



## **TERMS AND CONDITIONS**

U-CALL (PTY) LTD welcomes you! By downloading our software application, you agree to our Terms and Conditions. Should you not agree, don't download the software application on your phone.

### **1. What is the U-CALL Application?**

U-Call provides a downloadable software application on your mobile that allows you to Chat, SMS, and talk for less. After registration and payment, you will be given airtime through the Application to use and to re-sell.

### **2. Registration and Access to the U-Call Application**

To use the application, you must also have a subscription with a carrier, either by contract or Pre-paid. You need a mobile handset that is in working order and suitable to use the Application. You are responsible for ensuring that your equipment and/or software do not disturb or interfere with U-Call (Pty) Ltd's operations. Any equipment or software causing interference shall be immediately disconnected from the Application. If any upgrade to the Application requires changes in your equipment or software, you must do these changes at your own expense. Unless explicitly stated otherwise, any new or additional features that will augment or enhance the current Application, including the release of new products and Applications, shall be subject to the terms and conditions of this Agreement.

U-CALL (PTY) LTD offers its Applications as individual downloads. No information presented in the Application or in connection with any products shall be deemed as a binding offer by U-CALL (PTY) LTD, but as an invitation for you to download. The Application between you and U-CALL (PTY) LTD shall begin when U-CALL (PTY) LTD, upon your request, has provided you with access to the Application (such access may be based on a personal username and password generated for that purpose or on other data that U-CALL (PTY) LTD deems sufficient for your identification such as e-mail address). After downloading your application and paying into our Bank Account the amount of credits you wish to download U-CALL (PTY) LTD will transfer credits to your mobile phone. A 57 cent daily charge will be billed for the chat application whether you use it or not. The number of credits for downloads shall be reduced if you call, chat and SMS. You can download more credits via SMS from your re-seller, or friends that already downloaded the application and have credits available to sell to you.

### **3. Who are Resellers?**

Re-sellers are those individuals that have downloaded the U-Call application and paid into our account the minimum of R100.00 for which they will receive 120 credits. In other words they make 20% commission when they re-sell the credits to other individuals. There will be a R1 minimum that you can re-charge for.

### **4. Your Responsibilities**

You are fully responsible for all activities that occur under your password and username. That responsibility includes, but is not limited to, the responsibility for any fees for the use of the Application or any products and Applications made available through the Application. You agree to notify U-CALL (PTY) LTD immediately in case you become aware of or suspect unauthorized use of your password or account or Applications or any breach of security, and to ensure that you log out of your account at the end of each session. U-CALL (PTY) LTD cannot and will not



be liable for any loss or damage arising from your failure to comply with this Section. You acknowledge and agree that you will not use the Application for any commercial purposes.

The same procedure may apply to products and downloads made available through the Application. You are solely responsible for maintaining the confidentiality of any possible password and username account. In exchange for your use of the Application (in addition to the payment of applicable fees) you agree to provide true, accurate and complete information about yourself and keep it true, accurate, current and complete. If U-CALL (PTY) LTD has reasonable grounds to suspect that the Registration Data is untrue, inaccurate or incomplete, U-CALL (PTY) LTD has the right to suspend or terminate your credits and refuse any and all current or future use of the Application (or any portion thereof). Prior to any such withdrawal U-CALL (PTY) LTD shall temporarily withdraw the Application and notify you of the grounds on which the Application has been withdrawn. If the position has not been rectified within 14 working days of the notice such withdrawal will be made permanent.

## **5. License to Download(s)**

You acknowledge and agree that the Download(s) made available as part of the Application are owned by U-Call (Pty) Ltd, its affiliate and/or licensors, as applicable, and are protected by intellectual property laws. U-Call (Pty) Ltd hereby grants, and you hereby accept, a limited, non-exclusive, non-transferable, revocable license to download and use the object code version of the Download(s) and the Application on a designated compatible mobile device solely for your own personal non-commercial use. You further acknowledge and agree that you may not reproduce, modify, perform, create derivative works of or otherwise use or make available the Download(s) except as expressly provided in this Agreement. No license is granted to you by this Agreement in the human readable code, known as the source code, of the mobile content downloaded on your mobile device, and no rights are granted to you by this Agreement in any patents, copyrights, trade secrets, trademarks or any other rights in respect of the mobile content downloaded on your mobile device.

## **6. Interruptions or Discontinuation of Application**

U-CALL (PTY) LTD may suspend the Application for repair, maintenance, and/or upgrade work. In such event, U-CALL (PTY) LTD shall aim at keeping the said interruption short and causing as little inconvenience to you as reasonably possible. U-CALL (PTY) LTD reserves the right to modify or discontinue, temporarily or permanently, individual Applications provided by it or third parties via the Applications, or the Applications themselves. If a Application is or the Applications are to be permanently discontinued by U-CALL (PTY) LTD it will notify you of this fact and reimburse any pre-paid credits.

## **7. Products and Applications of Third Parties.**

The Application may also include access to products and Applications of independent third parties either directly or via links to sites operated by such third parties. Where reasonably possible, U-CALL (PTY) LTD shall indicate the products and Applications as third party content. Even though they may be co-branded with U-CALL (PTY) LTD and therefore include U-CALL (PTY) LTD's trademarks, the contracts for products and Applications provided by third parties are concluded directly between you and the third party. U-CALL (PTY) LTD SHALL NOT BE A PARTY TO, OR IN ANY WAY RESPONSIBLE FOR, ANY TRANSACTION CONCERNING PRODUCTS OR APPLICATIONS MADE AVAILABLE FROM SUCH THIRD PARTIES OR FOR ANY CONTENT OR INFORMATION PRESENTED IN CONNECTION WITH ANY PRODUCTS OR APPLICATIONS OF THRID PARTIES.



## **8. Privacy**

You acknowledge that U-CALL (PTY) LTD collects and processes "personal information that could be used to contact you, such as name, phone number or e-mail address, or information that you submit, or that we collect, that is neither personal information nor financial information but necessary for the proper functioning and billing of our Application, such as date regarding the start and end and the extent of your usage of the Application, subject to the rest of this paragraph in order to operate this site. We may pass on your information to governmental agencies, including but not limited to courts and district attorneys' offices, for legal proceedings and the prevention of crimes. Personal information collected by U-CALL (PTY) LTD may be stored and processed in or any other country in which U-CALL (PTY) LTD or its agents maintain facilities. By using the Application, you consent to any such transfer of information outside of your country. U-CALL (PTY) LTD may store your information beyond this date if that is required by law.

## **9. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITIES**

You understand that the download and the content of the application is at your own risk and you have to comply by the instruction given by U-CALL (PTY) LTD.

EXCEPT IN JURISDICTIONS WHERE SUCH PROVISIONS ARE RESTRICTED, YOU AGREE U-CALL (PTY) LTD, ITS LICENSORS AND CONTRACTORS (INCLUDING ANY THIRD PARTIES PROVIDING ALL OR PART OF THE APPLICATIONS) SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES EVEN IF U-CALL (PTY) LTD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT THAT A COUNTRY DOES NOT PERMIT THE EXCLUSION OR LIMITATION OF LIABILITY AS SET FORTH HEREIN, U-CALL (PTY) LTD'S LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW IN SUCH COUNTRY.

## **10. Indemnification**

You agree to indemnify and hold U-CALL (PTY) LTD, its, subsidiaries, affiliates, officers, agents, directors, contractors, licensors and other partners and employees, harmless from any loss, liability, claim, or demand, including reasonable attorney's fees, made by any third party due to or arising out of or in connection with your use of the Application, and/or the breach by you of your representations and warranties set forth herein.

## **11. Intellectual Property Rights**

Except as otherwise set forth herein, all right, title and interest in and to any intellectual property, proprietary rights or other rights related to intangible property which are used, developed, comprising, embodied in, or practiced in connection with any of the Application ("U-Call (Pty) Ltd Intellectual Property Rights") are owned by U-Call (Pty) Ltd or its licensors, and you agree to make no claim of interest in or ownership of any such U-Call (Pty) Ltd Intellectual Property Rights. You acknowledge that no title to the U-Call (Pty) Ltd Intellectual Property Rights is transferred to you, and that you do not obtain any rights, express or implied, in the Application, other than the rights expressly granted in this Agreement.

## **12. Charges**

All fees are subject to change upon notice from U-CALL (PTY) LTD. U-CALL (PTY) LTD will provide you with reasonable notice of such change. If you do not accept the new fees, you



may cancel your application and/or your account effective immediately upon receipt of termination request.

Late Payments: Any past due unpaid amount shall bear an annual interest of four percent (4%) or the highest interest allowed by applicable law, which ever is lower.

### **13. Termination of Applications**

You agree that U-CALL (PTY) LTD, at its sole discretion, may at any time terminate your use of the Application and remove and discard any content within such Application, if you remain in breach of this agreement for more than seven days from notice of such breach. U-CALL (PTY) LTD may cancel all or any of the Applications (or individual Applications provided via the download) if U-CALL (PTY) LTD believes that you have violated or acted inconsistently with these TERMS. You agree that upon termination of your access to the Application under any provision of these TERMS, U-CALL (PTY) LTD may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Application. Further, you agree that U-CALL (PTY) LTD shall not be liable to you or any third party for any termination of your access to the Application. If you cancel your account for any reason, U-CALL (PTY) LTD will not refund any of your fees paid to date, except as provided in provision 2 of these terms.

This Agreement will terminate immediately, without notice, if you fail to comply with any term or condition of this Agreement. Upon termination of this Agreement, you agree to immediately remove all downloaded mobile content from your wireless communications device.

### **14. Miscellaneous Provisions**

Notices and Announcements. Except as expressly provided otherwise herein, all notices to U-Call (Pty) Ltd shall be in writing and delivered to the following address:

**U-Call Pty Ltd  
12 Eagle Force  
Vieira Road  
RUIMSIG**

U-CALL (PTY) LTD shall post changes of Terms and serve notices related to this contract by posting them on the U-CALL (PTY) LTD web site or by sending them to the postal address. Notices sent by mail shall be deemed received seven days after they were sent. Notices posted on the U-CALL (PTY) LTD Web site or sent by e-mail shall be deemed received on the weekday following the day when they were posted or sent. Any use of the application after such posting shall constitute acceptance of such changes by you. These TERMS are in addition to any U-CALL (PTY) LTD or third party terms and conditions applicable to products and Applications, which may be posted in connection with such products and Applications ("Specific Terms"). In case of any discrepancy between the TERMS and such Specific Terms, the latter shall prevail. These TERMS and any other terms or documents referred to herein represent your entire agreement with U-CALL (PTY) LTD with respect to your use of the Application. You understand and agree that, except as expressly set forth herein, this Agreement is not intended to confer and does not confer any rights or remedies upon any person other than the parties to this Agreement.



## **15. Severability**

If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

## **16. Waiver**

U-CALL (PTY) LTD's failure to pursue any available claim or defense pursuant to this Agreement or otherwise will not be a waiver of such claim or defense. The headings used in this Agreement are for convenience only, and will have no effect on the interpretation or legal enforceability of the terms herein.

## **17. Headings**

The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.

## **18. Governing Law and Jurisdiction**

This Agreement and your use of the Website and Application shall be governed and construed in accordance with the laws of South Africa. You further agree that for any matter arising out of or pertaining to this Agreement venue shall be proper in courts and legal tribunals located in Pretoria, South Africa.