



CONFIDENTIALITY AGREEMENT

[INSERT DATE]

[INSERT COMPANY NAME]
[INSERT ADDRESS]
[INSERT CITY], [INSERT STATE] [INSERT ZIPCODE]
Attention: [INSERT NAME]

Dear: [INSERT NAME]

We are interested in discussing and/or engaging in a potential business relationship with you, and in the course of such discussions and/or engagement, we may disclose to you certain confidential and proprietary information and material of substantial value to us. This information and material may be in oral, written or other forms. You acknowledge that the disclosure of any such information or material to third parties will prejudice our ability to conduct our business successfully. Accordingly, you agree that your receipt and use of the Confidential Information (as hereinafter defined) will be subject to the following terms and conditions set forth in this Agreement (“Agreement”):

1. You will preserve as confidential all Confidential Information which you may obtain or prepare during the course of our discussions with you and providing your services to us. Without our prior written consent, which may be given or withheld by us in our sole and absolute discretion, you will not: (a) disclose any Confidential Information to any third party nor give any third party access thereto; nor (b) use any Confidential Information except in providing your services to us; nor (c) disclose to any third party either the fact that you are providing services to us, or the terms, conditions or status thereof or the fact that Confidential Information is being made available to you; provided, however, that the foregoing will not apply to the extent you are, in the opinion of your legal counsel, required to disclose any Confidential Information by applicable law or legal process as long as you promptly notify us of such pending disclosure and consult with us prior to such disclosure as to the advisability of seeking a protective order or other means of preserving the confidentiality of the Confidential Information. If you are so required to disclose any Confidential Information, you will use reasonable efforts to obtain assurances that the information so disclosed will continue to be accorded confidential treatment. Furthermore, you will issue no publicity release or announcement concerning our discussions, this letter agreement, your services or the subject matter of your services without the advance approval of the form and substance thereof by us. In the event that disclosure is required by law (in the opinion of legal counsel), you and we will consult in advance and cooperate with respect to any required disclosure. Notwithstanding anything to the contrary herein, in accordance with the Defend Trade Secrets Act of 2016, an individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made either: (1) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; or (2) a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

2. You will limit access to the Confidential Information to those individuals identified to us who will be actively engaged in providing your services to us (and who will be informed of the confidential nature of such material and directed to treat it accordingly) and you will ensure that all such individuals who are granted such access will comply with all the provisions of this Agreement.

3. You will not conduct any inquiries with our representatives, suppliers or customers or with others having business relationships with us for the purpose of obtaining Confidential Information or otherwise regarding your services unless and until specifically authorized by us to do so.

4. All documents, drawings, records, data bases, programs and other physical and/or electronic media of expression incorporating or containing any Confidential Information which we furnish to you are acknowledged to be our property and will be promptly surrendered to us upon the expiration or termination of our discussions with you or any business relationship which may be established with you. In addition, you will also destroy all copies, summaries and notes thereof made by you and all analyses, compilations, studies, reports or other documents or materials which are prepared by you or your advisors and which contain or reflect any Confidential Information which we furnish to you and such destruction will be certified in writing to us by an authorized officer certifying such destruction. The foregoing will apply regardless of the reasons for or circumstances surrounding such expiration or termination. Notwithstanding the return or destruction of any Confidential Information, you will continue to be bound by your obligations of confidentiality and any other obligations hereunder.

5. Except as otherwise provided in any fully executed written agreement between you and us, all designs, methods, processes, developments, improvements, ideas and/or inventions, and any related patents, patent applications, priority rights, copyrights, trademarks, trade dress rights, and any other rights of a like nature related to, or usable in, our business which you conceive, develop or reduce to practice, or cause to be conceived, developed or reduced to practice, as a direct or indirect result of your access to the Confidential Information or your providing services to us, shall be our sole and exclusive property and shall be promptly and fully disclosed in writing to us. Upon demand and without any further consideration, you will confirm such ownership by executing assignments of all rights therein to us. You also represent and warrant that any personnel you involve in providing services to us or who you allow to have access to the Confidential Information, will, upon our demand and without any further consideration to you or such personnel, assign to us any and all of the foregoing rights.

6. You represent that: (a) you have the full right, power and authority to enter into this Agreement and to execute, deliver and perform your obligations hereunder; (b) this Agreement will constitute a legal, valid and binding obligation upon you, and is enforceable in accordance with its terms; and (c) this Agreement does not conflict with any other of your obligations or agreements.

7. (a) The terms “we” or “us” as used herein include Red Bull North America, Inc. and any person, corporation, partnership or entity which, directly or indirectly, controls, is controlled by, or is under common control with Red Bull North America, Inc.

(b) All references to “you” or “your” herein refer to [INSERT COMPANY NAME] and includes any of its shareholders, officers, directors, managers, members, employees, attorneys, agents, professional advisors and independent contractors and any person, corporation, partnership or other entity which, directly or indirectly, controls, is controlled by, or is under common control with [INSERT COMPANY NAME].

(c) For the purposes of this Agreement, the term “Confidential Information” means: (i) information or material that gives or could give us some competitive advantage or the disclosure of which could be detrimental to our interests; (ii) information or material which is owned by us or in which we have an interest (including information or material you conceive, originate, discover or develop in whole or in part while providing services to us); (iii) all information (in writing or otherwise) concerning us (including, without limitation, information concerning our business, assets, liabilities, operations, affairs, financial condition, projections, contracts, customers, products, ingredients, formulations, plans, prospects or government or agency investigations) which is not generally known by the public; and (iv) all analyses, compilations, studies, reports, research, results, records or other documents or materials which contain, or are prepared on the basis of, any information or material which we furnished to you or prepared by or for you or any of your directors, officers, employees, agents or advisors based on information or material which we furnished to you. Notwithstanding the above, “Confidential Information” does not include any information or material that (i) is or becomes public knowledge otherwise than by your act or omission; or (ii) is or becomes available to you without obligation of confidence from a source (other than us) having the legal right to disclose that information; or (iii) is already in your possession in documented form without an obligation of confidence and was not received by you in anticipation of the transaction under discussion or as a result of a prior relationship with us.

8. Nothing herein shall obligate us to proceed with any transaction with you. THE CONFIDENTIAL INFORMATION IS PROVIDED “AS IS”. WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE ACCURACY OR COMPLETENESS OF THE PROPRIETARY INFORMATION.

9. You agree that money damages will not be a sufficient remedy for any breach of this Agreement by you and that in addition to all other remedies which may be available, we will be entitled to seek specific performance and injunctive or other equitable relief, without bond, as a remedy for any such breach or threatened breach. You also agree that we will have the right and remedy to require you to indemnify us from and against any losses, damages (including special and consequential damages), costs and expenses, including actual attorneys’ fees and court costs, which may be incurred by us and which result from or arise out of any such breach or threatened breach.

10. To the fullest extent permitted by law, all of the covenants and agreements contained in this Agreement will survive the termination of your providing services to us or the expiration of any business relationship which may hereafter be established between us, unless and only to the extent that such definitive agreements expressly supersede the covenants and agreements contained herein.

11. This Agreement supersedes all prior or contemporaneous agreements and understandings, negotiations, inducements or conditions, express or implied, oral or written, between the parties. No change, modification, supplement, or amendment of this Agreement shall be valid or binding on the parties hereto unless such change, modification, supplement or amendment shall be in writing signed by both parties.

12. In the event of any litigation between you and us in connection with this Agreement, the unsuccessful party to such litigation will pay to the successful party therein all costs and expenses, including but not limited to actual attorneys’ fees incurred therein by such successful party, which costs, expenses and attorneys’ fees shall be included as a part of any judgment rendered in such action in addition to any other relief to which the successful party may be entitled.

13. All clauses and covenants contained in this Agreement are severable and in the event any of them is held to be invalid by any court, this Agreement will be interpreted as if such invalid clauses and covenants were not contained herein.

14. This Agreement will be construed according to the laws of the State of California without regard to its conflict of laws principles. Any suit brought hereon must be brought in the state or federal courts sitting in Los Angeles, California, the parties hereto hereby waiving any claim or defense that such forum is not convenient or proper.

Please indicate your agreement to the foregoing by signing a copy of this letter where indicated below and returning the executed copy to us, which will constitute our agreement with respect to the subject matter of this letter.

Very truly yours,

RED BULL NORTH AMERICA, INC.

By: _____

Agreed and Accepted this

[INSERT DATE AGREED AND ACCEPTED]

[INSERT COMPANY NAME]

By: _____

[INSERT NAME OF AUTHORIZED SIGNER]

[INSERT TITLE]