

FreeCall End User License Agreement

IMPORTANT PLEASE READ CAREFULLY:

Before reading the articles below, please take good notice of the following preliminary terms, which terms make use of some of the definitions as specified in Article 1 below:

Entering into this Agreement: This End User License Agreement constitutes a valid and binding agreement between FreeCall and You, as a user, for the use of the FreeCall Software. You must enter into this Agreement by clicking on the ACCEPT button in order to be able to install and use the FreeCall Software. Furthermore, by installing and (continuously) using the FreeCall Software You agree to be bound by the terms of this Agreement and any new versions hereof.

Electronic Signatures and Agreement(s): You acknowledge and agree that by clicking on the ACCEPT button or similar buttons or links as may be designated by FreeCall to show Your approval of any foregoing texts and/or to download and install the FreeCall Software, You are entering into a legal binding contract. You hereby agree to the use of electronic communication in order to enter into contracts, place orders and other records and to the electronic delivery of notices, policies and records of transactions initiated or completed through the FreeCall Software. Furthermore, You hereby waive any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law.

No Emergency Calls: by entering into this Agreement You acknowledge and agree that the FreeCall Software does not and does not intend to support or carry emergency calls. Please also see article 7 below.

Jurisdiction's Restrictions: if You are residing in a jurisdiction which restricts the use of internet-based applications according to age, or which restricts the ability to enter into agreements such as this agreement according to age and You are under such a jurisdiction and under such age limit, You may not enter into this Agreement and download, install or use the FreeCall Software. Furthermore, if You are residing in a jurisdiction where it is forbidden by law to offer or use software for internet telephony, You may not enter into this Agreement and You may not download, install or use the FreeCall Software. By entering into this Agreement You explicitly state that You have verified in Your own jurisdiction if Your use of the FreeCall Software is allowed.

Article 1. Definitions

In this Agreement the following capitalized definitions are being used, singular as well as plural.

1.1 Affiliate: any corporation, company or other entity that directly or indirectly controls, is controlled by, or is under common control with, FreeCall. For the purpose of this definition, the word "control" shall mean the direct or indirect ownership of more than fifty percent (50%) of the outstanding voting stock of the corporation, company, or other entity.

1.2 Agreement: this End User License Agreement, as may be renewed, modified and/or amended from time to time.

1.3 API: application program interface that is included in or linked to the FreeCall Software.

1.4 Documentation: any online or otherwise enclosed documentation provided by FreeCall.

1.5 Effective Date: the date on which this Agreement is entered into by clicking on the ACCEPT button as stated above or by downloading, installing and (continuously) using the FreeCall Software.

1.6 IP Rights: any and all intellectual property rights, including but not limited to copyrights, trademarks and patents, as well as know how and trade secrets contained in or relating to the FreeCall Software, the Documentation, the FreeCall Website or the FreeCall Promotional Materials.

1.7 FreeCall: A trademark of Finarea S.A., a company established under the laws of Switzerland.

1.8 FreeCall Promotional Materials: any and all names, signs, logos, banners and any other materials, in whatever form, owned and/or used by FreeCall for the promotion of its company, its products and activities.

1.9 FreeCall Software: the software distributed by FreeCall for internet telephony applications, including without limitation the API, UI and Documentation, as well as any future programming fixes, updates and upgrades thereof.

1.10 FreeCall Staff: the officers, directors, employees and agents of FreeCall or its Affiliates, or any other persons hired by FreeCall or its Affiliates in relation with the execution of this Agreement.

1.11 FreeCall Website: any and all elements and contents of the website available www.FreeCall.com among other URL's- under the URL www.FreeCall.com, from which website the FreeCall Software can be downloaded.

1.12 UI: the user interface of the FreeCall Software.

1.13 You: you, the end user of the FreeCall Software, also used in the form "our" where applicable.

Article 2. License and Restrictions

2.1 License. Subject to the terms of this Agreement, FreeCall hereby grants You a limited, personal, non-commercial (at home or at work), non-exclusive, non-sublicensable, non-assignable, free of charge license to download, install and use the FreeCall Software on Your computer or PDA, for the sole purpose of internet telephony applications and any other applications that may be explicitly provided by FreeCall.

2.2 No Granting of Rights to Third Parties. You will not sell, assign, rent, lease, distribute, export, import, act as an intermediary or provider, or otherwise grant rights to third parties with regard to the FreeCall Software.

2.3 No Modifications. You will not undertake, cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of the FreeCall Software.

2.4 Third Parties. You acknowledge and agree that the FreeCall Software may be incorporated into, and may incorporate itself, software and other technology owned and controlled by third parties. FreeCall emphasizes that it will only incorporate such third party software or technology for the purpose of (a) adding new or additional functionality or (b) improving the technical performance of the FreeCall Software. Any such third party software or technology that is incorporated in the FreeCall Software falls under the scope of this Agreement. Any and all other third party software or technology that may be distributed together with the FreeCall Software will be subject to you explicitly accepting a license agreement with that third party. You acknowledge and agree that you will not enter into a contractual relationship with FreeCall or its Affiliates regarding such third party software or technology and you will look solely to the applicable third party and not to FreeCall or its Affiliates to enforce any of your rights.

2.5 New Versions of the FreeCall Software. FreeCall, in its sole discretion, reserves the right to add additional features or functions, or to provide programming fixes, updates and upgrades, to the FreeCall Software. You acknowledge and agree that FreeCall has no obligation to make available to You any subsequent versions of the FreeCall Software. You also agree that you may have to enter into a renewed version of this Agreement, in the event you want to download, install or use a new version of the FreeCall Software. Furthermore, you acknowledge and agree that FreeCall, in its sole discretion, may modify or discontinue or suspend Your ability to use any version of the FreeCall Software, or terminate any license hereunder, at any time. FreeCall also may suspend or terminate any license hereunder and disable any FreeCall Software You may already have accessed or installed without prior notice at any time.

2.6 Paid Services. This Agreement applies to downloading, installing and using the FreeCall Software, free of charge. The use of any paid services which may be offered by FreeCall or its Affiliates, is subject to the additional "Terms of Service" that are published on the FreeCall Website.

Article 3. Exceptions to License Restrictions

3.1 Redistribution. You are not allowed to redistribute the FreeCall Software, unless You have agreed to and meet with the terms that are published on the FreeCall Website at <http://www.FreeCall.com/en/termsfuse.html>

3.2 API. You are not allowed to use or modify the API, unless You agree to and meet with the following subsequent terms: 3.2.1 You may only make use of and/or modify the API to distribute the FreeCall Software (a) for any legitimate purposes and (b) provided that You will not remove, overtake, hide or otherwise make the UI inaccessible for end users. 3.2.2 You will constantly monitor the FreeCall Website in order to ensure that You are distributing the latest stable version of the FreeCall Software as well as that You are aware of any changes in the applicable legal documents. In the event You cannot agree on any changes in any applicable legal document, You will immediately cease any and all use of the API and, where applicable, any and all use of the FreeCall Software. 3.2.1 You acknowledge and agree that Your use and/or modification of the API will be at Your own risk and account.

3.3 You acknowledge and agree that any IP Rights arising directly from the API are the exclusive ownership of FreeCall or its licensors without any compensation to You. Insofar as necessary, this Agreement serves as a deed of assignment of all of Your right, title and interest in and to such API modifications to FreeCall, notwithstanding Your obligation to cooperate with FreeCall in order to finalize any other deed upon FreeCall's first request. You hereby irrevocably waive to the extent permitted by law any moral rights relating to Your API modifications. You furthermore represent and warrant that (a) You are authorized to assign Your rights as stated above and (b) Your API modifications are correct and accurate and (c) the API modifications do not infringe upon any third parties' rights, including but not limited to intellectual property rights.

3.4 Any other Exceptions. If You are interested in doing anything else than permitted under this Agreement or by the Distribution Terms, the API Terms or the FreeCall Promotional Materials Terms, You will have to obtain FreeCall's written consent and agree on any further (commercial) terms.

Article 4. Permission to Utilize

4.1 Permission to utilize Your computer. In order to receive the benefits provided by the FreeCall Software, you hereby grant permission for the FreeCall Software to utilize the processor and bandwidth of Your computer for the limited purpose of facilitating the communication between You and other FreeCall Software users.

4.2 Protection of Your computer (resources). You understand that the FreeCall Software will use its commercially reasonable efforts to protect the privacy and integrity of Your computer resources and Your communication, however, You acknowledge and agree that FreeCall cannot give any warranties in this respect.

Article 5. Confidentiality and Privacy

5.1 FreeCall's Confidential Information. You agree to take all reasonable steps at all times to protect and maintain any confidential information regarding FreeCall, its Affiliates, the FreeCall Staff, the FreeCall Software and the IP Rights, strictly confidential.

5.2 Your Confidential Information and Your Privacy. FreeCall is committed to respecting Your privacy and the confidentiality of Your personal data. The "Privacy Policy" that is published on the FreeCall Website applies to the use of Your personal data, the traffic data as well as the content contained in Your communication(s).

Article 6. IP Rights and Translations

6.1 Exclusive Ownership. You acknowledge and agree that any and all IP Rights are and shall remain the exclusive property of FreeCall and its licensors. Nothing in this Agreement intends to transfer any IP Rights to, or to vest any IP Rights in, You. You are only entitled to the limited use of the IP Rights granted to You in this Agreement. You will not take any action to jeopardize, limit or interfere with the IP Rights. You acknowledge and agree that any unauthorized use of the IP Rights is a violation of this Agreement as well as a violation of intellectual property laws, including without limitation copyright laws and trademark laws.

6.2 No Removal of Notices. You agree that You will not remove, obscure, make illegible or alter any notices or indications of the IP Rights and/or FreeCall's rights and ownership thereof.

6.3 Translations. You acknowledge and agree that the intellectual property rights regarding any translations made by You of any information on or accessible through the FreeCall Website or as otherwise requested of You by FreeCall at any time prior to or subsequent of the Effective Date will be and remain the sole and exclusive property of FreeCall without any compensation to You. Insofar as necessary, this Agreement serves as a deed of assignment of all of Your right, title and interest in and to such translations to FreeCall, notwithstanding Your obligation to cooperate with FreeCall in order to finalize any other deed upon FreeCall's first request. You hereby irrevocably waive to the extent permitted by law any moral rights relating to Your translations. You furthermore represent and warrant that (a) You are authorized to assign Your rights as stated above and (b) Your translations are correct and accurate and (c) the translations do not infringe upon any third parties' rights, including but not limited to intellectual property rights.

6.4 Use of FreeCall Promotional Materials. You are not allowed to use the FreeCall Promotional Materials, unless You have agreed on and meet with the FreeCall Promotional Materials Terms as published on the FreeCall Website at <http://www.FreeCall.com/en/termsfuse.html>

Article 7. Communication and Your Use of the FreeCall Software

7.1 Communication. Installing FreeCall Software enables You to communicate with other FreeCall Software users.

7.2 No Warranties. FreeCall cannot guarantee that You will always be able to communicate with other FreeCall Software users, nor can FreeCall guarantee that You can communicate without disruptions, delays or other communication-related flaws. FreeCall will not be liable for any such disruptions, delays or other omissions in any communication experienced when using FreeCall Software.

7.3 No Control. You acknowledge and understand that FreeCall does not control, or have any knowledge of, the content of any communication(s) spread by the use of the FreeCall Software. The content of the communication is entirely the responsibility of the person from whom such content originated. You, therefore, may be exposed to content that is offensive, indecent or otherwise objectionable. FreeCall will not be liable for any type of communication spread by means of the FreeCall Software.

7.4 No Emergency Services. You expressly agree and understand that the FreeCall Software is not intended to support or carry emergency calls to any type of hospital, law enforcement agency, medical care unit or any other kind of emergency service. FreeCall, its Affiliates or FreeCall Staff are in no way liable for such emergency calls.

7.5 Lawful purposes. You acknowledge and agree to use the FreeCall Software solely for lawful purposes. In this respect You may not, without limitation (a) intercept or monitor, damage or modify any communication which is not intended for You, (b) use any type of spider, virus, worm, trojan-horse, time bomb or any other codes or instructions that are designed to distort, delete, damage or disassemble the FreeCall Software or the communication, or (c) send any unsolicited commercial communication not permitted by applicable law.

Article 8. Term and (Consequences of) Termination

8.1 Term. This Agreement will be effective as of the Effective Date and will remain effective until terminated by either FreeCall or You as set forth below.

8.2 Termination by FreeCall. FreeCall may terminate this Agreement at any time, with or without cause, by providing notice to You and/or by preventing Your access to the FreeCall Software, as set forth in Article 2.5 above.

8.3 Termination by You. You may terminate this Agreement at any time, with or without cause, provided that You will meet with the conditions as set forth in Article 8.4 below.

8.4 Consequences of Termination. Upon termination of this Agreement, You (a) acknowledge and agree that all licenses and rights to use the FreeCall Software shall terminate, and (b) will cease any and all use of the FreeCall Software, and (c) will remove the FreeCall Software from all hard drives, networks and other storage media and destroy all copies of the FreeCall Software in Your possession or under Your control.

Article 9. Your Representations and Warranties; Indemnification of FreeCall

9.1 Representations. You represent and warrant that You are authorized to enter into this Agreement and comply with its terms. Furthermore, You represent and warrant that You will at any and all times meet with Your obligations hereunder, as well as any and all laws, regulations and policies that may apply to the use of the FreeCall Software.

9.2 Indemnification. You agree to indemnify, defend and hold FreeCall, its Affiliates and the FreeCall Staff harmless from and against any and all liability and costs, including reasonable attorneys' fees incurred by said parties, in connection with or arising out of Your (a) violation or breach of any term of this Agreement or any applicable law, regulation, policy or guideline, whether or not referenced herein, or (b) violation of any rights of any third party, or (c) use or misuse of the FreeCall Software, or (d) use and/or modification of the API or (e) communication spread by means of the FreeCall Software.

Article 10 Disclaimer of Warranties

10.1 No warranties. THE FreeCall SOFTWARE IS PROVIDED ?S IS? WITH NO WARRANTIES WHATSOEVER; FreeCall DOES NOT, EITHER EXPRESSED, IMPLIED OR STATUTORY, MAKE ANY WARRANTIES, CLAIMS OR REPRESENTATIONS WITH RESPECT TO THE FreeCall SOFTWARE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR USE OR A PARTICULAR PURPOSE. FreeCall FURTHER DOES NOT REPRESENT OR WARRANT THAT THE FreeCall SOFTWARE WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, AND ERROR-FREE OR WILL OPERATE WITHOUT PACKET LOSS, NOR DOES FreeCall WARRANT ANY CONNECTION TO OR TRANSMISSION FROM THE INTERNET, OR ANY QUALITY OF CALLS MADE THROUGH THE FreeCall SOFTWARE.

10.2 Your own Risk. You acknowledge and agree that the entire risk arising out of the use or performance of the FreeCall Software remains with You, to the maximum extent permitted by law.

10.3 Jurisdiction's Limitations. As some jurisdictions do not allow some of the exclusions or limitations as set forth above, some of these exclusions or limitations may not apply to You.

Article 11. Limitation of Liability

11.1 No Liability. The FreeCall Software is being provided to You free of charge. ACCORDINGLY, YOU ACKNOWLEDGE AND AGREE THAT FreeCall, ITS AFFILIATES AND THE FreeCall STAFF WILL HAVE NO LIABILITY IN CONNECTION WITH OR ARISING FROM YOUR USE OF THE FreeCall SOFTWARE, AS SET FORTH BELOW.

11.2 Limitation of Liability. IN NO EVENT SHALL FreeCall, ITS AFFILIATES OR THE FreeCall STAFF BE LIABLE, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER FORM OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOSS OF DATA, INTERRUPTION, COMPUTER FAILURE OR PECUNIARY LOSS) ARISING OUT OF THE USE OR INABILITY TO USE THE FreeCall SOFTWARE, EVEN IF FreeCall, ITS AFFILIATES OR THE FreeCall STAFF HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.3 Remedy. YOUR ONLY RIGHT OR REMEDY WITH RESPECT TO ANY PROBLEMS OR DISSATISFACTION WITH THE FreeCall SOFTWARE IS TO DEINSTALL AND CEASE USE OF SUCH FreeCall SOFTWARE.

11.4 Jurisdiction's Limitations. As some jurisdictions do not allow some of the exclusions or limitations as set forth above, some of these exclusions or limitations may not apply to You.

Article 12. General Provisions

12.1 New versions of the Agreement. FreeCall reserves the right to modify this Agreement at any time by providing such revised Agreement to You or by publishing the revised Agreement on the FreeCall Website. Your continued use of the FreeCall Software shall constitute Your acceptance to be bound by the terms and conditions of the revised Agreement.

12.2 Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between You and FreeCall with respect to the subject matter hereof and will supersede and replace all prior understandings and agreements, in whatever form, regarding the subject matter.

12.3 Partial Invalidity. Should any term or provision hereof be deemed invalid, void or enforceable either in its entirety or in a particular application, the remainder of this Agreement shall nonetheless remain in full force and effect.

12.4 No waiver. The failure of FreeCall at any time or times to require performance of any provisions hereof shall in no manner affect its right at a later time to enforce the same unless the same is explicitly waived in writing and signed by FreeCall.

12.5 No Assignment by You. You are not allowed to assign this Agreement or any rights hereunder.

12.6 Assignment by FreeCall. FreeCall is allowed to at its sole discretion assign this Agreement or any rights hereunder to any Affiliate, without giving prior notice.

12.7 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of Switzerland without giving effect to the conflict of laws or provisions of Switzerland or Your actual state or country of residence. Switzerland

12.8 Competent Court. Any legal proceedings arising out of or relating to this Agreement will be subject to the exclusive jurisdiction of any court of Switzerland sitting in Switzerland.

YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND THE RIGHTS, OBLIGATIONS, TERMS AND CONDITIONS SET FORTH HEREIN. BY CLICKING ON THE ACCEPT BUTTON AND/OR CONTINUING TO INSTALL THE FreeCall SOFTWARE, YOU EXPRESSLY CONSENT TO BE BOUND BY ITS TERMS AND CONSITIONS AND GRANT TO FreeCall THE RIGHTS SET FORTH HEREIN.