**Term Sheet #2**

**Additional terms for the “new deal”:**

**Cross-border Snowboard Distribution Deal**

To complete your draft of the contract, use the following information as well as the information that you previously received on this deal. Use defined terms, where appropriate. Note that the following agreed terms are not listed in any particular order. You must decide how to organize all this. Also, the agreed terms listed below are notes and are not well written; you will need to apply the drafting concepts discussed in the book to rewrite these terms into contract provisions that are clear, concise, and precise.

1. Azteca’s principal office is located in Nueva de Lyon 14, Providencia, Santiago, Chile. The President of Azteca is Alejandro Reyes, who will sign the agreement on behalf of the company.

2. Pegasus’s principal office is One Athletic Forum Drive, Boulder, Colorado. James Sordano, President, will sign the agreement on behalf of the corporation.

3. Pegasus is to make reasonable efforts to meet Azteca's delivery requirements for products ordered by Azteca in any purchase order accepted by Pegasus. Pegasus promises to advise Azteca of the estimated delivery date and, at Azteca's request, keep it informed of its status. Azteca will be responsible for selecting and working with an import broker or forwarding agent to handle all shipments to the territory. All delivery of products to Azteca shall be F.O.B. at a mutually agreed port of embarkation (such as dockside at a port or airport) in San Francisco, California, U.S.A, and will be made to Azteca’s broker. Pegasus bears the risk of loss or of damage to the products until their delivery to Azteca's broker.

Azteca is responsible for transportation and insurance of the products after delivery to Azteca's broker. Such insurance shall provide full coverage from the time the products are delivered to Azteca’s broker until Azteca shall have paid Pegasus for such products in full. Pegasus reserves all rights with respect to delivered products permitted by law, including, without limitation, the rights of rescission, repossession, resale, and stoppage in transit until the full amount due from Azteca in respect of all delivered products has been paid. Azteca is responsible for obtaining all consents from any government or related authority to import the products into the territory.

4. Payment in full of the sales price of each product shall be due and payable in U.S. dollars to Pegasus not later than on the date of delivery. Invoices will be submitted upon shipment.

All payments shall be made by irrevocable, transferable and divisible letter of credit in favor of Pegasus, opened at Azteca's expense, issued or confirmed by a U.S. bank specified by or acceptable to Pegasus. The letter of credit must also meet the following conditions: that it is denominated in U.S. dollars; that it cannot expire earlier than thirty days after the estimated shipment date; that it provides for partial payments in case of partial shipments; and that it is negotiable by Pegasus upon submission to the confirming bank of the related commercial invoices and shipping documents of the Product.

Pegasus has the option to cancel any outstanding purchase order, without any liability, if Azteca does not make full payment in accordance with the above provisions.

5. Pegasus will promise that the products will be free from defects in material and workmanship and will substantially conform to its publicly available specifications. Pegasus shall replace or repair, at its option, any products that within fifteen days from the date of its delivery to the end user are found defective in its materials, workmanship or specifications, upon written notification by Azteca identifying each and every defect. Pegasus’s obligation with respect to such products shall be limited to its repair or replacement without any further expense to Pegasus. Any alteration, abuse, modification or misuse, including neglect or accidental damage or defacement of the products shall void the limited warranty. The foregoing limited warranty is expressly made in lieu of any and all other warranties, express or implied, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose. The foregoing limited warranty shall not be enlarged or affected by, and no liability or obligation shall arise from, Pegasus’s rendering of technical or other advice, or of service, in connection with any of the products. Employees, agents, distributors and sales representatives are not authorized to make warranties. Oral or written statements made by them do not constitute warranties and shall not be relied on by Azteca.

6. Azteca is to engage in a lawful business in a manner that will uphold the reputation of Pegasus. It is expected not to engage in any deceptive, misleading, illegal, or unethical business practices.

7. Azteca is prohibited designing, manufacturing, distributing, marketing, or selling, or

acting in any capacity, including as a representative or distributor, for any product that competes with Pegasus’s products. This prohibition is in effect for the duration

of the contract.

8.   Azteca will promise not to place orders for snowboard products in a calendar year in amounts greater than Azteca believes can be sold in the season beginning in the current year. Of course, the exception to this is the minimum purchase requirement. Pegasus reserves the right to add or delete specific snowboard products and to change the design or specification of products, to delete product models or lines, and to add product models and lines in Pegasus’s sole discretion.

9. Azteca agrees to use its best efforts to promote and sell the products to the maximum number of responsible customers. Azteca also agrees to pay all marketing costs. Further, Azteca must display the copyright and trademark notices as provided by Pegasus on all advertising and other related materials. Azteca shall be required to submit to Pegasus and Pegasus will review and approve all creative marketing and promotional materials for the products prior to its dissemination. Pegasus has 5 days after receiving the materials to approve or disapprove the materials and notify Azteca of its decision in writing. If Pegasus fails to do this within the given time period, then it will be considered to have approved the materials. If the materials are rejected, Azteca will use its best efforts to correct the deficiencies.

10. Azteca is expected to comply with all applicable laws, statutes, regulations and treaties relating to the marketing, sale and distribution of the products in the territory and the performance of Azteca's duties and obligations under the agreement and obtain all governmental import, product registration, currency (including foreign exchange) and other approvals, licenses or authorizations necessary in the territory or necessary for distribution and the performance of Azteca’s obligations.

11. We must include a confidentiality clause so that, during and for two years after the agreement ends, Azteca, as well as its agents and employees, promise not to use or make public any information regarding the manufacture, design, pricing, marketing and other aspects of the snowboard products and the manner in which Pegasus conducts its business, excluding information which is, or becomes, public or general industry knowledge through no fault of Azteca, its agents and employees. Azteca is not to use the information for any purposes other than in connection with carrying out its obligation under the contract. After the end of the contract, Azteca must, at its expense, return any information as soon as practicable. The information shall remain the exclusive property of Pegasus during the agreement and thereafter. Remedies include injunctive relief, though this should not be an exclusive remedy.

12. Azteca will order snowboard products from Pegasus by completing and submitting a written purchase order using Pegasus’s purchase order form. The completed form should provide all necessary information to enable Pegasus to fill the order; this information includes a description of the products ordered, requested delivery date(s) and any export/import information. All orders for products are subject to acceptance or rejection by Pegasus. Pegasus has no liability to Azteca with respect to purchase orders which are not accepted; provided, however, that Pegasus will not unreasonably reject any purchase order for products which do not require any modifications or additions in order to meet the specifications of Azteca or its customers. All purchase orders for initial sales for each calendar year must be placed by February 1st each year, except for the first year of the contract term when orders will be placed on January 2 of that year.

If a purchase order is accepted, the prices for products covered by such purchase order shall be Pegasus’s net distributor prices, which are in effect on the date of Pegasus’s acceptance. Pegasus can change those prices from time to time, such change being effective immediately upon Azteca’s receipt of notice thereof; provided, however, that no price change shall affect purchase orders offered by Azteca and accepted by Pegasus prior to the date such price change becomes effective.

13. All orders placed by Azteca must be accepted in writing by Pegasus. Once accepted, the orders will be considered by the parties to be binding contracts to purchase the product under the terms and conditions of the agreement. Pegasus has the right to sell less than the products ordered if it is unable to meet all of its distributors’ demands. If in this event, Pegasus can allocate production among Azteca and other distributors as Pegasus deems appropriate.

The ultimate shipment of orders to Azteca shall be subject to the right and ability of Pegasus to make such sales and obtain required licenses and permits, under all decrees, statutes, rules and regulations of the government of the United States presently in effect or which may be in effect hereafter. Any order which has been accepted by Pegasus but which cannot be fulfilled due to such decrees, statutes, rules and regulations shall be considered rejected when submitted to Pegasus for acceptance or rejection.

14. Azteca shall be free to establish its own pricing for the snowboard products that it sells. Pegasus will receive from Azteca notice of its pricing when it changes. Azteca is to orderly liquidate any overstock of prior season’s Products and reasonable prices and within a reasonable time before beginning sales in the current year.

15. Pegasus promises to inspect all merchandise prior to the shipment and ensure that the products are in first-class condition. Azteca will be able to access the products to be shipped to its business prior to shipment to assure the quality of the product.

16. After delivery, Azteca will have 10 business days to inspect the products and reject any defective products. Azteca must notify Pegasus in writing of its acceptance or rejection. If Azteca fails to make timely notification, then the products will be considered accepted by Azteca.

17. Azteca agrees to pay all custom duties, excise taxes, assessments, or other governmental taxes, and charges that may be directly or indirectly imposed or based upon the distribution, transportation, delivery, use, or maintenance of the merchandise or that may otherwise arise in connection with the agreement.

18. Azteca has the right to use Pegasus’s trademarks, trade names, corporate name, logos, characters, designs, and artwork created for the games in the territory only for the duration of the agreement and solely for distributing, selling, advertising, publicizing and promoting the products as provided in the agreement. The trademarks, trade names, corporate name, logos, characters, designs, and artwork, and copyrights remain the exclusive property of Pegasus. Azteca has no ownership rights. Azteca is to notify immediately Pegasus if it discovers any potential or actual infringement by third parties of Pegasus’s trademarks, trade names, corporate name, logos, characters, designs, and artwork.

19. To comply with Pegasus’s quality control standards, Azteca must use the trademarks, trade names, corporate name, characters, designs, and artwork in compliance with all relevant laws and regulations. Also, Azteca must permit Pegasus’s representatives to inspect during normal business hours and without advance notice Azteca’s facilities to confirm that Azteca is using Pegasus’s trademarks, trade names, corporate name, characters, designs, and artwork in compliance with the agreement.

20. Azteca is not permitted to customize, modify or have customized or modified any product unless it obtains the prior written consent of Pegasus, which consent may be withheld. Any unauthorized customizing or modification of any product by Azteca or any third party shall relieve Pegasus from any obligation it would otherwise have had with respect to such Product under the warranties.

21. State that the contract does not in any way create the relationship of principal and agent, employer and employee, partners, joint venturers, or any similar relationship between the parties. Azteca shall not have the power, right or authority to bind Pegasus or to assume or create any obligation, express or implied, on behalf of Pegasus, and Azteca is not to hold itself out to others as having such power, right or authority. Distributor has no authority to appoint an associate distributor or sub-distributor of Products.

22. Pegasus must indemnify, defend and hold harmless Azteca, and all officers, directors, employees and agents thereof from all claims, actions, investigations, proceedings, and suits (including without limitation attorneys' fees, expenses and settlement costs) exceeding $5,000 (US) and arising out of or related to any misrepresentation, breach of obligation, or breach of warranty by Pegasus. But the indemnification is subject to prompt notice by Azteca of any claim, etc., that comes to its attention, and Pegasus having sole control of the defense and settlement negotiations, and Azteca cooperating with Pegasus in the defense and settlement negotiations of those claims.

23. Azteca must indemnify, defend and hold harmless Pegasus and all officers, directors, employees and agents thereof from all claims, actions, investigations, proceedings, and suits (including without limitation attorneys' fees, expenses and settlement costs) exceeding $5,000 (US) and arising out of or related to any misrepresentation or breach of obligation by Azteca. But the indemnification is subject to prompt notice by Pegasus of any claim, etc., that comes to its attention, and Azteca having sole control of the defense and settlement negotiations, and Pegasus cooperating with Azteca in the defense and settlement negotiations of those claims.

24. The parties’ indemnifications are to remain in effect for the term of the contract and for at least a period of two years after termination of the contract or for as long as the statute of limitations remains in effect for any indemnified claim, whichever is the longer period.

25. To resolve any disputes: The parties have agreed to begin with an attempt to mediate the dispute. The mediator is to be chosen by both parties from a list of neutrals registered with the International Centre for Dispute Resolution. Mediation is to take place in Denver, Colorado. The mediator must be fluent in both English and Spanish. The rules of mediation will be as provided under the International Centre for Dispute Resolution’s International Mediation Rules. Both parties are required to attend and mediate in good faith in at least three mediation sessions to be held during three consecutive business days. If an agreement has not been reached after the third mediation session, the parties can agree by written consent to continue with mediation. If they do not agreement to proceed with mediation, they will proceed to arbitration. Each party bears its own costs for the mediation and an equal share of the mediator’s fee.

Arbitration of any disputes will be final and binding. The site of arbitration will be San Francisco, California. The arbitration will be administered by the International Centre for Dispute Resolution according to its International Arbitration Rules. The parties will submit the dispute to a panel of three arbitrators. Each party chooses one arbitrator from the International Centre for Dispute Resolution’s roster; then, the two arbitrators choose a third arbitrator from the same roster. Arbitrators must be fluent in both English and Spanish, but the proceedings are to be conducted in English. Each party bears its own costs for the arbitration and an equal share of the fees for arbitration.

26. Upon the filing of a petition in bankruptcy, insolvency or reorganization against or by Azteca, or Azteca going into receivership or otherwise becoming insolvent, the agreement may be terminated by Pegasus by giving written notice of termination to Azteca, such termination being immediately effective upon the giving of such notice of termination.

27. Termination of the agreement, premature or otherwise, shall not affect the obligation of Azteca to pay Pegasus all amounts owing or to become owing as a result of snowboard products tendered or delivered to Azteca on or before the date of such termination, as well as interest thereon to the extent any such amounts are paid after the date they became or will become due pursuant to the agreement.

28. All notices provided for in this agreement will be by overnight courier. Notice is considered given upon receipt.

29. Include a force majeure clause; ensure that it does not conflict with other provisions by creating exceptions where necessary in those other provisions. The affected party shall notify the other of the occurrence or cause, state the nature of it and the expected duration, and provided further that within 15 days after the termination of the cause the party gives notice to the other party of the termination of the occurrence.

30. Neither Pegasus or Azteca can assign its rights or delegate its duties.

31. We will use Colorado law, but the parties are opting out of the United Nations Convention on Contracts for the International Sale of Goods.

32. Include other provisions that you consider appropriate for this agreement.