

RICA AGREEMENT

Between

Blue Beat Digital (pty)ltd

Registration Number: 2017/052606/07

(Hereinafter referred to as "**Blue Beat Digital**")

And

Name & Surname/Company Name: _____

Identity Number / Registration Number: _____

(hereinafter referred to as the "**RICA AGENT**" or "**AGENT**")

1. INTERPRETATION AND DEFINITIONS

- 1.1. In this Agreement, headings embodied in the clauses are for convenience only and will not be used in its interpretation and, unless the context of this Agreement clearly indicates a contrary intention:
 - 1.1.1. the singular will include the plural and vice versa;
 - 1.1.2. a reference to any gender will be capable of being construed as a reference to any of the others; and
 - 1.1.3. a reference to a natural person will be capable of being construed as a reference to an artificial person or vice versa.
- 1.2. Any reference in this Agreement to an enactment is to that enactment as at the Commencement Date and as amended or re-enacted from time to time.
- 1.3. The rule of construction, that in the event of ambiguity, the contract will be interpreted against the Party responsible for the drafting thereof, will not apply in the interpretation of this Agreement.
- 1.4. The expiration or termination of this Agreement will not affect such of the provisions of this Agreement that expressly provide that they will operate after any such expiration or termination or, which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.5. In the event that the terms defined in the Reseller Agreement vary to those defined herein, the terms defined herein shall prevail when interpreting this Agreement.
- 1.6. In the event of a conflict between the Terms of this Agreement and the Reseller Agreement, the terms of this Agreement shall prevail.
- 1.7. This Agreement will be read together with the provisions of RICA. In the event of a conflict between the provisions of RICA and the terms and conditions as herein contained, the provisions of RICA will prevail. Notwithstanding the aforesaid, any obligations which RICA imposes on

Blue Beat Digital and which Blue Beat Digital imposes on the RICA Agent by virtue of the RICA Agent's activities pursuant to the conclusion of a Reseller Agreement or this Agreement, shall apply notwithstanding anything contained to the contrary in RICA.

1.8. In this Agreement, save to the extent that the context clearly otherwise dictates, the words and expressions set forth below will bear the following meanings and cognate expressions will bear corresponding meanings:

1.8.1. **"Activate"** means to allow access to the Network of an Electronic Communication Service Provider and "activated" has a corresponding meaning;

1.8.2. **"Acts"** means RICA and/or the ECA;

1.8.3. **"Agreement"** means this agreement, all annexures and any amendments hereto from time to time;

1.8.4. **"Blue Beat Digital"** means Taitz Cellular (Pty) Ltd Registration number 2017/052606/07_ trading as Blue Beat Digital;

1.8.5. **"Business Days"** means any weekday other than Saturdays, Sundays or public holidays in the Territory;

1.8.6. **"Commencement Date"** means the Commencement Date stipulated in the Reseller Agreement and if the Reseller Agreement has not been signed then the date on which Blue Beat Digital first sells or provides any SIM Card to the RICA Agent;

1.8.7. **"Customer"** means a "customer" defined in RICA and for the sake of completeness will include any person, whether an individual or legal entity, who requests the Activation of a SIM Card on any Network;

1.8.8. **"Customer Information"** means any personal or other information provided to the RICA Agent by a Customer including any information and documentation supplied in order to Register

any SIM Card or as part of the Verification Process and as required by the relevant Electronic Communication Service Provider;

1.8.9. **"ECA"** means the Electronic Communications Act, No 36 of 2005;

1.8.10. **"Electronic Communication Service Provider"** shall have the meaning ascribed to it in RICA and includes MTN, Vodacom, Cell C, Telkom and any other Electronic Communication Service Provider who supplies SIM Cards to Blue Beat Digital for distribution from time to time;

1.8.11. **"Electronic Communication Network" or "Network"** means any system of electronic communications facilities (excluding subscriber equipment) operated or used by an Electronic Communication Service Provider including without limitation:

1.8.11.1. satellite systems;

1.8.11.2. fixed systems (circuit and packet switched);

1.8.11.3. mobile systems;

1.8.11.4. fibre optic cables (under sea and land based);

1.8.11.5. electricity cables systems (to the extent used for electronic communications services); and

1.8.11.6. other transmissions systems, used or conveyance of electronic communications;

1.8.12. **"Front End Capture Point"** means the place at which, and the time when the Customer's RICA Data and Customer Information details are recorded by the RICA Agent for the purposes of Registration;

1.8.13. **"ICASA"** means the Independent Communications Authority of South Africa established in terms of the Independent

Communications Authority Act, No 13 of 2000, to regulate, inter alia, the electronic communications market in the Territory;

- 1.8.14. **"Identity Document"** shall have the meaning ascribed to it in RICA;
- 1.8.15. **"Interface Service Provider"** means the interface service provider company duly appointed by an Electronic Network Service Provider, from time to time, that designs and supplies the Solution to provide the link from, between and to the Front End Capture Point and the Electronic Communication Service Provider's RICA data capture system and *vice versa* for Registration and / or deregistration of Customers' SIM Cards;
- 1.8.16. **"Minister"** means the "Minister" as defined in RICA;
- 1.8.17. **"MSISDN"** means the Mobile Station International Subscriber Directory Number programmed into each SIM Card supplied by Blue Beat Digital to the RICA Agent;
- 1.8.18. **"Parties"** means Blue Beat Digital and the RICA Agent collectively and "Party" will mean either one of them as the context may dictate;
- 1.8.19. **"Reseller Agreement"** means the agreement to be concluded between Blue Beat Digital and the RICA Agent, in terms of which the RICA Agent, as a Reseller is authorised to sell and distribute SIM Cards and other goods and services provided or sold by Blue Beat Digital in accordance with the terms contained therein, which agreement, necessitates the conclusion of this Agreement.
- 1.8.20. **"Registration / Register" or "Registered"** means the RICA Agent must or has:
 - 1.8.20.1. face to face, correctly verified the RICA Data, documents and Customer Information of a Customer

- which are required to be verified in terms of section 40 of RICA and any other legislation;
- 1.8.20.2. recorded the RICA Data and Customer Information using the Solution;
 - 1.8.20.3. RICA Data and Customer Information has been successfully transmitted to the Electronic Communication Service Provider's RICA database, for storage;
 - 1.8.20.4. the Electronic Communication Service Provider, has successfully received and recorded the transmitted RICA Data and Customer Information and further, has accepted same for the purposes of SIM Card Activation and/or RICA compliance for SIM Cards;
 - 1.8.20.5. has advised the Customer of his/her obligations in terms of RICA;
 - 1.8.20.6. has advised the Customer of the consequences of non-compliance with RICA; and
 - 1.8.20.7. complied with all requirements of this Agreement and the Electronic Network Service Provider regarding registering and activating SIM Cards and registering Customers;
- 1.8.21. **"RICA"** means the Regulation of Interception of Communications and Provision of Communication Related Information Act No 70 of 2002 (as amended);
- 1.8.22. **"RICA Data"** means that information detailed in Section 40 (forty) of RICA and/or any information which substitutes and/or expands upon such information and is required at any time to Register a SIM Card or for Activation;

- 1.8.23. **"RICA Registration Officer"** means the employees, agents or representatives of the RICA Agent, who may be appointed by the RICA Agent for the purposes of giving effect to the compliance of the RICA Agent 's obligations as detailed in this Agreement;
- 1.8.24. **"Signature Date"** means the date on which the last Party in time signs this Agreement;
- 1.8.25. **"SIM Card"** means the Subscriber Identity Module having a specific MSISDN and which is an independent, electronically activated device designed for use in conjunction with a cellular phone or other device to enable the user of the cellular phone or device to transmit and receive indirect communications by providing access to the Network and enabling the Network to identify the particular Subscriber Identity Module and its installed information;
- 1.8.26. **"Solution"** means the electronic and or manual process to Register Customers and confirm the Verification Process, including but not limited to, the recordal and/or the transmission of the RICA Data and Customer Information to the relevant Electronic Communication Service Provider via the Terminal Equipment and/or the Interface Service Provider software and/or equipment as determined by Blue Beat Digital, or specified by the relevant Electronic Communication Service Provider, from time to time;
- 1.8.27. **"Terminal Equipment"** means any equipment approved by ICASA to be used for purposes of RICA Data capture including but not limited to a handset or handheld device which may be supplied by Blue Beat Digital or a Network provider; and
- 1.8.28. **"Territory"** means the Republic of South Africa;

- 1.8.29. **“Verification process”** means the process referred to in this Agreement and RICA and as may be required from time to time by any an Electronic Network Service Provider, to verify and record and store the RICA Data and Customer Information prior to activating or requesting the activation of any SIM Card on a Network.

2. RECORDAL

- 2.1. With effect from 01 July 2009 and following an amendment of the RICA Act No. 48 of 2008 ("RICA"), as promulgated in the Government Gazette No 31784, no SIM Card (whether pre-paid or post-paid) may be Activated on any Electronic Communication Network unless the Electronic Communication Service Provider has recorded and stored specified RICA Data information. This RICA data information must be supplied by and obtained from anyone requesting such Activation.
- 2.2. Failure to verify and capture the required information of the Customer and the Customer's SIM Cards, will result in that SIM Card being denied access to the Network and any Activation of a SIM Card without having first verifying and capturing the required information will be unlawful.
- 2.3. The RICA Agent is obliged at the time of attending to the Registration and Verification Process to inform the Customer of certain RICA obligations, the manner in which they must be complied with and the legal consequences of non-compliance.
- 2.4. The Parties contemplate concluding this Agreement simultaneously with the Reseller Agreement or, within 30 (thirty) days of that agreement being signed. Whether the Reseller Agreement is signed or not the Parties agree that:
- 2.4.1. The terms of this Agreement shall apply;
- 2.4.2. Any SIM Card or product that is sold or supplied to the Rica Agent and all benefits accruing to the RICA Agent arising from the Activation and use and ongoing use of such SIM Card,

especially any rights to be paid any amounts, shall be as provided for in Blue Beat Digital's prevailing Reseller Agreement;

- 2.4.3. No SIM Card may be Activated by the RICA Agent directly or indirectly unless the terms of this Agreement have been complied with and all requirements set out in RICA and any other applicable legislation have been met in full.
- 2.5. In order to enable the RICA Agent to provide, sell and Activate SIM Cards supplied by Blue Beat Digital, the RICA Agent is required, as a condition of supply by Blue Beat Digital, to comply with the provisions of this Agreement which the RICA Agent undertakes to do, without exception.
- 2.6. The RICA Agent acknowledges that compliance with the provisions of RICA and this Agreement is critical to both the RICA Agents and Blue Beat Digital's compliance with RICA and that, notwithstanding the authority granted to it in the Reseller Agreement or otherwise, it is not entitled to promote, provide and/or sell and/or Activate SIM cards unless this Agreement has been properly concluded by the Parties and the RICA Agent complies with the terms hereof and all requirements of RICA and any applicable legislation.

3. APPOINTMENT

- 3.1. By virtue of the conclusion of this Agreement Blue Beat Digital hereby appoints the RICA Agent, and the RICA Agent agrees, without exception to perform the Registration of Customers and the Verification Process in the Territory, prior to Activating any SIM Cards, on the terms and conditions as set out here in, which appointment the RICA Agent hereby accepts.
- 3.2. The RICA Agent agrees and undertakes not to Activate or apply to Activate any SIM Card, particularly any sold, supplied by or sourced through Blue Beat Digital, unless and until it has complied, fully, with all obligations in this Agreement to Register the Customer and to complete the Verification Process.
- 3.3. Nothing in this Agreement shall confer any exclusivity on the RICA Agent.

- 3.4. The RICA Agent shall not receive payment from, nor be entitled to charge any Customer any amount, for the Registration or Verification Process unless such amount is expressly approved in terms of any law. The RICA Agent shall not receive any payment from Blue Beat Digital or any Electronic Network Service Provider for complying with its obligations in terms of this Agreement and agrees to do so in return only for such benefits that may accrue to the RICA Agent as a reseller in terms of the Reseller Agreement.

4. DURATION

Notwithstanding the Signature Date, this Agreement will commence on the Effective Date and will, subject to the provisions of clause 8 below, and any other rights of earlier termination, continue to run in parallel with the Reseller Agreement, until the Reseller Agreement is terminated or this Agreement is terminated in accordance with clause 8 below, whichever is the sooner.

5. RICA AGENT'S DUTIES AND OBLIGATION

- 5.1. For the duration of this Agreement, the RICA Agent will:
- 5.1.1. appoint and provide adequate supervision of RICA Registration Officers. The RICA Agent will ensure that all RICA Registration Officers are aware of and comply with the requirements of each Electronic Communication Service Provider and this Agreement;
 - 5.1.2. ensure that the RICA Registration Officers, on reasonable notice, attend training when requested by Blue Beat Digital or any Electronic Communication Service Provider, and familiarize themselves with all the relevant provisions of RICA, with special attention to Sections 40 and 62, and any other legislation imposing any obligation on any person relating to the sale, supply, distribution or Activation of SIM Cards;
 - 5.1.3. adequately train its RICA Registration Officers as to the requirements of RICA and the use of the Solution, and obtain and retain confirmation that such training has been attended by

each such officer, in accordance with the minimum RICA requirements set out in RICA;

- 5.1.4. do all things necessary to ensure its and, where applicable, Blue Beat Digital's compliance with RICA; and
 - 5.1.5. comply with the RICA provisions imposing statutory duties and obligations on the activities conducted by the RICA Agent, including but not limited to sections 40, 62(6), 62B, 62C thereof;
 - 5.1.6. record the information contemplated in section 40 of RICA in all cases where the Customer requests that a SIM Card be Activated on any Network;
 - 5.1.7. not under any circumstances Activate or apply to Activate, any SIM Card on any Network or assist any Customer or third party to Activate a SIM Card on any Network unless all requirements in this Agreement and in RICA have been met in full.
- 5.2. Prior to recording the information referred to in clause 5.1 above the RICA Agent will first verify the Customer's information ("Customer Information"), by confirming that the Customer is in fact the person whose details are reflected on the identity document submitted by the Customer, and confirm the physical address as reflected on the necessary utility bills, or any other document, as provided for in RICA, prior to Activating or submitting a request for Activation of the SIM Card (the "Verification Process"). Such verification shall include that detailed in clause 5.3 below.
- 5.3. **The RICA Agent shall obtain and Verify all such information (RICA Data) required by RICA, including that referred to in sections 40, 62, 62 B and 62 C thereof, before Activating or applying to activate any SIM Card. In reading the provisions of RICA in this regard, the RICA Agent shall comply with the obligations to obtain the information, Verify the information, record and deal with the RICA Data as if the obligations therein referred to the RICA Agent and not the “electronic communication service provider”. For ease of reference the current**

wording of these sections are reproduced in Annexure "A" hereto. The RICA Agent shall monitor changes to the legislation and ensure that any changes that impact on Registration or the Verification Process are implemented.

- 5.4. If during the Verification Process, the RICA Agent, or the RICA Registration Officers suspects that an Identification Document submitted for verification is false, the RICA Agent must, within 24 (twenty four) hours, report the matter to a police official at any police station and shall take reasonable efforts to ensure that the suspected Customer is not informed in any way that the matter is being reported.
- 5.5. The RICA Agent, through its RICA Registration Officers, after successfully completing the Verification Process and being fully satisfied of the authenticity and validity of the information, shall Register the information in the manner provided by the Solution and as specified by the relevant Electronic Communication Service Provider.
- 5.6. The RICA Agent will ensure that the information referred to in 5.3 is accurate and correct insofar as this may be reasonably possible.
- 5.7. The RICA Agent undertakes not to deal with the Customer Information in any manner that will compromise its safety or confidentiality. This prohibition includes in any manner selling or disclosing the Customer Information or using it for any purpose other than for purposes of Registration and the Verification Process or as may be permissible in terms of section 42 of RICA. All Customer Information shall be dealt with and disposed of as directed by Blue Beat Digital or the relevant Electronic Communication Service Provider and shall not be retained unless retention is expressly directed by the Electronic Communication Service Provider or Blue Beat Digital and permissible in law.
- 5.8. In the event, there are any technical problems with the Solution rendering it unusable and/or incapable of transmitting the information to the RICA database, the RICA Agent undertakes to utilize alternative or manual methods as directed by Blue Beat Digital or the relevant Electronic

Communication Service Provider, which clearly shows all Registrations and the Verification Process as performed by the RICA Agent.

6. UNDERTAKINGS BY BLUE BEAT DIGITAL

Blue Beat Digital will use its reasonably commercial endeavours to:

- 6.1. provide or procure training to the RICA Agent and/or RICA Registration Officers in respect of the Registration of Customers, the Verification Process and use of the Solution;
- 6.2. provide the RICA Agent with such assistance as may reasonably be required by the RICA Agent to fulfil its obligations in terms of this Agreement and RICA; and
- 6.3. notify the RICA Agent timeously of any amended and/or additional information or data requirements to be recorded or included in what constitutes RICA Data, as determined by Blue Beat Digital and/or RICA.

7. AMENDMENTS AND RIGHTS

- 7.1. Blue Beat Digital shall be entitled to regard a breach of this Agreement as a breach of the Reseller Agreement and *vice versa*.
- 7.2. Blue Beat Digital may withhold delivery or supply of SIM Cards and any benefits due or amounts payable to the RICA Agent under the Reseller Agreement or otherwise whilst the RICA Agent is in breach of any obligation under this Agreement.
- 7.3. Blue Beat Digital shall be entitled from time to time to add to, amend or change as required:
 - 7.3.1. any of the processes or requirements for Registration or Verification in order; or
 - 7.3.2. any obligations of the RICA Agent in this Agreement,

where reasonably required to meet any legal requirement, legal advice received or requirement of an Electronic Network Service Provider. Such

changes shall be effective as soon as Blue Beat Digital gives written notice of such addition, amendment or change and this Agreement shall be deemed to be amended accordingly.

8. BREACH AND TERMINATION

- 8.1. Should either Party commit a breach of the terms of this Agreement, all of which are deemed to be material, and fail to remedy that breach within 7 (seven) calendar days of receipt of written notice to do so by the other Party (the "aggrieved party") then the aggrieved party shall be entitled either to claim specific performance or terminate this Agreement forthwith by notice in writing to the other Party. The rights of termination accorded to the aggrieved party shall, subject to any limitations set out below, be in addition to and without prejudice to its rights under this Agreement and/or its rights at common law including but not limited to the right to claim damages.
- 8.2. In the event that the RICA Agent fails to comply with the provisions of RICA or this Agreement, which failure results in a fine/s or penalty/s being imposed on Blue Beat Digital in terms of RICA or by any Electronic Communication Service Provider, Blue Beat Digital shall, without prejudice to its rights in terms of this Agreement or at law, be entitled to hold the RICA Agent liable for and to recover from the RICA Agent any such fines or penalties imposed on Blue Beat Digital.
- 8.3. The RICA Agent hereby indemnifies and holds Blue Beat Digital, its members, directors and agents, harmless and agrees to keep the foregoing indemnified and held harmless, against:
 - 8.3.1. any fine, penalty or the like imposed in terms of RICA or by any Electronic Communication Service Provider resulting from any failure to comply with RICA or this Agreement; and
 - 8.3.2. any loss, harm, cost, expense or damages suffered by Blue Beat Digital, arising out of any breach by the RICA Agent of any obligation in terms of this Agreement or any failure to comply with any legal obligation.

- 8.4. The RICA Agent shall be responsible for all acts and omissions of its employees, agents and all RICA Registration Officers appointed by it. The acts and omissions of the foregoing shall be deemed to be the acts and omissions of the RICA Agent.
- 8.5. Blue Beat Digital may terminate this Agreement, without cause, at any time on 60 (sixty) calendar days' notice to the RICA Agent.
- 8.6. The rights in terms of this clause 8 are without prejudice to the Party's rights set out or accorded otherwise in terms of this Agreement or at law.
- 8.7. In the event that this Agreement terminates then, unless Blue Beat Digital elects otherwise in writing, the Reseller Agreement shall simultaneously terminate.
- 8.8. Unless otherwise advised by Blue Beat Digital, this Agreement shall automatically and immediately terminate in the event that the Reseller Agreement is cancelled or terminates, for whatever reason.

9. RICA REGISTRATION OFFICERS

- 9.1. The RICA Agent shall ensure that the RICA Registration Officers are competent, skilled and properly equipped and supervised when providing the RICA Agent's duties and obligations in terms of clause 5 hereof.
- 9.2. The RICA Agent shall conclude agreements with its RICA Registration Officers in terms of which the RICA Registration Officers are required, contractually, to comply with the provisions of section 40 and 62 (and particularly sections 62(6), 62B and 62C, of RICA and any other provisions which are relevant to the sale, supply and/or Activation of SIM Cards and/or the Registration of information applicable thereto and the Verification Process and handling of Customer Information.
- 9.3. Should Blue Beat Digital have reasonable grounds to suspect that a RICA Registration Officer:
 - 9.3.1. is committing an offence or engaging in dishonest or fraudulent activities when Registering Customers; and/or

9.3.2. is engaging in any fraudulent act, bribery or corruption when verifying the Customer information; or

9.3.3. is persistently or intentionally failing to Register the Customers correctly;

then Blue Beat Digital may contact the RICA Agent's Human Resources Executive Manager (or such other person as the RICA Agent may designate from time to time) and furnish all information available to it to support its suspicions as aforesaid and request that the RICA Registration Officer's Registrations be investigated by the RICA Agent. Blue Beat Digital undertakes to provide such assistance as the RICA Agent might require with the investigation.

9.4. The RICA Agent undertakes to conduct a full, proper and objective investigation should it be called upon by Blue Beat Digital to do so in accordance with the provisions of 9.3. above and conclude such investigation with regards the RICA Registration Officer's Registrations within 7 (seven) days from receipt of such request from Blue Beat Digital.

9.5. Should it be concluded that the RICA Registration Officer is guilty of the conduct referred to in clauses 9.3.1 and/or 9.3.2 and/or 9.3.3 then, in addition to any other disciplinary action which the RICA Agent may take, the RICA Agent shall ensure that the RICA Registration Officer immediately ceases to conduct any Registrations or to distribute any SIM Card supplied by or sourced through Blue Beat Digital.

9.6. Should it be concluded that the RICA Registration Officer is guilty of the conduct referred to in clauses 9.3.3 and/or there is sufficient evidence to show incorrect Registrations done by the RICA Registration Officer in question, then Blue Beat Digital shall have the right to request that the RICA Registration Officer cease conducting Registrations.

9.7. The rights of Blue Beat Digital in terms of this clause 9 are in addition to such other rights that Blue Beat Digital has, including rights to treat the non-

compliant conduct as a breach of this Agreement and to recover any resultant losses or damages.

- 9.8. The RICA Agent shall ensure that the RICA Registration Officers are at all times adequately supervised and are provided with all assistance required to comply with the terms of this Agreement.
- 9.9. Nothing in this Agreement shall be construed as creating any employment arrangement between Blue Beat Digital and any RICA Registration Officer. All RICA Registration Officers shall be and shall remain employee of the RICA Agent.
- 9.10. Any termination of the duties of any RICA Registration Officer shall not be construed to be termination of the employment of such RICA Registration Officer with the RICA Agent.

10. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS BY THE RICA Agent

- 10.1. The RICA Agent hereby warrants and represents that:
 - 10.1.1. It has a full and proper understanding of RICA and its requirements, restrictions and penalties and is able to comply and ensure compliance with the requirements of RICA and this Agreement;
 - 10.1.2. it has the full capacity and authority and all necessary licenses, permits and consents (including but not limited to, where its circumstances and procedures so require, the consent of its parent company) to enter into, and to comply with its obligations under this Agreement and any other documents to be entered into by it hereunder, and that this Agreement constitutes valid, binding and enforceable obligations on the RICA Agent.

11. CONFIDENTIALITY

- 11.1. Each Party will treat as strictly confidential and shall not use, publish or divulge to any third party, save as strictly required to comply with its

obligations under this Agreement, all information received or obtained as a result of entering into or performing this Agreement which relates to:

- 11.1.1. the provisions of this Agreement;
 - 11.1.2. the negotiations relating to this Agreement;
 - 11.1.3. the subject matter of this Agreement;
 - 11.1.4. the RICA Data and/or Customer Information and
 - 11.1.5. any and all information obtained by executing this Agreement, and/or obtained from the other Party.
- 11.2. A Party may disclose information which would otherwise be confidential if and to the extent:
- 11.2.1. required by law;
 - 11.2.2. required by any securities exchange or regulatory or governmental body to which either Party is subject, wherever situated, whether or not the requirement for information has the force of law;
 - 11.2.3. required to vest the full benefit of this Agreement in either Party;
 - 11.2.4. disclosed to the professional advisers, auditors and bankers of each Party on a strictly need to know basis;
 - 11.2.5. the information has come into the public domain through no fault of that Party;
 - 11.2.6. the other Party has given prior written approval to the disclosure, such approval not to be unreasonably withheld or delayed; provided that any information so disclosed will be disclosed only after written notification to the other Party.
- 11.3. The provisions of this clause will survive any termination or expiration of this Agreement for a period of 5 (five) years.

12. ARBITRATION

- 12.1. Any dispute to be determined by arbitration in terms of this Agreement shall be determined in accordance with the last published Commercial Rules for arbitrations (the "Rules") laid down by the Arbitration Foundation of South Africa ("AFSA"), modified as provided below. The arbitration need not be administered by AFSA.
- 12.2. Any Party may demand that a dispute, be determined in terms of this clause 12 by written notice given to the other Party.
- 12.3. This Agreement shall constitute agreement to the submission and determination of such dispute by arbitration.
- 12.4. The Parties shall attempt to reach agreement on whether the nature of the dispute is legal, accounting or other and on the identity of the arbitrator. Failing agreement on both the nature of the dispute and the identity of the arbitrator within 7 (seven) days of the arbitration having been demanded, the dispute shall be deemed to be a legal matter and the arbitrator shall be appointed at the request of either Party to the dispute by the Chairman for the time being of AFSA in terms of the Rules.
- 12.5. The arbitrator shall be, if the matter in dispute is principally:
 - 12.5.1. a legal matter, or is deemed to be a legal matter, a Johannesburg based, practising senior advocate holding the title of Senior Counsel, of at least 15 (fifteen) years standing at least 5 (five) of which must be as a Senior Counsel;
 - 12.5.2. an accounting matter, a Johannesburg based practising chartered accountant of at least 15 (fifteen) years standing;
 - 12.5.3. or any other matter, any independent person, agreed upon between the Parties to the dispute.
- 12.6. The arbitrator shall give a reasoned award and make a cost award taxable by a cost consultant nominated by the arbitrator, applying the High Court attorney and client tariff. The taxed costs shall be deemed to be part of the

arbitrator's award.

- 12.7. The arbitration shall be held in Sandton.
- 12.8. The Parties may be represented by attorneys and counsel, including Senior Counsel, if they wish.
- 12.9. The decision of the arbitrator may be made an order of court at the instance of any of the Parties to the dispute.
- 12.10. There shall be a right of appeal in the case of manifest or material error on the part of the Arbitrator or where the monetary value of any award (excluding costs) given by the arbitrator, if it is quantifiable, exceeds R 1000 000,00 (one million Rand).
- 12.11. The arbitrator shall be entitled to use his expertise and to create any process or procedure that will facilitate the expeditious disposal of the dispute. The arbitrator may determine any interlocutory matter on written application to him by a Party after having called on the other Party for a written response to the interlocutory application.
- 12.12. The Parties agree to keep the arbitration (including the subject matter of the arbitration and the evidence heard during the arbitration) confidential and not to disclose it to anyone except for the purposes of obtaining an order as contemplated herein.
- 12.13. The provisions of this clause 12:
 - 12.13.1. shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of the arbitrator;
 - 12.13.2. constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions; and
 - 12.13.3. are severable from the rest of this Agreement and shall remain

in effect despite the termination of or invalidity for any reason of this Agreement.

13. DOMICILIUM

- 13.1. The Parties hereto choose their *domicilia citandi et executandi* for all purposes of and in connection with this Agreement as follows:

RICA Agent

Physical Address:

Taitz Cellular (Pty) Ltd t/a Blue Beat Digital

Physical Address:

Unit 17, Rambo Junxion, Corporate Park North
400 Roan Crescent
Midrand
Johannesburg
1685

- 13.2. Either Party hereto will be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it will be an address other than a box number in the Republic of South Africa and any such change will only be effective upon receipt of notice in writing by the other Party of such change.
- 13.3. All notices, demands, communications or payments intended for any Party will be made or given at such Party's *domicilium* for the time being.

- 13.4. A notice sent by one Party to another Party will be deemed to be received, unless the contrary is proved on the same day, if delivered by hand, with receipt confirming delivery.
- 13.5. Notwithstanding anything to the contrary herein contained in this Agreement, a written notice or communication actually received by a Party will be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi* or as provided herein.

14. GOVERNING LAW

This Agreement will be governed by the laws of the Republic of South Africa.

15. CESSION

- 15.1. The RICA Agent shall not cede, assign or make over any rights or obligations in this Agreement to any third party without the prior written consent of Blue Beat Digital.
- 15.2. Blue Beat Digital may cede and assign its rights and obligations under this Agreement and the Reseller Agreement without requiring the consent of the RICA Agent

16. GENERAL

- 16.1. No latitude, extension of time or other indulgence which may be given or allowed by Blue Beat Digital to the RICA Agent will in any way prejudice or operate so as to preclude Blue Beat Digital from enforcing any of its rights in the future without notice, requiring strict and punctual compliance with each and every provision or term of this Agreement.
- 16.2. In the event of any one or more of these terms and conditions being unenforceable, illegal, void or contrary to public policy, same will be deemed to be severable from the remainder of this Agreement, which will nevertheless be binding and enforceable.

- 16.3. This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof.
- 16.4. No variation, modification, deletion or addition or consensual cancellation of this Agreement or any clause, including this clause, will be valid unless reduced to writing and signed by the Parties; for the purposes hereof, 'writing' will exclude electronic communication and 'signed' means signed with a pen and ink.
- 16.5. Notwithstanding the provisions of clause 16.4 above, Blue Beat Digital will be entitled, upon reasonable notice of not less than 30 (thirty) days to inform the RICA Agent of any intended variation or amendment of the terms and conditions of this Agreement as a result of any amendment to RICA.
- 16.6. Nothing in this Agreement shall constitute or be deemed to constitute any relationship of partnership or joint venture between the Parties or as conferring any power on either Party to represent or bind the other.
- 16.7. The Parties undertake to co-operate with each other to give effect to the terms of this Agreement.
- 16.8. The signature of any Party of a counterpart of this Agreement shall be as effective as if that Party had signed the same document as the other Parties.



Thus, done and signed at _____ on this the ____ day of _____ of 20____.

For and on behalf of
RICA Agent

Name: _____

Capacity: _____

Who warrants his authority hereto

Thus, done and signed at _____ on this the ____ day _____ of 20____.

For and on behalf of
Taitz Cellular (Pty) Ltd t/a Blue Beat Digital

Name: _____

Capacity: _____

Who warrants his authority hereto

ANNEXURE “A” – RICA EXTRACTS

REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION OF COMMUNICATION RELATED INFORMATION ACT NO 70 OF 2002

SECTION 40

Information to be obtained and kept by electronic communication service provider who provides a mobile cellular electronic communications service –

(1).

- (a) Subject to paragraph (b), an electronic communication service provider who provides a mobile cellular electronic communications service shall not activate a SIM-card on its electronic communication system unless subsection (2) has been complied with.
- (b) Paragraph (a) does not apply to a customer of an electronic communication service provider who provides a mobile cellular electronic communications service outside the Republic who enters the geographical coverage area of a mobile cellular electronic communication service provider in the Republic and uses the electronic communication system of such provider to make, receive and send voice calls or data or access other services.

(2) From the date of commencement of this section an electronic communication service provider must, subject to subsection (4), at own cost implement a process to record and store, and must record and store—

- (a) the Mobile Subscriber Integrated Service Digital Network number (MSISDN-number) of the SIM-card that is to be activated by an electronic communication service provider at the request of a person contemplated in paragraphs (b) and (c);
- (b) in the case of a person who-
 - (i) is a South African citizen or is lawfully and permanently resident in the Republic, the full names and surname, identity number and at least one address of such person who requests that a SIM-card referred to in subsection (1) be activated on the electronic communication system of an electronic communication service provider; or
 - (ii) is not a South African citizen or who is not permanently resident in the Republic, and who requests that a SIM-card referred to in subsection (1) be activated on the electronic communication system of an electronic communication service provider, the full names and surname, identity number and at least one address of such person and the country where the passport was issued; or
- (c) in the case of a juristic person-
 - (i) the full names, surname, identity number and an address of the authorised representative of the juristic person; and
 - (ii) the name and address of the juristic person and, where applicable, the registration number of the juristic person.

(3)

- (a) For the purposes of subsection (2), an electronic communication service provider must, in the manner provided for in paragraph (b), verify-
 - (i) the full names, surname, identity number and identity of the person contemplated in subsection (2) (b) and (c) and, where applicable, the country where the passport was issued;
 - (ii) the name and, where applicable, the registration number of the juristic person;
 - (iii) in the case of a person contemplated in subsection (2) (b) (i) and (c), the address; and
 - (iv) the authority of the representative of a juristic person.
- (b) An electronic communication service provider must verify-
 - (i) the information contemplated in paragraph (a) (i) by means of an identification document;
 - (ii) the information contemplated in paragraph (a) (ii) by means of documentation, including a registration document, founding statement, document issued by the South African Revenue Service or any other similar document;
 - (iii) the address contemplated in paragraph (a) (iii) by means of documentation, including a bank statement, a municipal rates and taxes invoice, telephone or cellular phone account of not older than three months, or any other utility bill or an account of a retailer of not older than three months, or an existing lease, rental or credit sale agreement, insurance policy, a current television licence or a new motor vehicle licence document; and
 - (iv) the authority of the representative of the juristic person by means of a letter of authority or an affidavit.

(4)

- (a) An electronic communication service provider must ensure that-
 - (i) the process contemplated in subsection (2);
 - (ii) the information recorded and stored in terms of that subsection; and
 - (iii) the facility in or on which the information is recorded and stored,are secure and only accessible to persons specifically designated by that electronic communication service provider.
- (b) The Minister may, in consultation with the Cabinet member responsible for communications, by notice in the *Gazette*, determine security standards relating to the matters contemplated in paragraph (a).

(5)

From the date of commencement of this section, any customer who sells or in any manner provides an activated SIM-card to a person, other than a family member, and the person who

is to receive the SIM-card must, immediately upon the sale or provision of the SIM-card, provide the relevant electronic communication service provider with—

- (a) the full names, surname and identity number of the customer; and
- (b) all particulars as required in subsection (2) in respect of the person who is to receive the SIM-card.

(6)

- (a) An electronic communication service provider must, upon receipt of the information provided in terms of subsection (5)-
 - (i) verify the full names, surname, identity number and identity of the persons with reference to the persons' identification documents;
 - (ii) verify the address, contemplated in subsection (3) (a) (iii), of the person who is to receive the SIM-card by means of the documents contemplated in subsection (3) (b) (iii); and
 - (iii) verify the particulars contemplated in subsection (2) (a).
- (b) An electronic communication service provider must, upon receipt of the information provided in terms of paragraph (a), immediately record and store the information as contemplated in subsection (2).

(7)

- (a) An applicant may, for the purposes of making an application for the issuing of a direction, in writing, request an electronic communication service provider to-
 - (i) confirm that the person specified in the request is or was a customer of that electronic communication service provider; and
 - (ii) provide the applicant with the information recorded and stored in terms of subsection (2).
- (b) An electronic communication service provider who receives a request referred to in paragraph (a) must immediately comply with that request if the person specified in the request is or was a customer of the electronic communication service provider concerned.

(8)

If an employee or agent of an electronic communication service provider knows or suspects that an identification document submitted for verification as contemplated in subsection (3) is false, he or she must, within 24 hours, report the matter to a police official at any police station.

(9)

An electronic communication service provider must, on its electronic communication system, record and store—

- (a) every MSISDN-number used with every IMEI-number; and
- (b) every IMEI-number used with every MSISDN-number,

which must, on production of a direction, be provided to an applicant within 12 hours.

(10)

The information recorded and stored in terms of subsections (2), (6) and (9) must be stored by an electronic communication service provider for a period of five years after—

- (a) a customer has cancelled his or her contract with the electronic communication service provider; or -
- (b) the electronic communication service provider has ended the electronic communications service provided to the customer.

[S. 40 substituted by s. 2 of Act No. 48. of 2008.]

(Date of commencement: 1 July, 2009. Refer to s. 63 (2).)

62. Repeal of law and transitional arrangements. —

(1) Subject to subsections (2) and (3), the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992), is hereby repealed.

(Date of commencement of sub-s. (1): 30 June, 2008.)

(2) Any judge whose designation in terms of the Interception and Monitoring Prohibition Act, 1992, to perform the functions of a judge for purposes of that Act is still in force on the fixed date, must be regarded as having been so designated in terms of this Act.

(Date of commencement of sub-s. (2): 30 June, 2008.)

(3) A direction issued under section 3 of the Interception and Monitoring Prohibition Act, 1992, and which is still in force on the fixed date, must be regarded as having been issued under this Act and remains in force until the period or extended period for which that direction has been issued, lapses.

(Date of commencement of sub-s. (3): 30 June, 2008.)

(4) The directives issued under section 6 of the Interception and Monitoring -Prohibition Act, 1992, and which are still in force immediately before the fixed date, cease to be of force and effect from the fixed date.

(Date of commencement of sub-s. (4): 30 June, 2008.)

(5) (a) Any place which, immediately before the fixed date, has been used by the Police Service, Defence Force, Agency, Service or Directorate for the interception and monitoring of communications in terms of the Interception and Monitoring Prohibition Act, 1992, will, as from a date specified by the Cabinet member responsible for intelligence services, cease to exist unless such place is established as an interception centre as contemplated in section 32 (1) (a).

(b) If any place referred to in paragraph (a)-

(i) is established as an interception centre as contemplated in that paragraph, all assets, liabilities, rights and obligations of that place will vest in the interception centre so established; or

(ii) ceases to exist as contemplated in that paragraph, all-

(aa) assets, including liabilities and obligations relating thereto, and rights of that place will, as from the date on which it ceases to exist, vest in interception centres established by section 32 (1) (a) and specified by the Cabinet member responsible for intelligence services for that purpose, without formal transfer and without payment of any fees, duties, taxes or other charges; and

(bb) other liabilities and obligations of that place remain with the Police Service, Defence Force, Agency, Service or Directorate, whichever used that place for purposes referred to in paragraph (a).

(Date of commencement of sub-s. (5): 30 June, 2008.)

(6) (a) Notwithstanding section 40(1), an electronic communication service provider who, prior to the date of commencement of this section, provides a mobile cellular electronic communications service must, by 30 June 2011, record and store the information contemplated in section 40 (2) in respect of all customers whose SIM-cards are activated on its system, if the information in question has not already been recorded and stored in terms of section 40.

[Para. (a) substituted by s. 1(a) of Act No. 21 of 2010.]

(b) Section 40 (2), (3), (4), (9) and (10) applies with the necessary changes in respect of the information recorded and stored in terms of paragraph (a).

(c) The obligations and rights conferred upon a person and an applicant in terms of section 40 (7) and (8) apply with the necessary changes.

(d) An electronic communication service provider shall not allow service continuation on its electronic communication system in respect of any activated SIM-card if the information referred to in paragraph (b) has not been recorded and stored by 30 June 2011.

[Sub-s. (6) substituted by s. 4 of Act No. 48 of 2008. Para. (d) substituted by s. 1 (b) of Act No. 21 of 2010.]

(Date of commencement of sub-s. (6): 1 July, 2009. Refer to s. 63 (2).)

62 B. Information to be provided to customers.—

An electronic communication service provider who provides a mobile cellular electronic communications service must, from the date of commencement of this section, inform—

(a) a customer of his or her obligations in terms of sections 40, 41 and 62(6) and 62C of the Act;

(b) a customer of the manner in which the obligations must be complied with; and

(c) a customer of the consequences of non-compliance with the obligations.

[S. 62B inserted by s. 5 of Act No. 48 of 2008.]

62C. Keeping of information by juristic persons and persons who lease SIM-cards.—

(1) Any juristic person, having complied with section 40 (2) or 62 (6), and who provides a SIM-card to a person in its employment must, before handing over the SIM-card to the other person—

(a) record the particulars as required in section 40 (2) and the date on and period for which the SIM-card is provided; and-

(b) verify-

(i) the full names, surname, identity number and identity of the person to whom the SIM-card is provided; and

(ii) the address contemplated in section 40 (3) (a) (iii), by means of documentation contemplated in section 40(3)(b).

(2) Any person, having complied with section 40 (2) or 62 (6), and who rents a SIM-card to another person must, before handing over the SIM-card to the other person—

(a) record the particulars as required in section 40 (2) and the date on and period for which the SIM-card is rented; and

(b) verify-

(i) the full names and surname, identity number and identity of the person to whom- the SIM-card is rented;

(ii) the name and, where applicable, the registration number of the juristic person; and

(iii) the address contemplated in section 40 (3) (a) (iii), by means of documentation contemplated in section 40 (3) (b).

(3) The information referred to in subsections (1) and (2) must be stored for a period of five years.

(4) (a) An applicant may, for the purposes of making an application for the issuing of a direction, in writing request a person contemplated in subsection (1) or (2) to provide the applicant with the information recorded and stored in terms of subsection (1) or (2), respectively.

(b) A person contemplated in subsection (1) or (2) who receives a request referred to in paragraph (a) must immediately comply with that request if the request relates to any SIM-card in its, his or her possession or to any person to whom the SIM-card was provided or rented.

(5) If a person contemplated in subsection (1) or (2) knows or suspects that an identification document submitted for verification as contemplated in section 40 (3) is false, it, he or she must, within 24 hours, report the matter to a police official at any police station.

[S. 62C inserted by s. 5 of Act No. 48 of 2008.]



RESELLER AGREEMENT

Between

Blue Beat Digital (Pty) Ltd

Registration Number: 2017/052606/07

(Hereinafter referred to as "**Blue beat**")

And

Name & Surname / Company Name: _____

Identity Number / Registration Number: _____

(Hereinafter referred to as the "**RESELLER**")

INITIALS: _____

INTERPRETATION AND DEFINITIONS

- 1.1 In this Agreement, headings embodied in the clauses are for convenience only and will not be used in its interpretation and, unless the context of this Agreement clearly indicates a contrary intention:
 - 1.1.1 the singular will include the plural and vice versa.
 - 1.1.2 a reference to any gender will be capable of being construed as a reference to any of the others; and
 - 1.1.3 a reference to a natural person will be capable of being construed as a reference to an artificial person or vice versa.
- 1.2 Any reference in this Agreement to an enactment is to that enactment as at the Effective Date and as amended or re-enacted from time to time.
- 1.3 The rule of construction, that in the event of ambiguity, the contract will be interpreted against the Party responsible for the drafting thereof, will not apply in the interpretation of this Agreement.
- 1.4 The expiration or termination of this Agreement will not affect such of the provisions of this Agreement that expressly provide that they will operate after any such expiration or termination or, which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.5 In the event that the terms defined in the RICA Agreement vary to those defined herein, the terms defined herein shall prevail when interpreting this Agreement.
- 1.6 In the event of a conflict between the Terms of this Agreement and the RICA Agreement, the terms of the RICA Agreement shall prevail.
- 1.7 This Agreement will be read together with the provisions of RICA. In the event of a conflict between the provisions of RICA and the terms and conditions as herein contained, the provisions of RICA will prevail. Notwithstanding the aforesaid, any obligations which RICA imposes on Blue Beat and which Blue Beat imposes on the Reseller by virtue of the Reseller's activities pursuant to the conclusion of this Reseller Agreement or the RICA Agreement, shall apply notwithstanding anything contained to the contrary in RICA.
- 1.8 In this Agreement, save to the extent that the context clearly otherwise dictates, the words and expressions set forth below will bear the following meanings and cognate expressions will bear corresponding meanings:
 - 1.8.1 "**Activate**" means to allow access to the Network of an Electronic Communication Service Provider and "activated" has a corresponding meaning;
 - 1.8.2 "**Acts**" means RICA and/or the ECA;
 - 1.8.3 "**Agreement**" means this agreement, all annexures, and any amendments hereto from time to time;
 - 1.8.4 "**Blue Beat**" means Blue Beat Digital (Pty)Ltd Registration number 2017/052606/07 ;
 - 1.8.5 "**Business Days**" means any weekday other than Saturdays, Sundays, or public holidays in the Territory;
 - 1.8.6 "**Commencement Date**" means earlier of the Effective Date stipulated in this Agreement or the date on which Blue Beat first sells or provides any SIM Card to the Reseller;
 - 1.8.7 "**Customer**" means a "customer" defined in RICA and for the sake of completeness will include any person, whether an individual or legal entity, who requests the Activation of a SIM Card on any Network;
 - 1.8.8 "**Customer Information**" means any personal or other information provided to the Reseller by a Customer including any information and documentation supplied in order to Register any SIM Card or as part of the Verification Process and as required by the relevant Electronic Communication Service Provider;
 - 1.8.9 "**ECA**" means the Electronic Communications Act, No 36 of 2005;
 - 1.8.10 "**Effective Date**" means the Signature Date;
 - 1.8.11 "**Electronic Communication Service Provider**" shall have the meaning ascribed to it in RICA and includes MTN, Vodacom, Cell C, Telkom, and any other Electronic Communication Service Provider who supplies SIM Cards to Blue Beat for distribution from time to time;
 - 1.8.12 "**Electronic Communication Network**" or "**Network**" means any system of electronic communications facilities (excluding subscriber equipment) operated or used by an Electronic Communication Service Provider including without limitation:
 - 1.8.13 satellite systems;
 - 1.8.13.1 fixed systems (circuit and packet switched);

INITIALS: _____

B.S. Taitz // Director

Unit 17, Rambo Junxion, 400 Roan Crescent,
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VAT No: **4400215713**
info@bluebeat.digital

Reseller Agreement

- 1.8.13.2 mobile systems;
- 1.8.13.3 fibre optic cables (under sea and land based);
- 1.8.13.4 electricity cables systems (to the extent used for electronic communications services); and
- 1.8.13.5 other transmissions systems, used or conveyance of electronic communications;
- 1.8.14 **"Front End Capture Point"** means the place at which, and the time when the Customer's RICA Data and Customer Information details are recorded by the Reseller for the purposes of Registration;
- 1.8.15 **"ICASA"** means the Independent Communications Authority of South Africa established in terms of the Independent Communications Authority Act, No 13 of 2000, to regulate, inter alia, the electronic communications market in the Territory;
- 1.8.16 **"Identity Document"** shall have the meaning ascribed to it in RICA;
- 1.8.17 **"Interface Service Provider"** means the interface service provider company duly appointed by an Electronic Network Service Provider, from time to time, that designs and supplies the Solution to provide the link from, between and to the Front-End Capture Point and the Electronic Communication Service Provider's RICA data capture system and *vice versa* for Registration and / or deregistration of Customers' SIM Cards;
- 1.8.18 **"Minister"** means the "Minister" as defined in RICA;
- 1.8.19 **"MSISDN"** means the Mobile Station International Subscriber Directory Number programmed into each SIM Card supplied by Blue Beat to the Reseller;
- 1.8.20 **"Parties"** means Blue Beat and the Reseller collectively and "Party" will mean either one of them as the context may dictate;
- 1.8.21 **"RICA Agreement"** means: means the agreement to be concluded between Blue Beat and the Reseller in terms of which the Reseller, as a RICA Agent as provided in the RICA Agreement, is authorised and appointed to fulfil the Registration and Verification Process requirements in accordance with RICA and as required in law in order to Activate or apply to Activate any SIM Card on any Network, in accordance with the terms contained therein which agreement is necessitated by the conclusion of this Agreement;
- 1.8.22 **"Registration / Register" or "Registered"** means the Reseller must or has:
 - 1.8.22.1 face to face, correctly verified the RICA Data, documents and Customer Information of a Customer which are required to be verified in terms of section 40 of RICA and any other legislation;
 - 1.8.22.2 recorded the RICA Data and Customer Information using the Solution;
 - 1.8.22.3 RICA Data and Customer Information has been successfully transmitted to the Electronic Communication Service Provider's RICA database, for storage;
 - 1.8.22.4 the Electronic Communication Service Provider, has successfully received and recorded the transmitted RICA Data and Customer Information and further, has accepted same for the purposes of SIM Card Activation and/or RICA compliance for SIM Cards;
 - 1.8.22.5 has advised the Customer of his/her obligations in terms of RICA;
 - 1.8.22.6 has advised the Customer of the consequences of non-compliance with RICA; and
 - 1.8.22.7 complied with all requirements of the RICA Agreement and the Electronic Network Service Provider regarding registering and activating SIM Cards and registering Customers;
 - 1.8.22.8 **"RICA"** means the Regulation of Interception of Communications and Provision of Communication Related Information Act No 70 of 2002 (as amended);
- 1.8.23 **"RICA Data"** means that information detailed in Section 40 (forty) of RICA and/or any information which substitutes and/or expands upon such information and is required at any time to Register a SIM Card or for Activation;
- 1.8.24 **"RICA Registration Officer"** means the employees, agents or representatives of the Reseller, who may be appointed by the Reseller for the purposes of giving effect to the compliance of the Reseller 's obligations as detailed in this Agreement;
- 1.8.25 **"Signature Date"** means the date on which the last Party in time signs this Agreement.
- 1.8.26 **"SIM Card"** means the Subscriber Identity Module having a specific MSISDN and which is an independent, electronically activated device designed for use in conjunction with a cellular phone or other device to enable the user

INITIALS: _____

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Reseller Agreement

of the cellular phone or device to transmit and receive indirect communications by providing access to the Network and enabling the Network to identify the particular Subscriber Identity Module and its installed information;

- 1.8.27 "**Solution**" means the electronic and or manual process to Register Customers and confirm the Verification Process, including but not limited to, the recorded and/or the transmission of the RICA Data and Customer Information to the relevant Electronic Communication Service Provider via the Terminal Equipment and/or the Interface Service Provider software and/or equipment as determined by Blue Beat, or specified by the relevant Electronic Communication Service Provider, from time to time;
- 1.8.28 "**Terminal Equipment**" means any equipment approved by ICASA to be used for purposes of RICA Data capture including but not limited to a handset or handheld device which may be supplied by Blue Beat or a Network provider; and
- 1.8.29 "**Territory**" means the Republic of South Africa;
- 1.8.30 "**Verification process**" means the process referred to in the RICA Agreement and RICA and as may be required from time to time by any an Electronic Network Service Provider, to verify and record and store the RICA Data and Customer Information prior to activating or requesting the activation of any SIM Card on a Network.

RECORDAL

- 2.1 The Reseller wishes to procure SIM Cards from Blue beat for sale and distribution to Customers. Blue Beat is prepared to appoint the Reseller as a non-exclusive reseller of SIM Cards in the Territory on the terms and conditions contained in this Agreement and the RICA Agreement.
- 2.2 With effect from 01 July 2009 and following an amendment of the RICA Act No. 48 of 2008 ('RICA'), as promulgated in the Government Gazette No 31784, no SIM Card (whether pre-paid or post-paid) may be Activated on any Electronic Communication Network unless the Electronic Communication Service Provider has recorded and stored specified RICA Data information. This RICA Data and any Customer Information must be supplied by and obtained from anyone requesting such Activation.
- 2.3 Failure to verify and capture the required information of the Customer and the Customer's SIM Cards, will result in that SIM Card being denied access to the Network and any Activation of a SIM Card without having first verifying and capturing the required information will be unlawful.
- 2.4 The Reseller is obliged at the time of attending to the Registration and Verification Process to inform the Customer of certain RICA obligations, the manner in which they must be complied with and the legal consequences of non-compliance.
- 2.5 In order to enable the Reseller to provide, sell and Activate SIM Cards supplied by Blue Beat, the Reseller is required and undertakes, as a condition of supply by Blue Beat, to comply with the provisions of this Agreement and the RICA Agreement which the Reseller undertakes to do.
- 2.6 The Reseller acknowledges that compliance with the provisions of RICA and this Agreement is critical to both the Resellers and Blue Beat's compliance with RICA and that, notwithstanding the authority granted to it in this Agreement or otherwise, it is not entitled to promote, provide and/or sell and/or Activate SIM cards unless the RICA Agreement has been properly concluded by the Parties and the Reseller complies with the terms thereof and all requirements of RICA and any applicable legislation.
- 2.7 The Parties contemplate concluding this Agreement simultaneously with the RICA Agreement and agree that until the RICA Agreement is concluded the Resellers entitlements to any and all benefits under this Agreement are suspended.
- 2.8 The terms of this Agreement relating to the rights of the Reseller to receive and to continue to receive any payments and benefits from Blue Beat, apply to all SIM Cards sold or provided to the Reseller by Blue Beat, whether at any time before or after the Signature Date, and to all benefits and payments arising therefrom.

CONDITIONAL APPOINTMENT

- 3.1 By virtue of the conclusion of this Agreement and, provided that the Reseller complies with its terms and with the terms of the RICA Agreement, Blue Beat hereby appoints the Reseller as a non-exclusive reseller of SIM Cards which appointment the Reseller accepts on the terms and conditions set out in this Agreement.

INITIALS: _____

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Reseller Agreement

- 3.2 The Reseller agrees and undertakes not to promote, provide and/or sell and/or Activate or apply to Activate SIM cards, particularly any sold, supplied by or sourced through Blue beat, unless and until it has complied, fully, with all obligations in the RICA Agreement and RICA to Register the Customer and to complete the Verification Process.
- 3.3 Nothing in this Agreement shall confer any exclusivity on the Reseller.
- 3.4 The entitlement of the Reseller to receive any payment or benefit under this Agreement is suspended in its entirety pending the Resellers signature of the RICA Agreement. Blue beats' obligations to supply SIM Cards or any other benefit or product to the Reseller are similarly suspended pending the resellers signature of the RICA Agreement.
- 3.5 In the event that the Reseller has not signed the RICA Agreement within 7 (seven) days of the Signature Date, Blue Beat may summarily and immediately terminate this Agreement by giving the Reseller written notice thereof.
- 3.6 This Agreement and the terms of the RICA Agreement shall apply to the exclusion of all other terms to all SIM Cards are supplied by Blue Beat before or after conclusion of this Agreement.

DURATION

- 4.1 Notwithstanding the Signature Date, this Agreement will commence on the Commencement Date and will, subject to the provisions of clause 14 below, and any other rights of earlier termination, continue to run in parallel with the RICA Agreement, until:
 - 4.1.1 the RICA Agreement is cancelled or terminated or
 - 4.1.2 this Agreement is cancelled or terminated in accordance with clause 3 or 14 hereof, whichever is the sooner.

MARKETING PLANS

- 5.1 The Reseller will provide a marketing plan to Blue Beat for Blue Beat's approval and once approved by Blue Beat, the Reseller shall comply with and meet or exceed any targets included in the marketing plan.
 - 5.2 Marketing plans shall:
 - 5.2.1 Be provided by the Reseller in writing within 30 (thirty) days of the Signature Date and every 6 (six) months thereafter.
 - 5.2.2 Contain Detail of the proposed:
 - 5.2.3 distribution targets (numbers of SIM Cards to be distributed and activated and percentages of SIM Cards to be Activated)
 - 5.2.3.1 areas of distribution; and
 - 5.2.3.2 any other targets or performance indicators that Blue Beat requires the Reseller to address and meet from time to time.
- for Blue Beat's approval.
- 5.3 Blue Beat shall provide the Reseller with details of any changes required to the marketing plan in order to approve the marketing plan. Once approved, the Reseller shall comply with the marketing plan and meet or exceed all targets therein.
 - 5.4 The marketing plan shall be adapted as required to accommodate any promotions or conditions or additional benefits that Blue Beat may package with or attach to any SIM Cards from time to time.
 - 5.5 Blue Beat may withhold the supply of SIM Cards pending agreement on the Marketing Plan.

ORDERS AND PAYMENT TO BLUE BEAT

- 6.1 Orders for any Sim Cards shall be made in writing to Blue Beat .
- 6.2 Blue Beat may accept or reject in whole or in part, any order. Acceptance of any order shall always be subject to availability of the SIM cards.
- 6.3 The prices of SIM Cards shall be that set out in the prevailing deal sheet where one has been issued and applies, failing which as contained in Blue Beat's prevailing price list.
- 6.4 The Reseller shall pay to Blue Beat the full amount due to Blue Beat on receipt of an invoice from Blue Beat unless Blue Beat has agreed in writing to extend credit to the Reseller. The extending of credit, its terms and the withdrawal thereof shall at all times be within Blue Beat sole discretion.

INITIALS: _____

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Reseller Agreement

- 6.5 The Reseller consents to Blue Beat using and providing electronic invoices by email.
- 6.6 All amounts due to Blue Beat shall be paid by electronic fund transfer into the bank account nominated in writing by Blue Beat and all amounts due shall be paid in full and without deduction or set off on or before due date.
- 6.7 Should any amount not be paid by the Reseller on due date, the full outstanding amount in respect of all purchases by the Reseller shall become due and payable, and the Reseller shall be liable to pay interest in respect of amounts unpaid at the compound rate of a 5% (five per cent) above the prime overdraft rate of Nedcor Bank Limited on all overdue amounts from due date until date of payment, calculated and payable monthly in advance. A certificate from Nedcor Bank Limited, signed by any manager of such bank, whose authority and capacity it shall not be necessary to prove, shall be *prima facie* proof of the interest rate charged.
- 6.8 Blue Beat shall not bear any risk associated with the loss of cheques sent via post by the Reseller.
- 6.9 Any quote given by Blue Beat may be changed at any time in the event of any increase in the cost price of the SIM Cards, including currency fluctuations. Price increases will only be affected if the SIM Cards have not yet been dispatched to the customer.
- 6.10 Where Blue Beat supply any SIM Card with pre-packaged benefits or as part of a promotion, the Reseller shall be obliged to sell or distribute such SIM Cards only with the pre-packaged benefits and in accordance with the promotion. The Reseller shall not apply or use or sell the promotional or pre-packaged benefits separately or other than with the SIM Cards supplied therewith by Blue Beat and other than as required by Blue Beat.

DELIVERY

- 7.1 Any delivery note (copy or original) signed by the Reseller and/or its authorised representative and/or its nominated agent and held by Blue Beat, shall be *prima facie* proof that delivery was made to the Reseller as reflected therein.
- 7.2 Blue Beat shall be entitled to split the delivery of the SIM Cards ordered in the quantities and on the dates it decides.
- 7.3 In the event of the Reseller choosing to engage its own third party to transport the SIM Cards, the Reseller indemnifies Blue Beat against any claims of any nature whatsoever that may arise from such an agreement.
- 7.4 Blue Beat is entitled to engage a third party on its behalf to transport all SIM Cards purchased or ordered by the Reseller to the delivery address stipulated by the Reseller.
- 7.5 Should the Reseller wish to receive delivery of the SIM Cards by a more expensive method of transportation than that normally used by Blue Beat, the Reseller shall make such request in writing and, in the event that Blue Beat agrees to arrange such special delivery the additional charges shall be debited to the Reseller's account and shall be payable by the Reseller.
- 7.6 Blue Beat does not guarantee that the SIM Cards will be dispatched or delivered on any particular date and time. Delivery times and dates that are given shall be estimates only.
- 7.7 Short deliveries must not be accepted, and all the goods must be given to the driver of the delivery vehicle for return to the company.
- 7.8 Goods received in a damaged condition must either be rejected or accepted, and a note of the item and type of damage made on the front of the invoice. Were the goods are rejected, the entire delivery must be returned as per clause 7.7, above.
- 7.9 Blue Beat reserves the right to charge delivery charges, as and when necessary (R100 delivery charge for any order under R1 000).
- 7.10 The reseller shall have no claim against Blue Beat arising out of any short deliver, late delivery, or failure to deliver.
- 7.11 Notwithstanding the acceptance of any order, Blue Beats obligation to supply or deliver any SIM Card is at all times subject to availability of the SIM Cards ordered and the Electronic Network Service Provider supplying the SIM Cards to Blue Beat.

OWNERSHIP AND RISK

- 8.1 All risk in and to all SIM Cards sold or supplied by Blue Beat to the Reseller shall pass to the Reseller on delivery thereof.
- 8.2 Ownership in all SIM Cards delivered, to the extent they are not reserved by the Electronic Communication Service Provider, shall remain vested in Blue Beat until the full purchase price has been paid.

INITIALS: _____

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- 8.3 In the event of a breach of this Agreement by the Reseller, or if the Reseller is sequestrated or placed under liquidation or judicial management or commits any act of insolvency or enters into any compromise with its creditors or fails to satisfy a judgement granted against it within 7 (seven) days of the date of judgement or changes the structure of its ownership, Blue Beat shall be entitled to take possession of the SIM Cards without prejudice to any further rights vested in Blue Beat, and is hereby irrevocably authorised to enter upon the Reseller's premises to take possession of such goods without a Court order.

DEAL SHEETS AND PAYMENTS

- 9.1 Any revenue generated through the Activation or use of any SIM Card and paid to Blue Beat by the Electronic Network Service Provider shall belong to Blue Beat.
- 9.2 Blue Beat may provide the Reseller with written deal sheets from time to time setting out the benefits payable to the Reseller for any period of time payable against monies paid to Blue Beat following Activation and use of a SIM Card supplied or sold by Blue Beat to the Reseller and as provided in this Agreement and any deal sheet. No benefits or payments shall be due to the Reseller unless the SIM Card to which the payment is linked was Activated in accordance with RICA and the RICA Agreement. For purposes hereof the deal sheet may specify the benefits (and conditions for payment and levels of payments) payable:
- 9.2.1 On Activation of a SIM Card;
- 9.2.2 Against on-going revenue generated from the Customers spend on the SIM Card;
- 9.2.3 As a marketing incentive;
- 9.2.4 For any other reason.
- 9.3 The deal sheets shall be valid for the period, and shall be subject to the conditions, stated therein. In the event of any conflict between the terms of this Agreement and any deal sheet, the terms of this Agreement shall prevail unless the deal sheet expressly provides otherwise.
- 9.4 Blue Beat may amend or withdraw any deal sheet, regardless of any validity period stated therein, on 30 (thirty) days written notice or immediately in the event that the Electronic Network Service Provider changes the terms of supply or payment to Blue Beat.
- 9.5 Where no deal sheet has been issued or applies or the deal sheet has lapsed then the Reseller shall be entitled only to the prevailing benefits that Blue Beat pays from time to time. Where there is any conflict between the deal sheet and the list of benefits that Blue Beat publishes from time to time, the deal sheet shall prevail and apply to the extent of the conflict. Blue Beat may publish the prevailing benefits that apply where there is no applicable deal sheet, on its web site, on the invoices it issues the Reseller or in any other manner.
- 9.6 The Resellers rights to payment of any amount or to receive or be paid any benefit (financial or otherwise) are conditional on and subject to the conditions in this clause 9.6 being met. No right to any payment or benefit shall accrue to or arise in favour of the Reseller, until and unless all of these conditions have been met:
- 9.6.1 Blue Beat has expressly agreed to the benefit or payment in a valid written deal sheet given to the Reseller or the payment or benefit appears in the prevailing current published list of benefits which Blue Beat pays; and
- 9.6.2 The Reseller has met all of the conditions for the payment or benefit as set out in this Agreement and any deal sheet and the rights have not been forfeited, lost, or superseded as provided in this or any agreement; and
- 9.6.3 The rights of the Reseller to receive the payments and benefits have not terminated, been forfeited, or lapsed or been suspended or otherwise lost in terms of this Agreement; and
- 9.6.4 This Agreement has not been cancelled or terminated; and
- 9.6.5 Blue Beat has received such payment from the Electronic Network Service Provider of the amounts payable to Blue Beat for the particular SIM Cards use or Activation or for marketing, as the case may be, against which the Reseller would be entitled to payment.
- 9.7 Notwithstanding the inclusion in a deal sheet or list of benefits, of any product, SIM Card, or benefit, where the product, SIM Card, or benefit, is discontinued or changed by the Electronic Network Service Provider or not provided to Blue Beat, Blue Beat shall not be obliged to provide the product, SIM Card or give the benefit to the Reseller. The Reseller

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acknowledges that product, SIM Card and benefits and their specifications are subject to change and that the Electronic Network Service Provider may change or discontinue specifications or products, SIM Cards, or benefits at any time.

- 9.8 The Resellers rights to any payment are subject at all times to the conditions in clause 9.6 above and otherwise stated in this Agreement and shall arise and accrue on a monthly basis only when the conditions in clause 9.6 and elsewhere in this Agreement have been met. No payment by Blue Beat to the Reseller shall be due until the conditions in clause 9.6 above and elsewhere in this Agreement have been met regardless of when the SIM Card to which the payment is linked was supplied or sold to the Reseller by Blue Beat
- 9.9 On receipt of the payments from the Payments and reports from the Electronic Network Service Provider, Blue Beat will produce the reports as describe in clause 12.3 against which the Reseller will issue an invoice to Blue Beat. Blue Beat will make payment of amounts due to the Reseller will be made by Blue Beat within 30 (thirty) days of receipt of an invoice from the Reseller of a correct and valid VAT invoice.
- 9.10 Where the Reseller queries the status of any SIM Card, its Activation or extent of use or payments deriving therefrom, the records of the Electronic Network Service Provider as provided to Blue Beat shall be definitive of the position save in the event of manifest error.
- 9.11 Blue Beat may set off any amount due to the Reseller by Blue Beat against any amount due by the Reseller to Blue Beat.
- 9.12 All rights to payments or benefits from Blue Beat shall be suspended for so long as the Reseller is in breach of any term of this Agreement or the RICA Agreement.

FORFEITURE AND TERMINATION OF RIGHTS TO REVENUE

- 10.1 All rights of the Reseller to receive any further revenue or benefits or payments of any nature from Blue Beat (regardless of whether the SIM Card to which the payment is linked was supplied and / or activated before or after the Signature Date), shall cease and be forfeited automatically and immediately:

10.1.1 on cancellation or termination of this Agreement, for any reason; or

10.1.2 in the event that Blue Beat institutes any legal proceedings (including arbitration) against the Reseller for recovery of any amount or to enforce compliance with this Agreement or the RICA Agreement or any other agreement between the parties.

The Reseller shall have no claim arising therefrom.

- 10.2 For clarity: On termination or cancellation of this Agreement for any reason or the institution of legal proceedings by Blue Beat:

10.2.1 The Reseller shall forfeit, without claim, all rights to receive any payments, incentives or benefits of whatsoever nature that are due or would become due and payable after the date of termination or cancellation of this Agreement;

- 10.2.2 the provisions of clause 10.1 shall not be interpreted as preventing a Party from recovering from the other any amounts which are already due and payable but have not been paid as at date of termination or cancelation.

ASSETS

- 11.1 Where Blue Beat provides any assets, including any vehicle or System for attending to Registration or any other equipment, (hereinafter "Assets"), to the Reseller, the assets shall be provided on loan to the Reseller and ownership therein shall not transfer to the Reseller but shall remain vested in Blue Beat.

- 11.2 All Assets are provided:

11.2.1 Voetstoots;

11.2.2 As is and without any warranties at all;

11.2.3 For use only by the Reseller for the duration of this Agreement or until Blue Beat demands return, whichever occurs first;

11.2.4 For use at the sole risk of the Reseller.

- 11.3 Any Assets provided by Blue Beat to the Reseller shall:

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Reseller Agreement

- 11.4 Be returned in good working order and in the condition, they were at the time of handover to the Reseller, fair wear and tear only excepted, and without lien or any right of retention, all of which the Reseller abandons and agrees to abandon, on the earlier of:
- 11.4.1 termination or cancellation of this Agreement for any reason; or
 - 11.4.2 on demand by Blue Beat;
 - 11.4.3 Remain under the direct control of the Reseller and shall not be sold, transferred, loaned, or given to any third party.
- 11.5 The Reseller shall at its cost and risk:
- 11.5.1 Maintain and service and where required, repair, at its cost the Assets as required by the manufacturer and to ensure that the Assets retain their functionality and condition, using only original parts and service and repair facilities approved by the manufacturers.
 - 11.5.2 Ensure that the Assets are used only for their intended purpose and in connection with fulfilling the Resellers obligations to Blue Beat and for no other purpose;
 - 11.5.3 Comprehensively insure for the full replacement value, all Assets provided by Blue Beat;
 - 11.5.4 Use only manufacturer approved parts and consumables for the Assets;
- 11.6 The Reseller shall:
- 11.6.1 Not alter, improve, or modify the Assets;
 - 11.6.2 Have no claim for compensation for any repairs, maintenance, servicing, or improvements (of any nature) to the Assets whether effected with Blue Beat's consent or not;

UNDERTAKINGS BY BLUE BEAT

Blue Beat will use reasonably commercial endeavours to:

- 12.1 Procure the SIM Cards ordered by the Reseller;
- 12.2 Secure competitive pricing for the SIM Cards;
- 12.3 Provide an Activation report within 72 hours after the Electronic Network Service Providers has made this information available to Blue Beat.
- 12.4 Provide a weekly connections report showing the Activation of SIM Cards. This report will include new connections as well as number for life porting. A connection means that the Electronic Network Service Provider registers that a voice call, SMS or data transaction has been made on the Network from the SIM Card in question.
- 12.5 Meet delivery dates and requested delivery times. The reseller accepts that Blue Beat is dependent on the Electronic Network Service Providers for the provision and delivery of SIM Cards and cannot deliver SIM Cards unless and until the Electronic Network Service Providers make them available to Blue Beat.
- 12.6 Provide or procure training to the Reseller and/or RICA Registration Officers in respect of the Registration of Customers, the Verification Process and use of the Solution;
- 12.7 Notify the Reseller timeously of any amended or new deal sheets or promotions the Reseller is invited to participate in.

AMENDMENTS AND RIGHTS

- 13.1 Where any rights of Blue Beat to obtain SIM Cards or to receive any payment or benefit from an Electronic Network Service Provider is withdrawn, cancelled, restricted, or reduced, the rights of the Reseller against Blue Beat shall automatically similarly be withdrawn, cancelled, restricted, or reduced.
- 13.2 The Reseller agrees that where Blue Beat is adversely affected by any decision of an Electronic Network Service Provider, the rights of the Reseller against Blue Beat shall be automatically modified accordingly without any claim from the Reseller arising therefrom. By way of example, where an Electronic Network Service Provider withdraws or reduces Blue Beat's rights to receive any payments, the rights of the Reseller to receive payment from Blue Beat shall be automatically withdrawn or reduced to the same extent.
- 13.3 Blue Beat may withhold:
 - 13.3.1 delivery or supply of SIM Cards to the Reseller; and

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13.3.2 payment of any amount or benefit due to the Reseller whilst the Reseller is in breach of any obligation under this Agreement including stock undertaking as outlined in Annexure B.

- 13.4 Blue Beat shall be entitled from time to time to add to, amend or change as required the deal sheets or published list of payments and benefits and conditions in respect thereof.
- 13.5 Blue Beat reserves the rights to amend these terms and conditions as required on 30 (thirty) days' notice. Where the Reseller does not accept the change, Blue Beat may refuse to sell or provide further SIM Cards to the Reseller.

BREACH AND TERMINATION

- 14.1 Should either Party commits a breach of the terms of this Agreement, all of which are deemed to be material, and fail to remedy that breach within 7 (seven) calendar days of receipt of written notice to do so by the other Party (the "aggrieved party") then the aggrieved party shall be entitled to either claim specific performance or terminate this Agreement forthwith by notice in writing to the other Party. The rights of termination accorded to the aggrieved party shall, subject to any limitations set out below, be in addition to and without prejudice to its rights under this Agreement and/or its rights at common law including but not limited to the right to claim damages.
- 14.2 Blue Beat shall be entitled to regard a breach of the RICA Agreement as a breach of this Agreement and *vice versa*.
- 14.3 Unless otherwise advised by Blue Beat, this Agreement shall terminate automatically and immediately in the event that:
- 14.3.1 the RICA Agreement is cancelled or terminates, for whatever reason; or
 - 14.3.2 the Reseller is liquidated or sequestrated (provisionally or finally); or placed in business rescue; or if an individual, dies;
 - 14.3.3 the Reseller ceases trading;
 - 14.3.4 the Reseller or any of its business or assets are acquired by a competitor of Blue Beat.
- 14.4 Blue Beat may terminate this Agreement, without cause, at any time on 60 (sixty) calendar days written notice to the Reseller.
- 14.5 The Reseller shall have no claim against Blue Beat arising out of any termination or cancellation howsoever arising.
- 14.6 The Reseller shall be responsible for all acts and omissions of its employees, agents and all RICA Registration Officers appointed by it. The acts and omissions of the foregoing shall be deemed to be the acts and omissions of the Reseller.
- 14.7 The rights in terms of this clause 14 are without prejudice to the Party's rights set out or accorded otherwise in terms of this Agreement or at law.
- 14.8 Where Blue Beat incurs any costs in enforcing any term of this Agreement or the RICA Agreement Blue Beat shall be entitled to recover costs on the attorney and client scale.

INDEMNITY

- 15.1 The Reseller hereby indemnifies and holds Blue Beat, its members, directors, and agents, harmless and agrees to keep the foregoing indemnified and held harmless, against:
- 15.1.1 any fine, penalty or the like imposed in terms of RICA or by any Electronic Communication Service Provider resulting from any failure to comply with RICA or this Agreement; and
 - 15.1.2 any loss, harm, cost, expense, or damages suffered by Blue Beat, arising out of any breach by the Reseller of any obligation in terms of this Agreement or any failure to comply with any legal obligation.
- 15.2 The Reseller shall be responsible for all acts and omissions of its employees, agents and all RICA Registration Officers appointed by it. The acts and omissions of the foregoing shall be deemed to be the acts and omissions of the Reseller.

EMPLOYEES AND SUB-RESELLERS

- 16.1 The Reseller shall ensure that it and any employees or sub-resellers it may appoint comply with all obligations imposed on the Reseller in this Agreement and the RICA Agreement and any other laws applicable to the sale, distribution, provision, use or Activation of SIM Cards.
- 16.2 The Reseller shall conclude agreements with its employees, agents, and sub-resellers in terms of which the employees, agents and sub-resellers are required, contractually, to comply with the provisions of this Agreement and sections 40 and

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62 of RICA and any other provisions which are relevant to the sale, supply and/or Activation of SIM Cards and/or the Registration of information applicable thereto and the Verification Process and handling of Customer Information.

- 16.3 Should the Reseller have reasonable grounds to suspect that any of its employees, agents or sub-resellers are not complying with RICA or any obligation imposed on the Reseller by Blue Beat in this Agreement or the RICA Agreement or any requirement of an Electronic Communication Service Provider, the Reseller shall stop the practice immediately and provide a written report to Blue Beat detailing the non-compliance, parties involved, and steps taken to correct the non-compliance.
- 16.4 The Reseller shall ensure that its employees, agents, or sub-resellers are at all times adequately supervised and are provided with all assistance required to ensure compliance with the terms of this Agreement and RICA.
- 16.5 The Reseller shall ensure that neither it nor that its employees, agents, or sub-resellers are disparaging of Blue Beat nor do anything that will or likely to embarrass Blue Beat, circumvent Blue Beat or bring Blue Beat's name or reputation into disrepute.
- 16.6 Nothing in this Agreement shall be construed as creating any employment arrangement between Blue Beat and any employee, agent, or sub-reseller of the Reseller. All RICA Registration Officers shall be and shall remain employee of the Reseller.

REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

- 17.1 SIM Cards and any other goods or products supplied by Blue Beat are supplied only with such manufacturer's warranty that may accompany the SIM Card or product. Blue Beat provides no additional warranty.
- 17.2 The Reseller hereby warrants and represents that:
- 17.2.1 It has a full and proper understanding of RICA and its requirements, restrictions and penalties and is able to comply and ensure compliance with the requirements of RICA and this Agreement;
- 17.2.2 It can and will ensure that SIM Cards are distributed and activated without breaching any laws including those related to corruption and requiring compliance with laws specifically applicable to SIM Cards, including RICA;
- 17.2.3 It has the full capacity and authority and all necessary licenses, permits and consents (including but not limited to, where its circumstances and procedures so require, the consent of its parent company) to enter into, and to comply with its obligations under this Agreement and any other documents to be entered into by it hereunder, and that this Agreement constitutes valid, binding, and enforceable obligations on the Reseller.

CONFIDENTIALITY

- 18.1 The Reseller shall keep as strictly confidential and shall not use, publish, or divulge to any third party, save as strictly required to comply with its obligations under this Agreement:
- 18.1.1 the provisions of this Agreement;
- 18.1.2 the negotiations relating to this Agreement;
- 18.1.3 the subject matter of this Agreement;
- 18.1.4 the RICA Data and/or Customer Information;
- 18.1.5 any and all information obtained by executing this Agreement, and/or obtained from Blue Beat;
- 18.1.6 any deal sheet or pricing or incentives or benefits offered by Blue Beat;
- 18.1.7 any pricing or incentive structure that Blue Beat receives,
- 18.1.8 details of Blue Beat's business, distribution network, distribution figures, Activation or retention rates or other information of commercial value to Blue Beat of which is not generally known;
- 18.1.9 details of any agreements between Blue Beat and any Electronic Network Service Provider or any other reseller or RICA Agent;
- 18.1.10 the business structure, business plans, salaries, sales figures, turnover, marketing plans or financial information pertaining to Blue Beat or any SIM Cards sold or supplied by Blue Beat.
- 18.2 The Reseller may disclose information which would otherwise be confidential only if and to the extent:
- 18.2.1 required by law;

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- 18.2.2 required by any securities exchange or regulatory or governmental body to which either Party is subject, wherever situated, whether or not the requirement for information has the force of law;
- 18.2.3 required to vest the full benefit of this Agreement;
- 18.2.4 the information has come into the public domain through no fault of the Reseller;
- 18.2.5 Blue Beat has given prior written approval to the disclosure, such approval not to be unreasonably withheld or delayed; provided that any information so disclosed will be disclosed only after written notification to the Reseller.

18.3 The provisions of this clause will survive any termination or expiration of this Agreement for a period of 5 (five) years.

ARBITRATION

- 19.1 Any dispute to be determined by arbitration in terms of this Agreement shall be determined in accordance with the last published Commercial Rules for arbitrations (the "Rules") laid down by the Arbitration Foundation of South Africa ("AFSA"), modified as provided below. The arbitration need not be administered by AFSA.
- 19.2 Any Party may demand that a dispute, be determined in terms of this clause 19 by written notice given to the other Party.
- 19.3 This Agreement shall constitute agreement to the submission and determination of such dispute by arbitration.
- 19.4 The Parties shall attempt to reach agreement on whether the nature of the dispute is legal, accounting, or other and on the identity of the arbitrator. Failing agreement on both the nature of the dispute and the identity of the arbitrator within 7 (seven) days of the arbitration having been demanded, the dispute shall be deemed to be a legal matter and the arbitrator shall be appointed at the request of either Party to the dispute by the Chairman for the time being of AFSA in terms of the Rules.
- 19.5 The arbitrator shall be if the matter in dispute is principally:
 - 19.5.1 a legal matter, or is deemed to be a legal matter, a Johannesburg based, practising senior advocate holding the title of Senior Counsel, of at least 15 (fifteen) years standing at least 5 (five) of which must be as a Senior Counsel;
 - 19.5.2 an accounting matter, a Johannesburg based practising chartered accountant of at least 15 (fifteen) years standing;
 - 19.5.3 or any other matter, any independent person, agreed upon between the Parties to the dispute.
- 19.6 The arbitrator shall give a reasoned award and make a cost award taxable by a cost consultant nominated by the arbitrator, applying the High Court attorney and client tariff. The taxed costs shall be deemed to be part of the arbitrator's award.
- 19.7 The arbitration shall be held in Sandton.
- 19.8 The Parties may be represented by attorneys and counsel, including Senior Counsel, if they wish.
- 19.9 The decision of the arbitrator may be made an order of court at the instance of any of the Parties to the dispute.
- 19.10 There shall be a right of appeal in the case of manifest or material error on the part of the Arbitrator or where the monetary value of any award (excluding costs) given by the arbitrator, if it is quantifiable, exceeds R 1000 000,00 (one million Rand).
- 19.11 The arbitrator shall be entitled to use his expertise and to create any process or procedure that will facilitate the expeditious disposal of the dispute. The arbitrator may determine any interlocutory matter on written application to him by a Party after having called on the other Party for a written response to the interlocutory application.
- 19.12 The Parties agree to keep the arbitration (including the subject matter of the arbitration and the evidence heard during the arbitration) confidential and not to disclose it to anyone except for the purposes of obtaining an order as contemplated herein.
- 19.13 The provisions of this clause 19:
 - 19.13.1 shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of the arbitrator;
 - 19.13.2 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions; and
 - 19.13.3 are severable from the rest of this Agreement and shall remain in effect despite the termination of or invalidity for any reason of this Agreement.

INITIALS: _____

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DOMICILIUM

20.1 The Parties hereto choose their *domicilia citandi et executandi* for all purposes of and in connection with this Agreement as follows:

20.1.1 **Physical Address:**

&

Blue Beat Digital (Pty) Ltd

Unit 17, Rambo Junxion, Corporate Park North, 400 Roan Crescent, Randjespark, Midrand, 1685

- 20.2 Either Party hereto will be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it will be an address other than a box number in the Territory and any such change will only be effective upon receipt of notice in writing by the other Party of such change.
- 20.3 All notices, demands, communications or payments intended for any Party will be made or given at such Party's *domicilium* for the time being.
- 20.4 A notice sent by one Party to another Party will be deemed to be received, unless the contrary is proved, on the same day, if delivered by hand, with receipt confirming delivery
- 20.5 Notwithstanding anything to the contrary herein contained in this Agreement, a written notice or documented communication received by a Party will be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi* or as provided herein.

CESSION

- 21.1 The Reseller shall not cede, assign, or make over any rights or obligations in this Agreement to any third party without the prior written consent of Blue Beat.
- 21.2 Blue Beat may cede and assign its rights and obligations under this Agreement and the RICA Agreement without requiring the consent of the Reseller.

GOVERNING LAW

This Agreement will be governed by the law of the Territory.

GENERAL

- 22.1 No latitude, extension of time or other indulgence which may be given or allowed by Blue Beat to the Reseller will in any way prejudice or operate so as to preclude Blue Beat from enforcing any of its rights in the future without notice, requiring strict and punctual compliance with each or every provision or term of this Agreement.
- 22.2 In the event of any one or more of these terms and conditions being unenforceable, illegal, void, or contrary to public policy, same will be deemed to be severable from the remainder of this Agreement, which will nevertheless be binding and enforceable.
- 22.3 This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof.
- 22.4 No variation, modification, deletion or addition or consensual cancellation of this Agreement or any clause, including this clause, will be valid or of any effect unless reduced to writing and signed by the Parties. For the purposes hereof, 'writing' will exclude electronic communication and 'signed' means signed with a pen and ink.

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- 22.5 Notwithstanding the provisions of clause 23.4 above, Blue Beat will be entitled, upon reasonable notice of not less than 30 (thirty) days to inform the Reseller of any intended variation or amendment of the terms and conditions of this Agreement as a result of any amendment to RICA.
- 22.6 Nothing in this Agreement shall constitute or be deemed to constitute any relationship of partnership or joint venture between the Parties or as conferring any power on either Party to represent or bind the other.
- 22.7 The Parties undertake to co-operate with each other to give effect to the terms of this Agreement.
- 22.8
- 22.9 The signature of any Party of a counterpart of this Agreement shall be as effective as if that Party had signed the same document as the other Parties.



Signed at _____ on this the ____ day of _____ 20__.

For and on behalf of

Reseller

Name: _____

Capacity: _____

Who warrants his authority hereto

COMPANY STAMP

INITIALS: _____

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Reseller Agreement

Signed at _____ on this the ____ day of _____ 20____.

For and on behalf of

Blue Beat Digital (Pty) Ltd

Name: _____

Capacity: _____

Who warrants his authority hereto

COMPANY STAMP

INITIALS: _____

B.S. Taitz // Director
Unit 17, Rambo Junxion, 400 Roan Crescent,
Midrand, Johannesburg, 1685

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Reg No: 2017/052606/07
VAT No: 4400215713
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