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Your reference:
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LT/kn/RED

The South African Heritage Resource Agency

Attention: TO WHOM IT MAY CONCERN

Per: SAHRIS PORTAL

22 March 2019

MOTIVATIONAL LETTER

Dear Sir or Madam,


RE: REDBULL APPLICATION FOR USAGE PERMIT TABLE MOUNTAIN – MOTIVATIONAL LETTER

- 1 We refer to the above matter and confirm that we act on behalf of Red Bull South Africa (Pty) Ltd ("Red Bull" and/or "our client").
- 2 **Purpose of Application & Background Information:**
 - 2.1 We have recently been approached by our client to apply for a **Usage Authorisation** for your consideration, with respect to a certain stylised illustration of Table Mountain.
 - 2.2 A copy of the intended illustration is attached hereto for your consideration and records. We confirm that the illustration is based on a photograph taken by a Red Bull retained photographer, with said photograph being wholly owned by our client.
- 3 **Legal Framework for Application:**
 - 3.1 On or about June 2004 the United Nations Education, Scientific and Cultural Organisation ("UNESCO"), approved the inclusion of the Cape Floral Region Protected Area and World Heritage Site ("CFR") as being inscribed in the World Heritage List. This international declaration has since been incorporated into National Legislation by proclamation contained in GN 72 of 2009 of the World Heritage Convention Act 49 of 1999 ("WHCA").
 - 3.2 It is further trite that the CFR has since been expanded to include Table Mountain National Park, and 'the Mountain' in and of itself.
 - 3.3 While we note that the CFR generally falls under the Management Authority of *CapeNature* and *SANParks*, it would nevertheless appear that Table Mountain would fall under the section 3 definition of *National Estate*¹ insofar as the Mountain is a national heritage resource of special value for the present community and future generations (specifically section 3(2)(d)-(e) of the NHRA).

¹ Section 3 of the National Heritage Resources Act 25 of 1999 ("NHRA")

- 3.4 In this regard we are of the opinion that the South African Heritage Resources Agency (SAHRA) is the appropriate body to apply for a **Use Permit** in terms of **section 27(23) of the NHRA** to allow our client the use of a stylised illustration of Table Mountain for advertising/promotional purposes (if necessary).
- 3.5 The intended promotional material, does **not** utilise a direct image of the Table Mountain itself, rather a stylised version of same. The aforementioned intended promotional material, does **not** utilise the image of the Mountain itself **to elicit sales**, **nor** is the image of the Mountain itself **intended to directly accrue profit** (as contemplated in section 27(23) of the NHRA).
- 4 **Motivation for Image Use:**
- 4.1 The intention of our client is to utilise the images attached or images substantially similar thereto, **merely to promote** the Event as aforesaid.
- 4.2 Our client seeks permission as aforesaid in order to utilise the stylised images of Table Mountain as part of certain promotional material intended to be used purely as a means to **raise consumer and tourist awareness and/or to promote a Formula 1 Grand Prix Event ("the Event")**, to be held in **Cape Town, Western Cape** on or during **June 2019**, to which our client is a sponsor.
- 4.3 However, in the interest of certainty and to best protect our client's interests - we have nevertheless deemed it prudent to approach SAHRA for **Use Permitting in terms of Section 27(23)** to ensure compliance with the applicable provisions (if any) of the NHRA and/or WHCA
- 4.4 It is anticipated that the image, will be used in **marketing endeavours** with both local and global reach for a limited period during the Event's lead-up and at the event itself. Such marketing efforts will have a significant impact on Tourism to the region, and will undoubtedly have a concomitantly positive impact on the local economy as well.
- 5 In view of the foregoing we would submit that no **substantive** impediment reasonably exists to the granting of the authorisation as contemplated in the NHRA and/or WHCA, subject to such reasonable conditions as may be imposed by SAHRA and/or Western Cape Heritage (if any) and await your guidance accordingly.

Yours faithfully,



N Lester Timothy
Director
Timothy & Timothy Inc.

Red Bull
CAPE TOWN
CIRCUIT

GRAND PARADE, CAPE TOWN
JUNE 02 2019



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JUNE 02 2019

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