Additional Terms”. Where Additional Terms apply to a Service, these will be accessible for you to read either within, or through your use of, that Service.

1.4 If there is any contradiction between what the Additional Terms say and what the Universal Terms say, then the Additional Terms shall take precedence in relation to that Service. The Universal Terms, together with the Additional Terms, form a legally binding agreement between you and CloudBadging in relation to your use of the Services. It is important that you take the time to read them carefully. Collectively, this legal agreement is referred to below as the “Terms”.

**BY ACTUALLY USING THE SERVICES, YOU UNDERSTAND AND AGREE THAT THIS USE CONSTITUTES AND IS ACCEPTANCE BY YOU OF ALL OF THE TERMS FROM THAT POINT ONWARDS.**

### **2. Accepting the Terms**

2.1 In order to use the Services, you must first agree to the Terms. You may not use the Services if you do not accept the Terms.

2.2 You can accept the Terms by:

(A) Clicking to accept or agree to the Terms, where this option is made available to you by CloudBadging in the user interface for any Service; or

(B) Actually using the Services. In this case, you understand and agree that CloudBadging will treat your use of the Services as acceptance of the Terms from that point onwards.

2.3 You may not use the Services and may not accept the Terms if (a) you are not of legal age to form a binding contract with CloudBadging, or (b) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services.

2.4 Before you continue, you should print off or save a local copy of this agreement for your records.

### **3. Language of the Terms**

3.1 Where CloudBadging has provided you with a translation of the English language version of the Terms, then you agree that the translation is provided for your convenience only and that the English language versions of the Terms will govern your relationship with CloudBadging.

3.2 If there is any contradiction between what the English language version of the Terms says and what a translation says, then the English language version shall control and take precedence.

### **4. Provision of the Services by CloudBadging**

4.1 CloudBadging is constantly innovating in order to provide the best possible experience for its users. You acknowledge and agree that the form and nature of the Services which CloudBadging provides may change from time to time without prior notice to you.

4.2 As part of this continuing innovation, you acknowledge and agree that CloudBadging may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at CloudBadging's sole discretion, without prior notice to you. This is in addition to any right to terminate that CloudBadging may have under the Terms. You may stop using the Services at any time. You do not need to specifically inform CloudBadging when you stop using the Services.

4.3 You acknowledge and agree that if CloudBadging disables access to your account, you may be prevented from accessing the Services, your account details, or any files or other content which is contained in your account.

4.4 You acknowledge and agree that while CloudBadging may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service; such fixed upper limits may be set by CloudBadging at any time, at CloudBadging's discretion.

## **5. Use of the Services by you**

5.1 In order to access certain Services, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for the Service, or as part of your continued use of the Services. You agree that any registration information you give to CloudBadging will always be accurate, correct and up to date.

5.2 You agree to use the Services only for purposes that are permitted by (a) the Terms and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries) and specifically agree and acknowledge you will not use the Services either directly or indirectly for any illegal purpose, including without limitation to post on any defamatory or illegal material or post any material that infringes or violates the patent, trademark, trade secret or copyright rights of any other person or entity.

5.3 You agree not to access (or attempt to access) any of the Services by any means other than through the interface that is provided by CloudBadging, unless you have been specifically allowed to do so in a separate written agreement with CloudBadging. You specifically agree not to access (or attempt to access) any of the Services through any automated means (including without limitation use of scripts or web crawlers) and shall ensure that you comply with the instructions set out in any robots.txt file present on the Services. You also agree not to access or attempt to access any of the services through any illegal or improper means, such as without limitation, hacking or otherwise avoiding or violating any type of technological access barrier such as a password.

5.4 You agree that you will not engage in any activity that does or is intended to interfere with or disrupt the Services (or the servers and networks which are connected to the Services). This specifically includes without limitation, your agreement not to: (i) disassemble, decompile or otherwise reverse engineer any components of the Services, in whole or in part, including without limitation, any source code; (ii) permit or authorize or assist directly or indirectly, a third party to do so; (iii) insert or cause to be inserted any HTML, JavaScript, PERL, or any other form of computer code into any field or webpage in the Services; (iv) upload, or cause to be uploaded, viruses or other similar malicious code; or (v) do, or aid anyone else in doing, anything that could disable, overburden, or impair the proper working of the Services such as a denial of service attack.

5.5 Unless you have been specifically permitted to do so in a separate written agreement with CloudBadging, you agree that you will not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose.

5.6 You agree that you are solely responsible for (and that CloudBadging has no responsibility to you or to any third party for) any breach of your obligations under the Terms and for the consequences (including any loss or damage which CloudBadging or any other person or entity may suffer) of any such breach

5.7 You agree to comply fully with all U.S. export laws and regulations to ensure that none of the Services are exported or re-exported directly or indirectly in violation of, or used for any purposes

prohibited by, such laws and regulations. Furthermore, you agree you will not export nor re-export the Services to any US embargoed country.

5.8 You further agree, represent and warrant that: (a) you are not located in a country that is subject to a U.S. Government embargo or that has been designated by the U.S. Government as a "terrorist supporting" country; and (b) you are not listed on any U.S. Government list of prohibited or restricted parties.

## **6. Your passwords and account security**

6.1 You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Services. You may not authorize others to use your user identification or password, and you may not assign or otherwise transfer your account to any other person or entity.

6.2 Accordingly, you agree that you will be solely responsible to CloudBadging for all activities that occur under your account.

6.3 If you become aware of any unauthorized use of your password or of your account, you shall notify CloudBadging at support@CloudBadging.com immediately.

## **7. Privacy and your personal information**

7.1 For information about CloudBadging's data protection practices, please read our privacy policy at <http://www.CloudBadging.com/privacy>. This policy explains how CloudBadging treats your personal information, and protects your privacy, when you use the Services.

7.2 You agree to the use of your data in accordance with CloudBadging's privacy policies.

## **8. Content in the Services**

8.1 You understand that all information (such as data files, written text, computer software, audio files or photographs, videos or other images) which you may have access to as part of, or through your use of, the Services are the sole responsibility of the person from which such content originated. All such information is referred to below as the "Content".

8.2 CloudBadging reserves the right (but shall have no obligation) to refuse or remove any or Content from any Service, including without limitation illegal, offensive, indecent or objectionable Content.

8.3 You understand that by using the Services you may be exposed to Content that you may find offensive, indecent or objectionable and that, in this respect, you use the Services at your own risk.

8.4 You agree that you are solely responsible for (and that CloudBadging has no responsibility to you or to any third party for) any Content that you create, transmit or display while using the Services and for the consequences of your actions (including any loss or damage which CloudBadging may suffer) by doing so.

## **9. Proprietary rights**

9.1 You acknowledge and agree that CloudBadging (or CloudBadging licensors) owns all legal right, title and interest in and to the Services, including all intellectual property rights in and to the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by CloudBadging and that you shall not disclose such information without CloudBadging's prior written consent.

9.2 Unless you have agreed otherwise in writing with CloudBadging, nothing in the Terms gives you a right to use any of CloudBadging trade names, trademarks, service marks, logos, domain names, and other distinctive brand features.

9.3 If you have been given an explicit right to use any of these brand features in a separate written agreement with CloudBadging, then you agree that your use of such features shall be in compliance with that agreement, any applicable provisions of the Terms.

9.4 Other than the limited license set forth in Section 10, CloudBadging acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you submit, post, transmit or display on, or through, the Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with CloudBadging, you agree that you are responsible for protecting and enforcing those rights and that CloudBadging has no obligation to do so on your behalf.

9.5 You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services.

9.6 Unless you have been expressly authorized to do so in writing by CloudBadging, you agree that in using the Services, you will not use any trademark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos.

## **10. License from CloudBadging**

10.1 Any license to use the software provided to you as part of the Services provided to you by CloudBadging (referred to as the "Software") is subject to the terms of a CloudBadging subscription agreement and/or other written agreement. This license is for the sole purpose of

enabling you to use and enjoy the benefit of the Services as provided by CloudBadging, in the manner permitted by the Terms.

10.2 You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by CloudBadging, in writing.

10.3 Unless CloudBadging has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

## **11. Content license from you**

11.1 You retain copyright and any other rights you already hold in Content which you submit, post or display on or through, the Services and/or the CloudBadging Web site. By submitting, posting or displaying the Content you give CloudBadging a worldwide, royalty-free, and non-exclusive license to use, reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any Content which you submit, post or display on or through the Service for the sole purpose of enabling CloudBadging to provide you with the Services.

11.2 By submitting, posting or displaying on the CloudBadging Web site and/or on or through the Services any concepts, feedback, ideas and suggestions (“Postings”), you give CloudBadging a worldwide, royalty-free, and non-exclusive license to use, reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any such Postings for any purpose and in any medium worldwide (including incorporating the Postings into the Services) without any obligation to compensate you or any other third party in any way for any such use.

11.3 You understand that CloudBadging, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this license shall permit CloudBadging to take these actions.

11.4 You confirm and warrant to CloudBadging that you have all legal rights, power and authority necessary to grant the above license and to post any Content.

11.5 You confirm and warrant to CloudBadging that you: (i) have created and own any and all rights in all of the Content that you post; or (ii) have secured the necessary licenses and permissions to post and/or use this Content.

## **12. Ending your relationship with CloudBadging**

12.1 The Terms will continue to apply until terminated by either you or CloudBadging as set out below.

12.2 If you want to terminate your legal agreement with CloudBadging, you may do so by (a) notifying CloudBadging at any time and (b) closing your accounts for all of the Services which you use, where CloudBadging has made this option available to you.

12.3 CloudBadging may at any time, terminate its legal agreement with you if:

(A) You have breached any provision of the Terms (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms); or

(B) CloudBadging is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or

(C) The partner with whom CloudBadging offered the Services to you has terminated its relationship with CloudBadging or ceased to offer the Services to you; or

(D) CloudBadging is transitioning to no longer providing the Services to users in the country in which you are resident or from which you use the service; or

(E) The provision of the Services to you by CloudBadging is, in CloudBadging's opinion, no longer commercially viable.

12.4 Nothing in this Section shall affect CloudBadging rights regarding provision of Services under Section 4 of these Terms of Service.

12.5 When these Terms come to an end, all of the legal rights, obligations and liabilities that you and CloudBadging have benefited from, been subject to (or which have accrued over time while the Terms have been in force) or which provide that they are to continue indefinitely, shall be unaffected by this cessation or termination, and the provisions of Section 17 shall continue to apply to such rights, obligations and liabilities indefinitely.

## **13. EXCLUSION OF WARRANTIES**

13.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE."

13.2 IN PARTICULAR, CLOUDBADGING, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT:

(A) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS,

(B) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR,

(C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, AND

(D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED.

13.3 ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

13.4 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM CLOUDBADGING OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

13.5 CLOUDBADGING FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

13.6 NOTHING IN THESE TERMS, INCLUDING SECTIONS 13 AND 14, SHALL EXCLUDE OR LIMIT CLOUDBADGING WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE LIMITATIONS WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

#### **14. LIMITATION OF LIABILITY**

14.1 SUBJECT TO OVERALL PROVISION IN PARAGRAPH 13.1 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT CLOUDBADGING, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR:

(A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE



LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;

(B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(I) ANY CHANGES WHICH CLOUDBADGING MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES);

(II) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES;

(III) YOUR FAILURE TO PROVIDE CLOUDBADGING WITH ACCURATE ACCOUNT INFORMATION;

(IV) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL;

14.2 THE LIMITATIONS ON CLOUDBADGING LIABILITY TO YOU IN PARAGRAPH 14.1 ABOVE SHALL APPLY WHETHER OR NOT CLOUDBADGING HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

## **15. Other content**

15.1 The Services may include hyperlinks to third party web sites or content or resources. CloudBadging may have no control over any web sites or resources which are provided by companies or persons other than CloudBadging.

15.2 You acknowledge and agree that CloudBadging is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.

15.3 You acknowledge and agree that CloudBadging is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such web sites or resources.

## **16. Changes to the Terms**

16.1 CloudBadging may make changes to the Universal Terms or Additional Terms from time to time. CloudBadging will provide notification of the material changes to the Universal Terms through the CloudBadging Web site at least thirty (30) business days prior to the change taking effect. When these changes are made, CloudBadging will make a new copy of the Universal Terms available at <http://www.CloudBadging.com/tos> and any new Additional Terms will be made available to you from within, or through, the affected Services.

16.2 You understand and agree that if you use the Services after the date on which the Universal Terms or Additional Terms have taken effect, CloudBadging will treat your use as acceptance of the updated Universal Terms or Additional Terms.

## **17. General legal terms**

17.1 Sometimes when you use the Services, you may (as a result of, or through your use of the Services) use a service or download a piece of software, or purchase goods, which are provided by another person or company. Your use of these other services, software or goods may be subject to separate terms between you and the company or person concerned. If so, the Terms do not affect your legal relationship with these other companies or individuals.

17.2 The Terms constitute the whole legal agreement between you and CloudBadging and govern your use of the Services (but excluding any services which CloudBadging may provide to you under a CloudBadging subscription agreement and/or other written agreement), and completely replace any prior agreements between you and CloudBadging in relation to the Services.

17.3 You agree that CloudBadging may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Services.

17.4 You agree that if CloudBadging does not exercise or enforce any legal right or remedy which is contained in the Terms (or which CloudBadging has the benefit of under any applicable law), this will not be taken to be a formal waiver of CloudBadging rights and that those rights or remedies will still be available to CloudBadging.

17.5 If any court of law, having the jurisdiction to decide on this matter, rules that any provision of these Terms is invalid, then that provision will be removed from the Terms without affecting the rest of the Terms. The remaining provisions of the Terms will continue to be valid and enforceable.

17.6 For any dispute related to your use of the Services, you agree that the sold an exclusive venue for any dispute between you and CloudBadging will be in either the state or federal courts located in Miami-Dade County, Florida. You further waive any objection to these courts exercising personal jurisdiction over you and also waive the right to challenge this location on the grounds of improper venue or inconvenient forum.