

Terms of Service

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Thank you for using XiCalls App (further “XiCalls”). “XiCalls” means the services and products as described below (including all applications) and/or the provider of such services and products, XiMinds GmbH, FN 344239i, Messendorfberg 105, 8042 Graz, Austria.

XiCalls is the most powerful app on the planet that shows your partner's mood on a daily based hormone analysis. By using XiCalls, you agree to be bound by these Terms. If you don't agree to these Terms, do not use XiCalls. We may revise the Terms from time to time. Changes may be posted to our blog and within our Apps, so please check that regularly. The most current version will always be posted on our Terms page. By continuing to use XiCalls after revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the new Terms, please stop using XiCalls.

General Terms and Conditions for the use of XiCalls

The XiCalls products and services are rendered via websites a number of different sub-domains and domain aliases, and via mobile applications (“apps”), background applications and web services. All websites, sub-domains, aliases, applications, mobile applications, background applications and web services provided by XiCalls and where XiCalls is available are hereinafter referred to as “XiCalls sites”. The XiCalls services include applications, in particular, video communication, for which the user can obtain membership and access. Some of the XiCalls applications may appear under other brand names or by using other XiCalls sites.

These General Terms and Conditions for the use of the XiCalls services govern and apply on the contractual relationship between the user and XiCalls, irrespective of which XiCalls sites or applications the User visits or uses to utilize XiCalls services.

Additional terms may also apply to the use of individual applications in addition to these General Terms and Conditions for using the XiCalls services. In the event of an objection, the additional terms and conditions for the use of the respective application shall take precedence over these General Terms and Conditions for the use of the XiCalls services, provided such precedence is not excluded in the additional terms for the use of the respective application.

The General Terms and Conditions for the use of the XiCalls services and any additional terms for the use of additional individual applications are hereinafter referred to as “Terms”.

The contract of the User is entered and concluded with XiMinds GmbH, FN 344239j, Messendorfberg 105, 8042 Graz, Austria. Further contact details, commercial register details as well as the name of persons authorised to represent XiMinds GmbH can be found in the Imprint Section of this Site.

The use and access to the website and products and services and associated software (XiCalls services) of XiCalls is conditioned upon user’s compliance and acceptance of the Terms. By clicking or checking the „I agree“ button or box, proceeding via XiCalls onboarding which includes the agreement to accept the terms when proceeding in order to use XiCalls the first time in an integrated service of 3rd party ecosystems or accessing XiCalls sites or by utilizing XiCalls products and/or services User agrees to be bound by the Terms. XiCalls is not available to persons who are not legally eligible to be bound by the Terms.

Any software associated with XiCalls and XiCalls sites is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

1. Subject and basis for using XiCalls

1.1 XiCalls is a service providing applications calendar functions such as period and menstrual predictions.

1.2 A user account created by the user on XiCalls sites (hereinafter referred to as “user account”) represents the identity of the user within the XiCalls services, on

XiCalls sites, and in the service's applications. In order to use XiCalls, the user requires either a user account or an authenticated user created by onboarding on the XiCalls services. There may, in addition, be certain applications of the XiCalls services where the user does not appear and is not displayed with the user account. Registration or user authentication with the XiCalls services is, however, always required to start an XiCalls service.

XiCalls will provide its products and services in accordance with the Terms. In order to use certain products and services user may be required to download content, software, and/or required to agree to additional terms and conditions. Unless otherwise expressly set forth in any such additional terms and conditions applicable to the specific products and services which user chooses to use, those additional terms are hereby incorporated into these Terms in relation to the use of that product and/or service. XiCalls may at its sole discretion, discontinue products and services or modify the features of the products and services from time to time. Use of the products and services requires one or more compatible devices, Internet access (fees may apply), and certain software (fees may apply), and may require obtaining updates or upgrades from time to time. Because use of the products and services involves hardware, software, and Internet access, user's ability to use such products and services may be affected by the performance of these factors. High-speed Internet access is recommended. User acknowledges and agrees that such system requirements, which may be changed from time to time, are his individual responsibility.

1.3 A user who registers with the XiCalls services initially or is created as an authenticated user on XiCalls via onboarding becomes a free member of the XiCalls services and sites (hereinafter referred to as "free membership").

1.4 The registered user has the option of switching its own free membership to a paid membership on the XiCalls sites (paid or Premium membership). In contrast to free membership, Premium membership provides a number of additional and advanced features. Depending on the user's choice of payment method for the Premium membership as offered by XiCalls, the specific provisions as laid out in Section 6

shall apply. Free membership and Premium membership will hereinafter be collectively referred to as “XiCalls membership”.

1.5 If XiCalls offers the user the option to book one or more free or paid third-party supplementary services, the user shall enter into separate agreements with the respective third party that have no legal connection to the user’s XiCalls membership. The amendment, discontinuation, other termination or exchange of such third-party services or any default of performance thereof in relations between the user and third party does not have any impact on the contractual relationship between XiCalls and the user in terms of the user’s XiCalls membership. The terms and conditions and privacy policies of the respective third parties, who are also the contractual and contact partners of the user, apply to all third-party supplementary services.

2. Conditions of use, conclusion of contract and warranties upon conclusion of contract

General

2.1 XiCalls products and services may be used for consumer purposes only. User will not reproduce, resell, or distribute such products and services or any reports or data generated by them for any purpose unless User have been specifically permitted to do so under a separate agreement with XiCalls. User will not offer or enable any third parties to use the products and services purchased by User, display on any website or otherwise publish the products and services or any content obtained from a product and service (other than content created by the user himself) or otherwise generate income from the products and services or use the products and services for the development, production or marketing of a service or product substantially similar to the XiCalls products and services. User shall not engage in any activity or use the products and services in any manner that could damage, disable, overburden, impair or otherwise interfere with or disrupt the products and services, or any servers or networks connected to them or XiCalls’s security systems.

2.2 The option to use applications offered on the XiCalls sites or other XiCalls services and products does not constitute an offer, but merely an invitation to issue an offer. By completing the booking process, the user consents to enter into the

agreement to use the corresponding XiCalls application. XiCalls, in turn, accepts the user's consent by rendering the corresponding services. The agreement takes effect upon the aforementioned acceptance by XiCalls. XiCalls is not obliged to enter into the agreement. By using paid services, the user accepts the related payment obligation and, depending on the choice of payment method by clicking on the confirmation button which is displayed in such cases.

2.3 The user warrants and represents that all of the data they provide is accurate and complete. The user is obliged to ensure that the data for all of the applications they use is accurate and complete for the entire duration of the agreement.

2.4 The user warrants that they are of legal age. In the event that the user acts on behalf of a legal person for certain applications, the user warrants that they are authorised to act in the name of the legal person. Upon request, the user shall submit proof thereof.

2.5 It is technically impossible for XiCalls to determine with certainty whether any user registered on the XiCalls sites is in fact the person he or she claims to be. Therefore, XiCalls assumes no liability for the actual identity of a user.

2.6 In order to acquire XiCalls membership, the user must register on XiCalls and select a password or authenticate via onboarding process.

2.7 The user is obliged to keep this password secret. XiCalls shall not disclose the password to any third party, shall only use it during the login process, and shall not ask for the user's password at any time other than during the login process. For security reasons and to prevent misuse, the user is recommended to change its password at regular intervals. The user is solely responsible for safeguarding and storing its XiCalls member account login details (username and password).

3. Right of withdrawal for consumers

Instructions on withdrawal and model withdrawal form

3.1 The user has the right to withdraw from this contract within 14 days without giving any reason. The withdrawal period will expire after 14 days from the date of contract conclusion.

3.2 To exercise the right of withdrawal, the user must inform us of his decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post, fax, e-mail).

3.3 To meet the withdrawal deadline, it is sufficient for the user to send his communication concerning his exercise of the right of withdrawal before the withdrawal period has expired.

Effects of withdrawal

3.4 If the user withdraws from this contract, we shall reimburse to the user all payments received from the user, without undue delay and in any event not later than 14 days from the day on which we are informed about the user's decision to withdraw from this contract. We will carry out such reimbursement using the same means of payment as the user used for the initial transaction unless the user has expressly agreed otherwise; in any event, the user will not incur any fees as a result of such reimbursement.

3.5 If the user requested to begin the performance of services during the withdrawal period, the user shall pay us an amount which is in proportion to what has been provided until the user has communicated us the user withdrawal from this contract, in comparison with the full coverage of the contract.

Exclusion of right of cancellation:

3.6 The right of cancellation does not exist if, when entering into a legal transaction, the user predominantly acts in the exercise of his trade, business or profession and are therefore deemed to be an entrepreneur according to Austrian Commercial Code (UGB).

Other additional information:

3.7 The user expressly agrees that we will start to render the service before the end of the cancellation period.

4. General obligations of the user and special provisions for using the services

4.1 The user is obliged

(a) to provide only true and non-misleading statements along with its real name, and to refrain from using pseudonyms or pen names,

(b) to comply with all applicable legislation and respect all third-party rights when using XiCalls and the content served on XiCalls sites. In particular, the user shall not use any insulting or defamatory contents, regardless of whether said contents are directed at another user or XiCalls personnel or other companies, use any pornographic, abusive, immoral or violence-glorifying materials or any contents that violate any applicable legislation for the protection of minors; or advertise or promote, offer or distribute any pornographic, abusive, immoral or violence-glorifying product or products which do not comply with any applicable legislation for the protection of minors, unreasonably annoy, particularly with spam, any other user, use without authorisation any contents protected by law (e.g. by copyright, trademark, patent, utility patent, or design patent laws), or advertise, promote, offer or distribute any goods or services protected by law, or use or promote any commercial practices considered unfair competition, including progressive customer acquisition practices (such as chain distribution systems, multilevel selling or pyramid sales).

5. Changes to services and Terms

Changes to services

5.1 XiCalls reserves the right to modify the services offered on the XiCalls sites or to offer services different from those offered at the time of the user's registration at any time.

5.2 XiCalls furthermore reserves the right to modify the services offered on the XiCalls sites or to offer services different from those offered at the time of the user's registration at any time

(a) to the extent, XiCalls is obliged to ensure the services that they offer are in compliance with legislation incumbent upon the services, particularly in the event of a change to said legislation,

(b) to the extent, XiCalls is therefore deemed to have complied with a legal judgment or decision by the authorities,

(c) to the extent, the respective modification is required to eliminate any existing security gaps,

(d) if the modification is only beneficial to the user, or

(e) if the modification is of a purely technical or process-related nature without any material impact on the user.

5.3 Modifications that only have a minor impact on XiCalls's functionality do not represent changes to the services described in this section. This shall apply in particular to changes of a purely graphical nature and to a change of layout and/or placement of features.

Changes to Terms

5.4 XiCalls reserves the right to amend these Terms at any time, without giving reasons, unless an amendment is unreasonable to the user. XiCalls shall give due notice to the user regarding amendments to these Terms. If the user does not object to the validity of the revised Terms within six (6) weeks of receipt of said notice, the amended Terms shall be deemed accepted by the user. In its notice, XiCalls shall inform the user about the user's right to object and the importance of the objection deadline.

5.5 XiCalls also reserves the right to modify the Terms

(a) if the modification is only beneficial to the user,

(b) if the modification is of a purely technical or process-related nature without any material impact for the user,

(c) to the extent XiCalls is obliged to ensure the Terms comply with legislation incumbent thereon, particularly in the event of a change to said legislation,

(d) to the extent XiCalls is therefore deemed to have complied with a legal judgement or decision by the authorities, or

XiCalls shall notify users of changes to its Terms, e.g. via the XiCalls sites.

6. Fees, billing, invoicing, payment terms

General 6.1 The user can settle invoices using the payment methods offered by XiCalls. If XiCalls is unable to collect any fees from an account designated by the user due to lack of funds, the user shall bear all costs XiCalls incurs as a result thereof, including bank charges related to any debit entries or similar charges, insofar as the user is responsible for the event that triggers these costs.

6.2 XiCalls is permitted to only send invoices and payment reminders electronically.

6.3 Provided the user does not object, XiCalls reserves the right to switch invoices from euros to the user's respective local currency at any time.

6.4 XiCalls provides different licensing and pricing models.

6.5 Pricing model for mobile apps: Subscription models via "inApp" Purchase in Android and iOS via the Apple Store and Google Play Stores directly in the app.

Pricing

6.6 XiCalls pricing models in premium membership can be found in the mobile app stores for iOS and Android. Auto-Renewing Premium Subscriptions (mobile apps)

For auto-renewing premium subscriptions completed in our Android Apps the following terms apply:

6.7 Payment will be charged to Google Play Account at confirmation of purchase.

6.8 Subscription automatically renews unless auto-renew is turned off at least 24-hours before the end of the current period.

6.9 Account will be charged for renewal within 24-hours prior to the end of the current period, and identify the cost of the renewal.

6.10 Subscriptions may be managed by the user and auto-renewal may be turned off by going to the user's Account Settings after purchase.

6.11 Any unused portion of a free trial period, if offered, will be forfeited when the user purchases a subscription to that publication, where applicable.

6.12 You can cancel your subscription anytime by turning off auto-renewal through your Google Play account settings. This must be done 24 hours before the end of a free trial or subscription period to avoid being charged. The cancellation will take effect the day after the last day of the current subscription period, and you will be downgraded to the free service.

For auto-renewing premium subscriptions completed in our Apple iOS Apps the following terms apply:

6.13 Payment will be charged to iTunes Account at confirmation of purchase

6.14 Subscriptions automatically renew unless auto-renew is turned off at least 24-hours before the end of the current period

6.15 Account will be charged for renewal within 24-hours prior to the end of the current period, and identify the cost of the renewal

6.16 Subscriptions may be managed by the user and auto-renewal may be turned off by going to the user's Account Settings after purchase

6.17 Any unused portion of a free trial period, if offered, will be forfeited when the user purchases a subscription to that publication, where applicable.

7. Term, termination of contract, sanctions, reimbursement of advance payments

General

7.1 Unless specifically precluded by separate terms and conditions regarding the term and termination of individual applications or XiCalls memberships or licenses, the contractual relationship may be terminated by either party at any time.

Unpaid membership

7.2 XiCalls and the user may terminate free membership at any time without cause.

Premium membership in recurrent subscription for the mobile apps

7.3 Premium membership shall run for the initial term selected by the user during the upgrade process. After this term, the Premium membership will be renewed by a term of the same length as the initial term, unless terminated in due time by the user or XiCalls. The user and XiCalls may each terminate Premium membership without cause to the end of the initial term selected by the user during the registration process, or to the end of any renewal period after said minimum term expires, by serving notice of three (3) weeks via the contact form, letter, fax or email. If Premium membership has been terminated, the user is entitled to retain free membership until this membership is terminated, meaning that the additional and advanced Premium membership features will no longer be available.

Cancellation and suspension for good cause

7.4 Even if separate terms and conditions regarding term and cancellation are in place, both parties are entitled to immediate extraordinary termination for good cause at any time. Extraordinary termination for good cause is defined as an event which makes it unacceptable for the terminating party to continue the agreement until the end of the termination period, taking into account all circumstances of the individual

case and weighing the interests of both parties. A good cause for XiCalls includes any of the following events:

If the user fails to comply with any applicable legal provisions

If the user breaches a contractual obligation

7.5 The user's right to claim reimbursement of any advance payments upon termination shall be excluded unless the user has terminated the agreement for good cause attributable to XiCalls. In the following cases, the user shall not be entitled to claim reimbursement of any advance payments:

If XiCalls has terminated the contract for good cause

8. Responsibility for the user's content, data and/or other information, availability

8.1 Content transmitted by the use of the XiCalls software and services is entirely the responsibility of the user from whom such content originated. You use the software and services at your own risk and understand that by using the software or any of the services, you may be exposed to content that is offensive, harmful to minors, indecent or otherwise objectionable. XiCalls does not endorse any content and expressly disclaims any and all liability in connection with any and all content transmitted or displayed using the software and/or services. You hereby release and discharge the XiCalls parties (as defined below) from any and all claims and demands arising out of or relating to any content.

8.2 You acknowledge and agree that you are solely responsible for any content that you transmit or display through the software or services and that XiCalls (and Apple or Google if you downloaded the Software from the App Store or Google Play) is not responsible to you or any third party in connection with any content. You further agree to pay for all royalties, fees, and any other monies owing any person by reason of any of your content. In addition, you represent and warrant that: (a) you are the creator and owner of or have the necessary rights to transmit or display the content; and (b) the content you transmit or you display does not and will not: (i) infringe, violate, or misappropriate any third-party right, including any copyright, trademark,

patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right, or (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person. VIOLATORS OF THESE THIRD-PARTY RIGHTS MAY BE SUBJECT TO CRIMINAL AND CIVIL LIABILITY. XiCalls RESERVES ALL RIGHTS AND REMEDIES AGAINST ANYONE WHO VIOLATES ANY OF THE PROVISIONS OF THIS TERMS OF USE.

8.3 XiCalls does not accept any responsibility for any content, data and/or information provided or made available by users of the XiCalls Websites or XiCalls mobile apps or any external websites linked to them. In particular, XiCalls does not warrant that said data and/or information is true or accurate, nor that it fulfills or serves any particular purpose.

8.4 The user may report any activities or content of any other user which violate applicable laws and/or any of these contractual terms.

8.5 XiCalls merely provides the user with a platform and technology and is not involved in the content of communication between users. If users enter into agreements with one another via XiCalls sites, XiCalls shall not be a contracting party to said agreements. Users are solely responsible for the execution and/or fulfillment of agreements they enter into with one another. XiCalls shall not be liable for breaches of duty in relation to agreements entered into between users.

8.6 The user acknowledges and agrees that it is technically impossible to achieve 100% availability of the XiCalls sites. XiCalls shall nonetheless endeavor to keep XiCalls sites available without interruption. Events related to maintenance, security or capacity requirements, and/or events beyond XiCalls's control (e.g. disruptions to public communication networks, power failures, etc.), may result in malfunctions or temporary interruptions to the service provided on XiCalls sites.

8.7 To use XiCalls, you optionally can create an account, either via XiCalls or through your account with a third-party service such as Facebook or Google. In the latter cases, your XiCalls account will be created using the information you provided to that service, such as your name and email address and other personal information that your privacy settings on that service permit us to access.

8.8 You may use XiCalls only if you are 13 years or older and are not barred from using XiCalls under applicable law.

8.9 You are responsible for safeguarding the password that you use to access XiCalls. You are responsible for any activity on your account, whether or not you authorized that activity. You should immediately notify XiCalls of any unauthorized use of your account.

8.10 By using XiCalls, you provide us with text, graphics, images, video, voice and other information (“your content”). You retain full ownership of your content. XiCalls does not claim any ownership rights to your content. However, you are also solely responsible for your content. You indicate that you own or have the necessary rights to all of your content, and that use of your content does not infringe, misappropriate or violate a third party’s intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

9. Trademarks of XiCalls

9.1 XiCalls and/or its suppliers, as applicable, retain ownership of all proprietary rights in the Products and in all trade names, trademarks, service marks, logos, and domain names (“XiCalls Marks”) associated or displayed with the Products. Users may not frame or utilize framing techniques to enclose any XiCalls Marks or other proprietary information (including images, text, page layout, or form) of XiCalls without express written consent. User may not use any meta tags or any other “hidden text” utilizing XiCalls Marks without XiCalls’s express written consent.

10. Copyright

10.1 User may not post, modify, distribute, or reproduce in any way copyrighted material, trademarks, rights of publicity or other proprietary rights without obtaining the prior written consent of the owner of such proprietary rights. XiCalls may deny access to the Products to any User who is alleged to infringe another party’s copyright.

11. Liability of XiCalls

11.1 XiCalls shall be liable without limitation for damages resulting from injury to life, limb or health which occur due to a breach of duty by XiCalls or one of its legal representatives or vicarious agents. XiCalls shall also be liable without limitation for damages owing to a lack of a characteristic warranted by XiCalls or due to malicious conduct by XiCalls. In addition, XiCalls shall be liable without limitation for damages due to intent or gross negligence by XiCalls or one of its legal representatives or vicarious agents.

11.2 Apart from the cases set out in sections 8.1 and 8.3, XiCalls's liability shall be limited to typical foreseeable contractual damages in the event of a breach of any of its cardinal contractual duties due to slight negligence. Cardinal contractual duties are an abstract description of those obligations whose fulfillment is indispensable for the proper implementation of an agreement and on whose fulfillment the contracting parties can usually rely. Any other liability on the part of XiCalls is fully excluded.

11.3 Liability pursuant to the Austrian Product Liability Act shall remain unaffected.

12. Warranty Disclaimers

XiCalls OR OUR LICENSORS' INTELLECTUAL PROPERTY ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, WE EXPLICITLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NON-INFRINGEMENT AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WE MAKE NO WARRANTY THAT XiCalls WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. WE MAKE NO WARRANTY REGARDING THE QUALITY, ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY OF OUR INTELLECTUAL PROPERTY.

13. Limitation of Liability

NEITHER XiCalls NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING XiCalls, INCLUDING OUR LICENSORS, WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL

DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE XiCalls OR OUR LICENSORS' INTELLECTUAL PROPERTY, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT XiCalls HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

IN NO EVENT WILL XiCalls'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE XiCalls OR TO ACCESS YOUR CONTENT EXCEED THE AMOUNTS YOU HAVE PAID TO XiCalls FOR USE OF XiCalls OR TWENTY DOLLARS (\$20), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO XiCalls, AS APPLICABLE. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN XiCalls AND YOU.

14. Privacy Policy

For information regarding XiCalls's treatment of personally identifiable information, please review XiCalls's current Privacy Policy, which is hereby incorporated by reference; your acceptance of this agreement constitutes your acceptance and agreement to be bound by XiCalls's Privacy Policy.

15. Applicable law, place of jurisdiction, miscellaneous

15.1 XiCalls is permitted to commission sub-contractors but remains responsible for fulfilling its duties.

15.2 XiCalls is permitted to transfer rights and duties to third parties, in whole or in part.