**Magna Distributors, Inc.**

**4589 Commerce Boulevard**

**Seattle, Washington 98101**

TO: Associate Legal Counsel

FROM: Melani Robinson, President

RE: Distribution Agreement with SWW, LLC

I have been meeting with the attorney for SWW, LLC, a Washington limited liability company, about giving Magna the exclusive right to distribute, market, and sell SWW’s signature wines. We haven’t finished negotiating the deal yet and probably won’t be able to do so for another 60 days. We understand that word of our negotiations has leaked to our main competitor, Sola Distributors. Sola wants to maintain its edge in the wine distribution market and will do almost anything to get SWW’s business. Fortunately, Lucas Sweetwater and I go back a little way, so we might be okay, at least for a little while. Even so, we want assurances that during negotiations SWW won’t be using our discussions with them as a starting point for negotiations with Sola or another competitor. We’ve asked for a letter of intent, and SWW is agreeable to signing one. We want to be careful, though, that this letter doesn’t bind us beyond the negotiations. I want you to draft the letter of intent and have it on my desk by Tuesday, May 27, 20XX.

The following is list of the information and the agreed terms so far. Ensure that you draft the provisions so that they accurately and concisely state the agreed terms. Consider providing definitions for some terms. I have attached an old form for a letter of intent.[[1]](#footnote-1) It’s not a great example as it is filled with legalese and confusing word choices, but it will give you a general idea about what you might want to include in a letter of intent. You will need to add some provisions that protect Magna (and, in fairness, SWW) during the negotiation process. Hopefully, SWW—and his attorney—will be agreeable to these provisions.

1. Magna Distribution, Inc.’s principal office is located at 4589 Commerce Boulevard, Seattle, Washington 98101. The President of Magna is Melani Robinson, who will sign the agreement on behalf of the company.

2. SWW LLC’s principal office is 45083 North Sunset Road, Benton City, Washington 99320. Lucas Sweetwater will sign the agreement as Managing Member of the LLC.

3. SWW owns a winery where it grows and ferments grapes. At the winery, it has a tasting room and sells its wine products. It operates under the assumed business name of Windwalker Vineyard and Winery. Its signature wines are sold under the labels Windwalker Merlot, Windwalker Malbec and Windwalker Cabernet Sauvignon. It’s these signature wines that SWW is interested in having Magna distribute on its behalf

4. Magna markets, sells, and distributes various domestic wines and beers throughout the United States.

5. The initial term of the contract will be for two years. The parties have agreed to an extension of the contract for additional two years, provided both parties agree in writing at least sixty days before the initial term expires.

6. SWW will grant Magna the exclusive right to distribute, market, and sell the signature wines that it produces. Thus, it will not license or grant a right or interest in distributing the wines to anyone else. Nevertheless, SWW will be allowed the right to market, sell, and distribute the wines to its winery customers.

7. Magna is only permitted to sell the products in United States. At this time, SWW does not market its wines outside of the United States, but it may consider distributing elsewhere in the near future.

8. The parties will be agreeing on an annual basis (or more frequently if necessary) regarding SWW’s prices to Magna and prices at which the Magna shall charge to its retailers. The prices for each of the wines for the first six months of the initial term of the contract are to be stated on a price list to be attached to the contract. The price for each of the wines to Magna is to be based on delivery to Magna’s warehouse in Seattle Washington. If the parties fail to agree on the prices to Magna or the prices to retailers before 30 days after the parties begin negotiating on the prices, the disputed price will increase as follows: an amount equal to the Consumer Price Index-All US over a period of months equal to the number of months since the last price increase for the dispute price. Wine product increases: The parties will negotiate this, too, no later than 60 days prior to the effective date for the increase. Distributor is permitted to order a month’s supply of wines at the current price before any increase occurs.

1. INSTRUCTOR’S NOTE: Attach a form of an LOI that contains some standard provisions that should be included to protect the parties during the continuing negotiation process. Also, instruct students to use the checklists in Chapter 15 to give them additional ideas of what should be included in the LOI. [↑](#footnote-ref-1)