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### Legend

Distributing 1 =

Distributing 2 =

Distributing 3 =

Distributing 4 =

Controlled 1 =

Controlled 2 =

Controlled 3 =

Controlled 4 =

LLC Parent =

LLC Sub 1 =

LLC Sub 2 =

LLC Sub 3 =

Investor 1 =

Investor 2 =

Lender =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Creditor =

Target =

Business A =

Business B =

State X =

State Y =

Country A =

Country B =

Country C =

Country D =

Country E =

Region 1 =

Region 2 =

Date 1 =

Date 2 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

m =

n =

p =

q =

Dear :

This letter responds to a request for rulings dated July 21, 2006 regarding certain federal income tax consequences of a series of proposed transactions. Additional information was received in letters dated August 28, September 26, November 1, November 29, December 11, 12, 14, 22 and 26, 2006. The information submitted for consideration is summarized below. Unless otherwise indicated, references herein to code sections and regulation sections are to the applicable Internal Revenue Code and Income Tax Regulations.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. The information, representations, and other data are subject to verification on examination.

In particular, this office has neither reviewed nor made a determination regarding whether the distributions described below satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b), whether the distributions are used principally as a device for the distribution of the earnings and profits of any distributing or controlled corporation (see § 355(a)(1)(B) of the Internal Revenue Code and Treas. Reg. § 1.355-2(d)), or whether the distributions are part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing or controlled corporation (see § 355(e) and § 1.355-7).

In addition, this office has not verified whether the Controlled 1 Note (described below) is properly characterized as debt or equity. The rulings pertaining to the First Controlled 1 Distribution and the Second Controlled 1 Distribution are predicated on taxpayer's representation that the Controlled 1 Note is bona fide debt.

Distributing 1 is a privately held State X corporation and the common parent of an affiliated group of companies that files a consolidated federal income tax return on the basis of a 52/53 week year ending on the Friday closest to Date1 (the "Distributing 1 Group"). In previous tax years the Distributing 1 Group sustained consolidated overall foreign losses ("COFLs"), within the meaning of section 904(f)(2), that were added to a COFL account, within the meaning of Treas. Reg. § 1.904(f)-1(b), in the section 904(d)(1)(I) general limitation income category. The Distributing 1 Group does not have any consolidated separate limitation loss ("CSLL") accounts.

Distributing 1 is wholly owned by LLC Sub 1, a State X limited liability company, which is disregarded for U.S. federal tax purposes. LLC Sub 1 is wholly owned by LLC Parent, a State X limited liability company which is taxed as a partnership for U.S. federal tax purposes. LLC Parent's majority interest holder is Investor 1, a State X limited partnership. Investor 2 is also a major interest holder in LLC Parent. Since Date 2, Investors 1 and 2, together, have indirectly owned more than a percent (by vote and value) of the stock of Distributing 1. Of that a percent, Investor 1 has indirectly owned more than b percent (by vote and value) of the stock of Distributing 1 and Investor 2 has indirectly owned j percent (by vote and value) of the stock of Distributing 1.

Distributing 1 wholly owns Distributing 2, a State X corporation. Among other interests, Distributing 2 wholly owns Distributing 3, a State Y corporation, Sub 1, a Country A corporation, and c percent of Distributing 4, a Country B corporation. Distributing 3 owns the remaining d percent of Distributing 4, as well as interests in other subsidiaries.

Among other interests, Distributing 4 wholly owns two Country B entities, Sub 2 and Sub 3. Sub 3 wholly owns Sub 4, a Country C entity. Among other interests, Sub 4 wholly owns Sub 5, a Country D entity. Each of Subs 2, 3, 4 and 5 is disregarded as an entity separate from its owner for U.S. federal income tax purposes. Sub 5 owns Sub 6, a Country D entity. Sub 4 also owns all of Sub 7, a Country E entity.

Distributing 1, through its subsidiaries, conducts two principal businesses in Regions 1 and 2: Business A and Business B. Distributing 1 primarily operates its Region 1 businesses through Distributing 3 and primarily operates its Region 2 businesses through Distributing 4 and its subsidiaries. Distributing 1 has supplied financial information indicating that Business A and Business B each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years. Distributing 1 has proposed separating Business A from Business B. Distributing 1 represents that immediately following the closing of the Proposed Transactions (described below) Controlled 1 will have sufficient cash flow to continue and grow Business B.

Distributing 1 has supplied information indicating that each of Distributing 1, Distributing 2, Distributing 3, and Distributing 4 has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

The management of Distributing 1 indicates that LLC Sub 1 will be deemed to transfer all of its Controlled 1 stock to LLC Sub 2 in exchange for equity interests in LLC Sub 2 as a result of the events described in steps (xxvi) – (xxvii) of the Proposed Transactions (described below). The management of Distributing 1 represents that other than LLC Sub 1's deemed transfer of its Controlled 1 stock to LLC Sub 2, it is not aware of any plan or intention by LLC Parent, Investor 1, or Investor 2 to cause LLC Sub 1 to sell, exchange, or otherwise dispose of the stock of Distributing 1 or any of its

subsidiaries, or the stock of Controlled 1 or any of its subsidiaries, after the Second Controlled 1 Distribution (defined below).

### **The Proposed Transactions**

For what are represented to be valid business purposes, Distributing 1 has proposed the following series of transactions (the “Proposed Transactions”):

#### Preliminary Steps

- (i) Distributing 3 will distribute its d percent interest in the stock of Distributing 4 to Distributing 2 (the “Distributing 4 Stock Distribution”), after which Distributing 2 will own all of the outstanding stock of Distributing 4.
- (ii) Distributing 2 will contribute a nominal amount of cash to Controlled 1, a newly formed State X corporation, in exchange for all the stock of Controlled 1 (the “Controlled 1 Formation”).
- (iii) Distributing 3 will contribute a nominal amount of cash to Controlled 2, a newly formed State X corporation, in exchange for all the stock of Controlled 2 (the “Controlled 2 Formation”).
- (iv) Controlled 2 will contribute a nominal amount of cash to Sub 8, a newly formed Country B entity, in exchange for all the stock of Sub 8 (the “Sub 8 Formation”).
- (v) Controlled 2 will contribute a nominal amount of cash to Sub 9, a newly formed Country A entity, in exchange for all the stock of Sub 9 (the “Sub 9 Formation”).

#### Controlled 3 Distribution

- (vi) In a Country B demerger, Sub 2 will transfer its Business B assets to Sub 10, a newly formed Country B entity that will be disregarded for U.S. federal tax purposes and all of the outstanding shares of Sub 10 will be issued to Distributing 4.
- (vii) Distributing 4 will contribute the stock of Sub 10 to Controlled 3, a newly formed Country B entity that is treated as a corporation for U.S. federal tax purposes, in exchange for all the stock of Controlled 3 (the “First Controlled 3 Contribution”).
- (viii) Distributing 4 will distribute the stock of Controlled 3 to Distributing 2 (the “Controlled 3 Distribution”).

#### Controlled 4 Distribution

- (ix) Distributing 4 will contribute its own note in the principal amount of approximately \$e (the “Distributing 4 Note”) to Controlled 4, a newly formed Country D entity that is treated as a corporation for U.S. federal tax purposes, in exchange for all

the stock of Controlled 4. Sub 6 will transfer its Business B assets to Controlled 4 in exchange for the Distributing 4 Note (collectively, the “Controlled 4 Contribution”).

(x) Distributing 4 will distribute the stock of Controlled 4 to Distributing 2 (the “Controlled 4 Distribution”).

#### Controlled 2 Distribution

(xi) Distributing 3 will contribute its Business B assets to Controlled 2 in constructive exchange for additional shares of Controlled 2 stock (the “First Controlled 2 Contribution”).

(xii) Distributing 3 will distribute the stock of Controlled 2 to Distributing 2 (the “Controlled 2 Distribution”).

#### Formation of LLC Sub 2 and LLC Sub 3

(xiii) LLC Sub 1 will contribute a nominal amount of cash to LLC Sub 2, a newly formed State X limited liability company, in exchange for all the interests in LLC Sub 2 (the “LLC Sub 2 Formation”). An election under Treas. Reg. § 301.7701-3 will not be made with respect to LLC Sub 2.

(xiv) LLC Sub 2 will contribute a nominal amount of cash to LLC Sub 3, a newly formed State X limited liability company, in exchange for all the interests in LLC Sub 3 (the “LLC Sub 3 Formation”). An election under Treas. Reg. § 301.7701-3 will not be made with respect to LLC Sub 3.

#### LLC Sub 3 Borrowing

(xv) LLC Sub 3 will borrow approximately \$g from Lender (the “Borrowing”). LLC Sub 3 will transfer \$f of the borrowing proceeds to Controlled 1 in return for a note (the “Controlled 1 Note”).

#### First Controlled 1 Distribution

(xvi) Distributing 2 will contribute the stock of Controlled 2, Controlled 3, and Controlled 4 to Controlled 1 for \$f of cash and constructive exchange for k additional shares of Controlled 1 stock (the “Controlled 1 Contribution”).

(xvii) Distributing 2 will distribute the stock of Controlled 1 to Distributing 1 (the “First Controlled 1 Distribution”) and Distributing 2 will transfer the \$f of cash received from Controlled 1 to its existing third-party creditor (“Creditor”). Taxpayer represents that \$f represents a portion of Distributing 2’s indebtedness that is attributable to the historic acquisition of Business B.

#### Second Controlled 1 Distribution



(xviii) Distributing 1 will distribute the stock of Controlled 1 to LLC Sub 1 (the “Second Controlled 1 Distribution”).

#### Contributions of Controlled 3 and Controlled 4

(xix) Controlled 1 will contribute the stock of Controlled 3 and Controlled 4 to Controlled 2 in constructive exchange for additional shares of Controlled 2 stock (the “Second Controlled 2 Contribution”).

(xx) Controlled 2 will contribute the stock of Controlled 3 and Controlled 4 to Sub 8 in constructive exchange for additional shares of Sub 8 stock (the “Sub 8 Contribution”).

(xxi) Sub 8 will contribute the stock of Controlled 4 to Controlled 3 in constructive exchange for additional shares of Controlled 3 stock (the “Second Controlled 3 Contribution”).

#### Contribution of Sub 9

(xxii) Controlled 2 will contribute the stock of Sub 9 to Sub 8 in constructive exchange for additional shares of Sub 8 stock (the “Sub 9 Contribution”).

#### Second and Third Controlled 1 Contributions

(xxiii) LLC Sub 1 will contribute the stock of Controlled 1 to LLC Sub 2 (the “Second Controlled 1 Contribution”).

(xxiv) Immediately after the Second Controlled 1 Contribution, LLC Sub 2 will further contribute the stock of Controlled 1 to LLC Sub 3 (the “Third Controlled 1 Contribution”).

#### Acquisition of Target

(xxv) LLC Sub 3 will use \$h of the Borrowing to acquire all of the outstanding membership interests in Target, a State X limited liability company (the “Acquisition”) owned by two individuals and a trust (the “Sellers”). Prior to the Acquisition, Target is classified as a partnership for U.S. federal income tax purposes.

(xxvi) On the closing date of the Transactions, immediately after the Acquisition and in connection with the Acquisition, one of the Sellers (“Target Shareholder”) will contribute approximately \$i to LLC Sub 2 in exchange for an interest in LLC Sub 2. In addition, on the closing date of the Transactions, the management of Controlled 1 (“Management”) will receive interests in LLC Sub 2. Immediately thereafter, Target Shareholder will own approximately m percent of LLC Sub 2, Management will own n

percent of LLC Sub 2, and LLC Sub 1 will own the remaining p percent. Distributing states that upon LLC Sub 2's issuance of equity to Target Shareholder and Management, LLC Sub 2 will be treated as a partnership for U.S. federal income tax purposes.

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Taxpayer has submitted draft copies of the agreements that are to govern the Proposed Transactions. These documents consist of the agreements governing the above described contributions of assets and distributions of stock (the "Transactional Agreements") and a master transitional services agreement ("Transitional Services Agreement"). The Transitional Services Agreement includes provisions for Distributing 1 (and entities owned by Distributing 1) to provide goods and services to Controlled 1 (and entities owned by Controlled 1) for a certain period of time subsequent to the closing date of the Transactions. Taxpayer represents that the initial term of each arrangement that is described in the Transitional Services Agreement will not exceed q months. Certain arrangements described in the Transitional Services Agreement are renewable, for a period not to exceed j months. Taxpayer represents that except for the agreements in the Transitional Services Agreement, there are no continuing, planned or intended agreements, transactions or arrangements between Distributing 1 (or any entity owned by Distributing 1) and Controlled 1 (or any entity owned by Controlled 1).

### **Representations**

The taxpayer makes the following representations in connection with the Proposed Transactions:

#### Preliminary Steps

(a) The Distributing 4 Stock Distribution will be an intercompany distribution to which sections 301 and 311, and Treas. Reg. §§ 1.1502-13(c) and -13(f)(2) as well as Treas. Reg. § 1.1502-9(b)(5)(i) apply.

(b) The aggregate fair market value of the assets transferred by Distributing 2 to Controlled 1 will equal or exceed the aggregate adjusted basis of such assets immediately after the Controlled 1 Formation.

(c) The total fair market value of the assets transferred to Controlled 1 by Distributing 2 will exceed the sum of (a) the amount of liabilities assumed (as determined under section 357(d)) by Controlled 1 in connection with the exchange, (b) the amount of liabilities owed to Controlled 1 by Distributing 2 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Distributing 2 in connection with the Controlled 1 Formation. The fair market value of the assets of Controlled 1 will exceed the amount of its liabilities immediately after the exchange.

(d) No stock or securities will be issued for services rendered to or for the benefit of Controlled 1 in connection with the Controlled 1 Formation.

(e) No stock or securities will be issued for indebtedness of Controlled 1 that is not evidenced by a security or for the interest on indebtedness of Controlled 1 that accrued on or after the beginning of the holding period of Distributing 2 for the debt.

(f) None of the stock to be transferred is "section 306 stock" within the meaning of section 306(c) of the Code.

(g) The transfer is not the result of the solicitation by a promoter, broker, or investment house.

(h) Distributing 2 will not retain any rights in the property transferred to Controlled 1.

(i) The adjusted basis and the fair market value of property transferred by Distributing 2 to Controlled 1 will, in each instance, equal or exceed the sum of the liabilities, if any, to be assumed (within the meaning of section 357(d)) by Controlled 1.

(j) The liabilities, if any, to be assumed (within the meaning of section 357(d)) by Controlled 1 were incurred in the ordinary course of business and are associated with the property to be transferred.

(k) At the time of the Controlled 1 Formation there will be no intercorporate debt existing between Distributing 2 and Controlled 1, and no indebtedness will be created in favor of Distributing 2 as a result of the transaction, except for trade payables in the ordinary course of business.

(l) The transfers and exchanges will occur pursuant to a plan agreed upon before the Controlled 1 Formation in which the rights of the parties are defined.

(m) All exchanges in connection with the Controlled 1 Formation will occur on approximately the same date.

(n) Distributing 2 has no plan or intention to sell any of the stock of Controlled 1 to be received in the Controlled 1 Formation.

(o) There is no plan or intention on the part of Controlled 1 to redeem or otherwise reacquire any stock or indebtedness to be issued in the Controlled 1 Formation.

(p) Taking into account any issuance of additional shares of Controlled 1 stock; any issuance of stock for services; the exercise of any Controlled 1 stock rights, warrants, or subscriptions; a public offering of Controlled 1 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Controlled 1 to be

received in the exchange, Distributing 2 will be in “control” of Controlled 1 within the meaning of section 368(c).

(q) Distributing 2 will receive stock in Controlled 1 approximately equal to the fair market value of the assets transferred by Distributing 2 to Controlled 1.

(r) Controlled 1 will remain in existence and retain and use the property transferred to it in a trade or business.

(s) There is no plan or intention by Controlled 1 to dispose of any of the property received in the Controlled 1 Formation from Distributing 2.

(t) Each of Distributing 2 and Controlled 1 will pay its own expenses, if any, incurred in connection with the Controlled 1 Formation.

(u) Controlled 1 is not and will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(v) Distributing 2 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock received in the exchange will not be used to satisfy the indebtedness of such debtor.

(w) Controlled 1 is not and will not be a “personal service corporation” within the meaning of section 269A.

(x) The aggregate fair market value of the assets transferred by Distributing 3 to Controlled 2 will equal or exceed the aggregate adjusted basis of such assets immediately after the Controlled 2 Formation.

(y) The total fair market value of the assets transferred to Controlled 2 by Distributing 3 will exceed the sum of (a) the amount of liabilities assumed (as determined under section 357(d)) by Controlled 2 in connection with the exchange, (b) the amount of liabilities owed to Controlled 2 by Distributing 3 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Distributing 3 in connection with the Controlled 2 Formation. The fair market value of the assets of Controlled 2 will exceed the amount of its liabilities immediately after the exchange.

(z) No stock or securities will be issued for services rendered to or for the benefit of Controlled 2 in connection with the Controlled 2 Formation.

(aa) No stock or securities will be issued for indebtedness of Controlled 2 that is not evidenced by a security or for the interest on indebtedness of Controlled 2 that accrued on or after the beginning of the holding period of Distributing 3 for the debt.

(bb) None of the stock to be transferred is “section 306 stock” within the meaning of section 306(c) of the Code.

(cc) The transfer is not the result of the solicitation by a promoter, broker, or investment house.

(dd) Distributing 3 will not retain any rights in the property transferred to Controlled 2.

(ee) The adjusted basis and the fair market value of property transferred by Distributing 3 to Controlled 2 will, in each instance, equal or exceed the sum of the liabilities, if any, to be assumed (within the meaning of section 357(d)) by Controlled 2.

(ff) The liabilities, if any, to be assumed (within the meaning of section 357(d)) by Controlled 2 were incurred in the ordinary course of business and are associated with the property to be transferred.

(gg) At the time of the Controlled 2 Formation there will be no intercorporate debt existing between Distributing 3 and Controlled 2, and no indebtedness will be created in favor of Distributing 3 as a result of the transaction, except for trade payables in the ordinary course of business.

(hh) The transfers and exchanges will occur pursuant to a plan agreed upon before the Controlled 2 Formation in which the rights of the parties are defined.

(ii) All exchanges in connection with the Controlled 2 Formation will occur on approximately the same date.

(jj) Distributing 3 has no plan or intention to sell any of the stock of Controlled 2 to be received in the Controlled 2 Formation.

(kk) There is no plan or intention on the part of Controlled 2 to redeem or otherwise reacquire any stock or indebtedness to be issued in the Controlled 2 Formation.

(ll) Taking into account any issuance of additional shares of Controlled 2 stock; any issuance of stock for services; the exercise of any Controlled 2 stock rights, warrants, or subscriptions; a public offering of Controlled 2 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Controlled 2 to be received in the exchange, Distributing 3 will be in “control” of Controlled 2 within the meaning of section 368(c).

(mm) Distributing 3 will receive stock in Controlled 2 approximately equal to the fair market value of the assets transferred by Distributing 3 to Controlled 2.

(nn) Controlled 2 will remain in existence and retain and use the property transferred to it in a trade or business.

(oo) There is no plan or intention by Controlled 2 to dispose of any of the property received in the Controlled 2 Formation from Distributing 3.

(pp) Each of Distributing 3 and Controlled 2 will pay its own expenses, if any, incurred in connection with the Controlled 2 Formation.

(qq) Controlled 2 is not and will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(rr) Distributing 3 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock received in the exchange will not be used to satisfy the indebtedness of such debtor.

(ss) Controlled 2 is not and will not be a “personal service corporation” within the meaning of section 269A.

(tt) The aggregate fair market value of the assets transferred by Controlled 2 to Sub 8 will equal or exceed the aggregate adjusted basis of such assets immediately after the Sub 8 Formation.

(uu) The total fair market value of the assets transferred to Sub 8 by Controlled 2 will exceed the sum of (a) the amount of liabilities assumed (as determined under section 357(d)) by Sub 8 in connection with the exchange, (b) the amount of liabilities owed to Sub 8 by Controlled 2 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Controlled 2 in connection with the Sub 8 Formation. The fair market value of the assets of Sub 8 will exceed the amount of its liabilities immediately after the exchange.

(vv) No stock or securities will be issued for services rendered to or for the benefit of Sub 8 in connection with the Sub 8 Formation.

(ww) No stock or securities will be issued for indebtedness of Sub 8 that is not evidenced by a security or for the interest on indebtedness of Sub 8 that accrued on or after the beginning of the holding period of Controlled 2 for the debt.

(xx) None of the stock to be transferred is “section 306 stock” within the meaning of section 306(c) of the Code.

(yy) The transfer is not the result of the solicitation by a promoter, broker, or investment house.

- (zz) Controlled 2 will not retain any rights in the property transferred to Sub 8.
- (aaa) The adjusted basis and the fair market value of property transferred by Controlled 2 to Sub 8 will, in each instance, equal or exceed the sum of the liabilities, if any, to be assumed (within the meaning of section 357(d)) by Sub 8.
- (bbb) The liabilities, if any, to be assumed (within the meaning of section 357(d)) by Sub 8 were incurred in the ordinary course of business and are associated with the property to be transferred.
- (ccc) At the time of the Sub 8 Formation there will be no intercorporate debt existing between Controlled 2 and Sub 8, and no indebtedness will be created in favor of Controlled 2 as a result of the transaction, except for trade payables in the ordinary course of business.
- (ddd) The transfers and exchanges will occur pursuant to a plan agreed upon before the Sub 8 Formation in which the rights of the parties are defined.
- (eee) All exchanges in connection with the Sub 8 Formation will occur on approximately the same date.
- (fff) Controlled 2 has no plan or intention to sell any of the stock of Sub 8 to be received in the Sub 8 Formation.
- (ggg) There is no plan or intention on the part of Sub 8 to redeem or otherwise reacquire any stock or indebtedness to be issued in the Sub 8 Formation.
- (hhh) Taking into account any issuance of additional shares of Sub 8 stock; any issuance of stock for services; the exercise of any Sub 8 stock rights, warrants, or subscriptions; a public offering of Sub 8 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Sub 8 to be received in the exchange, Controlled 2 will be in "control" of Sub 8 within the meaning of section 368(c).
- (iii) Controlled 2 will receive stock in Sub 8 approximately equal to the fair market value of the assets transferred by Controlled 2 to Sub 8.
- (jjj) Sub 8 will remain in existence and retain and use the property transferred to it in a trade or business.
- (kkk) There is no plan or intention by Sub 8 to dispose of any of the property received in the Sub 8 Formation from Controlled 2.
- (III) Each of Controlled 2 and Sub 8 will pay its own expenses, if any, incurred in connection with the Sub 8 Formation.

(mmm) Sub 8 is not and will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(nnn) Controlled 2 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock received in the exchange will not be used to satisfy the indebtedness of such debtor.

(ooo) Sub 8 is not and will not be a “personal service corporation” within the meaning of section 269A.

(ppp) The aggregate fair market value of the assets transferred by Controlled 2 to Sub 9 will equal or exceed the aggregate adjusted basis of such assets immediately after the Sub 9 Formation.

(qqq) The total fair market value of the assets transferred to Sub 9 by Controlled 2 will exceed the sum of (a) the amount of liabilities assumed (as determined under section 357(d)) by Sub 9 in connection with the exchange, (b) the amount of liabilities owed to Sub 9 by Controlled 2 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Controlled 2 in connection with the Sub 9 Formation. The fair market value of the assets of Sub 9 will exceed the amount of its liabilities immediately after the exchange.

(rrr) No stock or securities will be issued for services rendered to or for the benefit of Sub 9 in connection with the Sub 9 Formation.

(sss) No stock or securities will be issued for indebtedness of Sub 9 that is not evidenced by a security or for the interest on indebtedness of Sub 9 that accrued on or after the beginning of the holding period of Controlled 2 for the debt.

(ttt) None of the stock to be transferred is “section 306 stock” within the meaning of section 306(c) of the Code.

(uuu) The transfer is not the result of the solicitation by a promoter, broker, or investment house.

(vvv) Controlled 2 will not retain any rights in the property transferred to Sub 9.

(www) The adjusted basis and the fair market value of property transferred by Controlled 2 to Sub 9 will, in each instance, equal or exceed the sum of the liabilities, if any, to be assumed (within the meaning of section 357(d)) by Sub 9.

(xxx) The liabilities, if any, to be assumed (within the meaning of section 357(d)) by Sub 9 were incurred in the ordinary course of business and are associated with the property to be transferred.



(yyy) At the time of the Sub 9 Formation there will be no intercorporate debt existing between Controlled 2 and Sub 9, and no indebtedness will be created in favor of Controlled 2 as a result of the transaction, except for trade payables in the ordinary course of business.

(zzz) The transfers and exchanges will occur pursuant to a plan agreed upon before the Sub 9 Formation in which the rights of the parties are defined.

(aaaa) All exchanges in connection with the Sub 9 Formation will occur on approximately the same date.

(bbbb) Controlled 2 has no plan or intention to sell any of the stock of Sub 9 to be received in the Sub 9 Formation.

(cccc) There is no plan or intention on the part of Sub 9 to redeem or otherwise reacquire any stock or indebtedness to be issued in the Sub 9 Formation.

(dddd) Taking into account any issuance of additional shares of Sub 9 stock; any issuance of stock for services; the exercise of any Sub 9 stock rights, warrants, or subscriptions; a public offering of Sub 9 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Sub 9 to be received in the exchange, Controlled 2 will be in "control" of Sub 9 within the meaning of section 368(c).

(eeee) Controlled 2 will receive stock in Sub 9 approximately equal to the fair market value of the assets transferred by Controlled 2 to Sub 9.

(ffff) Sub 9 will remain in existence and retain and use the property transferred to it in a trade or business.

(gggg) There is no plan or intention by Sub 9 to dispose of any of the property received in the Sub 9 Formation from Controlled 2.

(hhhh) Each of Controlled 2 and Sub 9 will pay its own expenses, if any, incurred in connection with the Sub 9 Formation.

(iiii) Sub 9 is not and will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(jjjj) Controlled 2 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock received in the exchange will not be used to satisfy the indebtedness of such debtor.

(kkkk) Sub 9 is not and will not be a "personal service corporation" within the meaning of section 269A.

#### Controlled 3 Distribution

(llll) The indebtedness owed by Controlled 3 to Distributing 4, if any, after the Controlled 3 Distribution will not constitute stock or securities.

(mmmm) The aggregate fair market value of the assets contributed to Controlled 3 in the First Controlled 3 Contribution will exceed the aggregate adjusted basis of such assets immediately after the First Controlled 3 Contribution.

(nnnn) No stock of any entity other than Sub 10 will be transferred to Controlled 3 as part of the Controlled 3 Contribution and Distribution.

(oooo) No part of the consideration distributed by Distributing 4 will be received by Distributing 2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 4.

(pppp) Pursuant to section 355(b)(3)(A) and (B), Distributing 4 and Controlled 3 will each treat all members of its respective separate affiliated group (as defined in section 355(b)(3)(B)) as one corporation in determining whether it meets the requirement of section 355(b)(2)(A) regarding active conduct of a trade or business.

(qqqq) The five years of financial information submitted on behalf of both the business conducted by Distributing 4 (through Sub 2, Sub 6, and Sub 7), and the business conducted by Controlled 3, is representative of the present operations of each such business and there have been no substantial operational changes in either business since the date of the last financial statements submitted. Immediately after the Controlled 3 Distribution, Sub 2, Sub 6, and Sub 7 will continue to be affiliated with Distributing 4.

(rrrr) Following the Controlled 3 Distribution, Distributing 4 and Controlled 3 will each continue the active conduct of its business, independently and with its separate employees.

(ssss) The Controlled 3 Distribution will be carried out for the corporate business purpose of facilitating the ultimate distribution of the Controlled 1 stock to LLC Sub 1 in the Second Controlled 1 Distribution. The Controlled 3 Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(tttt) The Controlled 3 Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing 4 or Controlled 3 or both.

(uuuu) Except for the Controlled 4 Contribution and Controlled 4 Distribution, the Controlled 1 Contribution and First Controlled 1 Distribution, the Second Controlled 1 Distribution, and the Contributions of Controlled 3 and Controlled 4, there is no plan or intention to liquidate either Distributing 4 or Controlled 3, to merge either corporation

with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Controlled 3 Distribution, except in the ordinary course of business.

(vvvv) The total adjusted basis and the fair market value of the assets transferred to Controlled 3 in the First Controlled 3 Contribution will equal or exceed the sum of the liabilities assumed (as determined under section 357(d)) by Controlled 3.

(www) The total fair market value of the assets that Distributing 4 will transfer to Controlled 3 in the First Controlled 3 Contribution will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 3 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 3 by Distributing 4 that are discharged or extinguished in connection with the exchange, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing 4 in connection with the exchange. The total fair market value of the assets of Controlled 3 exceeded the total amount of its liabilities immediately after the exchange.

(xxxx) The liabilities to be assumed (as determined under section 357(d)) by Controlled 3 in the First Controlled 3 Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.

(yyyy) Distributing 4 will neither accumulate its receivables nor make extraordinary payments of its payables in anticipation of the Controlled 3 Distribution.

(zzzz) No intercorporate debt will exist between Distributing 4 (or any subsidiary of Distributing 4) and Controlled 3 at the time of, or subsequent to, the Controlled 3 Distribution.

(aaaaa) Payments made in connection with all continuing transactions between Distributing 4 (or any subsidiary of Distributing 4) and Controlled 3 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(bbbbb) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).

(ccccc) For purposes of section 355(d), immediately after the Controlled 3 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 4 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 4 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 3 Distribution.

(ddddd) For purposes of section 355(d), immediately after the Controlled 3 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 3 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 3 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 3 Distribution or (ii) attributable to distributions on Distributing 4 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 3 Distribution.

(eeeeee) The Controlled 3 Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing 4 or Controlled 3 (including any predecessor or successor of any such corporation).

(fffff) Neither Distributing 4 nor Controlled 3 is a disqualified investment corporation as defined in section 355(g)(2).

(ggggg) The First Controlled 3 Contribution is not an exchange described in Treas. Reg. § 1.367(b)-4(b)(1)(i), -4(b)(2)(i) or -4(b)(3).

(hhhhh) Distributing 4 and Controlled 3 are, and will each be, a controlled foreign corporation ("CFC"), within the meaning of section 957(a), immediately before and after the First Controlled 3 Contribution and the Controlled 3 Distribution.

(iiiiii) With respect to each of Distributing 4 and Controlled 3, Distributing 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), immediately before and after the First Controlled 3 Contribution and the Controlled 3 Distribution.

(jjjjj) At all times before and immediately after the First Controlled 3 Contribution and the Controlled 3 Distribution, neither Distributing 4 nor Controlled 3 has been, or will be, a passive foreign investment company, as defined in section 1297(a).

(kkkkk) The notice requirements of Treas. Reg. § 1.367(b)-1(c) will be satisfied for the First Controlled 3 Contribution and the Controlled 3 Distribution.

(lllll) Following the Controlled 3 Distribution, Distributing 2 will compute its predistribution amount and postdistribution amount with respect to Distributing 4 and Controlled 3 as defined under Treas. Reg. § 1.367(b)-5(e)(1) and (2). To the extent the predistribution amount exceeds the postdistribution amount with respect to either Distributing 4 or Controlled 3, Distributing 2 will make basis adjustments and recognize income (if any), as required under the applicable Treasury regulations.

Controlled 4 Distribution

- (mmmmm) The aggregate fair market value of the assets transferred by Distributing 4 to Controlled 4 will equal or exceed the aggregate adjusted basis of such assets immediately after the Controlled 4 Contribution.
- (nnnnn) The total fair market value of the assets transferred to Controlled 4 by Distributing 4 will exceed the sum of (a) the amount of the liabilities assumed (as determined under section 357(d)) by Controlled 4 in connection with the exchange, (b) the amount of liabilities owed to Controlled 4 by Distributing 4 that are discharged or extinguished in connection with the exchange, and (c) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without the recognition of gain) received by Distributing 4 in connection with the Controlled 4 Contribution. The fair market value of the assets of Controlled 4 will exceed the amount of its liabilities immediately after the exchange.
- (ooooo) No stock or securities will be issued for services rendered to or for the benefit of Controlled 4 in connection with the Controlled 4 Contribution.
- (ppppp) The Controlled 4 Note is bona fide debt.
- (qqqqq) No stock of any entity will be transferred from Sub 6 to Controlled 4 as part of the Controlled 4 Contribution and Distribution.
- (rrrrr) No stock or securities will be issued for indebtedness of Controlled 4 that is not evidenced by a security or for the interest on indebtedness of Controlled 4 that accrued on or after the beginning of the holding period of Distributing 4 for the debt.
- (sssss) None of the stock to be transferred is "section 306 stock" within the meaning of section 306(c) of the Code.
- (ttttt) The transfer is not the result of the solicitation by a promoter, broker, or investment house.
- (uuuuu) Distributing 4 not retain any rights in the property transferred to Controlled 4.
- (vvvvv) The adjusted basis and the fair market value of property transferred by Distributing 4 to Controlled 4 will, in each instance, equal or exceed the sum of the liabilities, if any, to be assumed (as determined under section 357(d)) by Controlled 4.
- (wwwww) The liabilities, if any, to be assumed (as determined under section 357(d)) by Controlled 4 were incurred in the ordinary course of business and are associated with the property to be transferred.

(xxxxx) Distributing 4 will not retain any rights in the property it transfers to Controlled 4.

(yyyyy) Except for trade payables in the ordinary course of business, at the time of the Controlled 4 Contribution there will be no intercorporate debt existing between Distributing 4 and Controlled 4, and no indebtedness will be created in favor of Distributing 4.

(zzzzz) The transfers and exchanges will occur pursuant to a plan agreed upon before the Controlled 4 Contribution in which the rights of the parties are defined.

(aaaaaa) All exchanges in connection with the Controlled 4 Contribution will occur on approximately the same date.

(bbbbbb) Distributing 4 has no plan or intention to sell any of the stock of Controlled 4 to be received in the Controlled 4 Contribution.

(ccccc) There is no plan or intention on the part of Controlled 4 to redeem or otherwise reacquire any stock or indebtedness to be issued in the Controlled 4 Contribution.

(dddddd) Taking into account any issuance of additional shares of Controlled 4 stock; any issuance of stock for services; the exercise of any Controlled 4 stock rights, warrants, or subscriptions; a public offering of Controlled 4 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Controlled 4 to be received in the exchange, Distributing 4 will be in "control" of Controlled 4 within the meaning of section 368(c).

(eeeeee) Distributing 4 will receive stock in Controlled 4 approximately equal to the fair market value of the assets transferred by Distributing 4 to Controlled 4.

(ffffff) Controlled 4 will remain in existence and retain and use the property transferred to it in a trade or business.

(gggggg) There is no plan or intention by Controlled 4 to dispose of any of the property received in the Controlled 4 Contribution from Distributing 4

(hhhhh) Each of Distributing 4 and Controlled 4 will pay its own expenses, if any, incurred in connection with the Controlled 4 Contribution.

(iiiiii) Controlled 4 is not and will not be an investment company within the meaning of section 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).

(jjjjj) Distributing 4 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock received in the exchange will not be used to satisfy the indebtedness of such debtor.

(kkkkkk) Controlled 4 is not and will not be a “personal service corporation” within the meaning of section 269A.

(llllll) The indebtedness owed by Controlled 4 to Distributing 4, if any, after the Controlled 4 Distribution will not constitute stock or securities.

(mmmmmm) No part of the consideration distributed by Distributing 4 will be received by Distributing 2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 4.

(nnnnnn) Pursuant to section 355(b)(3)(A) and (B), Distributing 4 and Controlled 4 will each treat all members of its respective separate affiliated group (as defined in section 355(b)(3)(B)) as one corporation in determining whether it meets the requirement of section 355(b)(2)(A) regarding active conduct of a trade or business.

(oooooo) The five years of financial information submitted on behalf of both the business conducted by Distributing 4 (through its wholly-owned subsidiaries, Sub 2, Sub 6, and Sub 7), and the business conducted by Controlled 4, is representative of the present operations of each such business and there have been no substantial operational changes in either business since the date of the last financial statements submitted. Immediately after the Controlled 4 Distribution, Sub 2, Sub 6, and Sub 7 will continue to be affiliated with Distributing 4.

(pppppp) Following the Controlled 4 Distribution, Distributing 4 and Controlled 4 will each continue the active conduct of its business, independently and with its separate employees.

(qqqqqq) The Controlled 4 Distribution will be carried out for the corporate business purpose of facilitating the ultimate distribution of the Controlled 1 stock to LLC Sub 1 in the Second Controlled 1 Distribution. The Controlled 4 Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(rrrrrr) The Controlled 4 Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing 4 or Controlled 4 or both.

(ssssss) Except for the Controlled 1 Contribution and First Controlled 1 Distribution, the Second Controlled 1 Distribution, and the Contributions of Controlled 3 and Controlled 4, there is no plan or intention to liquidate either Distributing 4 or Controlled 4, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Controlled 4 Distribution, except in the ordinary course of business.

(tttttt) The total adjusted basis and the fair market value of the assets transferred to Controlled 4 in the Controlled 4 Contribution will equal or exceed the sum of the liabilities assumed (as determined under section 357(d)) by Controlled 4.

(uuuuuu) The total fair market value of the assets Distributing 4 will be treated as transferring to Controlled 4 in the Controlled 4 Contribution will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 4 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 4 by Distributing 4 that are discharged or extinguished in connection with the exchange, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing 4 in connection with the exchange. The total fair market value of the assets of Controlled 4 exceeded the total amount of its liabilities immediately after the exchange.

(vvvvvv) The liabilities to be assumed (as determined under section 357(d)) by Controlled 4 in the Controlled 4 Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.

(wwwwww) Distributing 4 will neither accumulate its receivables nor make extraordinary payments of its payables in anticipation of the Controlled 4 Distribution.

(xxxxxx) Except for trade payables in the ordinary course of business, no intercorporate debt will exist between Distributing 4 (or any subsidiary of Distributing 4) and Controlled 4 at the time of, or subsequent to, the Controlled 4 Distribution.

(yyyyyy) Payments made in connection with all continuing transactions between Distributing 4 (or any subsidiary of Distributing 4) and Controlled 4 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(zzzzzz) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).

(aaaaaaa) For purposes of section 355(d), immediately after the Controlled 4 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 4 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 4 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 4 Distribution.

(bbbbbbb) For purposes of section 355(d), immediately after the Controlled 4 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 4 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 4 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 4 Distribution or (ii) attributable to



distributions on Distributing 4 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 4 Distribution.

(ccccccc) The Controlled 4 Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing 4 or Controlled 4 (including any predecessor or successor of any such corporation).

(ddddddd) Neither Distributing 4 nor Controlled 4 is a disqualified investment corporation as defined in section 355(g)(2).

(eeeeeee) The Controlled 4 Contribution is not an exchange described in Treas. Reg. § 1.367(b)-4(b)(1)(i), -4(b)(2)(i) or -4(b)(3).

(ffffff) Distributing 4 and Controlled 4 are, and will each be, a CFC, within the meaning of section 957(a), immediately before and after the Controlled 4 Contribution and the Controlled 4 Distribution.

(ggggggg) With respect to each of Distributing 4 and Controlled 4, Distributing 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), immediately before and after the Controlled 4 Contribution and the Controlled 4 Distribution.

(hhhhhhh) At all times before and immediately after the Controlled 4 Contribution and the Controlled 4 Distribution, neither Distributing 4 nor Controlled 4 is, or will be, a passive foreign investment company, as defined in section 1297(a).

(iiiiiii) The notice requirements of Treas. Reg. § 1.367(b)-1(c) will be satisfied for the Controlled 4 Contribution and the Controlled 4 Distribution.

(jjjjjjj) Following the Controlled 4 Distribution, Distributing 2 will compute its predistribution amount and postdistribution amount with respect to Distributing 4 and Controlled 4, as defined under Treas. Reg. § 1.367(b)-5(e)(1) and (2). To the extent the predistribution amount exceeds the postdistribution amount with respect to either Distributing 4 or Controlled 4, Distributing 2 will make basis adjustments and recognize income (if any), as required under the applicable Treasury regulations.

#### Controlled 2 Distribution

(kkkkkkk) The aggregate fair market value of the assets contributed to Controlled 2 in the Controlled 2 Contribution will exceed the aggregate adjusted basis of such assets immediately after the Controlled 2 Contribution.

(lllllll) The indebtedness owed by Controlled 2 to Distributing 3, if any, after the Controlled 2 Distribution will not constitute stock or securities.

(mmmmmmm) No part of the consideration distributed by Distributing 3 will be received by Distributing 2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 3.

(nnnnnnn) The five years of financial information submitted on behalf of both the business conducted by Distributing 3, and the business conducted by Controlled 2, is representative of the present operations of each such business and there have been no substantial operational changes in either business since the date of the last financial statements submitted.

(ooooooo) Following the Controlled 2 Distribution, Distributing 3 and Controlled 2 will each continue the active conduct of its business, independently and with its separate employees.

(ppppppp) The Controlled 2 Distribution will be carried out for the corporate business purpose of facilitating the ultimate distribution of the Controlled 1 stock to LLC Sub 1 in the Second Controlled 1 Distribution. The Controlled 2 Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(qqqqqqq) The Controlled 2 Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing 3 or Controlled 2 or both.

(rrrrrrr) Except for the Controlled 1 Contribution and First Controlled 1 Distribution, the Second Controlled 1 Distribution, and the Contributions of Controlled 3 and Controlled 4, there is no plan or intention to liquidate either Distributing 3 or Controlled 2, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Controlled 2 Distribution, except in the ordinary course of business.

(sssssss) The total adjusted basis and the fair market value of the assets transferred to Controlled 2 in the First Controlled 2 Contribution will equal or exceed the sum of the liabilities assumed (as determined under section 357(d)) by Controlled 2 plus any liabilities to which the transferred assets are subject.

(ttttttt) The total fair market value of the assets transferred to Controlled 2 in the First Controlled 2 Contribution will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 2 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 2 by Distributing 3 that are discharged or extinguished in connection with the exchange, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing 3 in connection with the exchange. The total fair market value of the

assets of Controlled 2 exceeded the total amount of its liabilities immediately after the exchange.

(uuuuuuu) The liabilities to be assumed (as determined under section 357(d)) by Controlled 2 in the First Controlled 2 Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.

(vvvvvvv) Distributing 3 will neither accumulate its receivables nor make extraordinary payments of its payables in anticipation of the Controlled 2 Distribution.

(wwwwwww) Except for trade payables in the ordinary course of business, no intercorporate debt will exist between Distributing 3 (or any subsidiary of Distributing 3) and Controlled 2 at the time of, or subsequent to, the Controlled 2 Distribution.

(xxxxxxx) Payments made in connection with all continuing transactions between Distributing 3 and Controlled 2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(yyyyyyy) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).

(zzzzzzz) For purposes of section 355(d), immediately after the Controlled 2 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 3 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 3 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 2 Distribution.

(aaaaaaaa) For purposes of section 355(d), immediately after the Controlled 2 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 2 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 2 Distribution or (ii) attributable to distributions on Distributing 3 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Controlled 2 Distribution.

(bbbbbbbbb) The Controlled 2 Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing 3 or Controlled 2 (including any predecessor or successor of any such corporation).

(cccccccc) Neither Distributing 3 nor Controlled 2 is a disqualified investment corporation as defined in section 355(g)(2).

(dddddddd) For purposes of section 904(f)(3), none of the assets transferred from Distributing 3 to Controlled 2 constitute either (i) trade or business property used or held for use predominantly outside the United States; or (ii) stock in a CFC (within the meaning of section 957(a)).

#### LLC Sub 3 Borrowing

(eeeeeeee) The Controlled 1 Note is bona fide debt.

#### First Controlled 1 Distribution

(ffffff) The aggregate fair market value of the assets contributed to Controlled 1 in the Controlled 1 Contribution will exceed the aggregate adjusted basis of such assets immediately after the Controlled 1 Contribution.

(gggggggg) The indebtedness owed by Controlled 1 to Distributing 2, if any, after the First Controlled 1 Distribution will not constitute stock or securities.

(hhhhhhh) No part of the consideration distributed by Distributing 2 will be received by Distributing 1 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2.

(iiiiiii) Pursuant to section 355(b)(3)(A) and (B), Distributing 2 and Controlled 1 will each treat all members of its respective separate affiliated group (as defined in section 355(b)(3)(B)) as one corporation in determining whether it meets the requirement of section 355(b)(2)(A) regarding active conduct of a trade or business.

(jjjjjjj) The five years of financial information submitted on behalf of both the business conducted by Distributing 2 (through its direct, wholly owned subsidiary, Distributing 3), and the business conducted by Controlled 1 (through its direct, wholly owned subsidiary, Controlled 2), is representative of the present operations of each business and there have been no substantial operational changes in either business since the date of the last financial statements submitted. Immediately after the First Controlled 1 Distribution, Distributing 3 will continue to be affiliated with Distributing 2, and Controlled 2 will continue to be affiliated with Controlled 1.

(kkkkkkk) Following the First Controlled 1 Distribution, Distributing 2 and Controlled 1 will each continue the active conduct of its business, independently and with its separate employees.

(IIIIIII) The First Controlled 1 Distribution will be carried out for the corporate business purpose of facilitating the ultimate distribution of the Controlled 1 stock to LLC Sub 1 in the Second Controlled 1 Distribution. The First Controlled 1 Distribution is motivated, in whole or substantial part, by this corporate business purpose.

(mmmmmmmm) The First Controlled 1 Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing 2 or Controlled 1 or both.

(nnnnnnnn) Except for the Second Controlled 1 Distribution, the Contributions of Controlled 3 and Controlled 4 and LLC Sub 1's deemed contribution of all of the stock of Controlled 1 to LLC Sub 2, there is no plan or intention to liquidate either Distributing 2 or Controlled 1, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the First Controlled 1 Distribution, except in the ordinary course of business.

(oooooooo) The total adjusted basis and the fair market value of the assets transferred to Controlled 1 in the First Controlled 1 Contribution will equal or exceed the sum of (i) any liabilities assumed (as determined under section 357(d)) by Controlled 1 and (ii) the total of any money and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing 2 and transferred to its creditors in connection with the First Controlled 1 Distribution.

(pppppppp) The cash which will be received by Distributing 2 from Controlled 1 in the distribution will be transferred by Distributing 2 to its creditors pursuant to the plan of reorganization to pay liabilities incurred or accrued before the distribution. Such liabilities were not incurred or accrued in connection with the plan of distribution.

(qqqqqqqq) The cash, which will be received by Distributing 2 from Controlled 1 in the distribution and used by Distributing 2 solely to repay its creditors, will not exceed the total adjusted tax basis of the assets (reduced by any liabilities assumed by Controlled 1) to be transferred by Distributing 2 to Controlled 1 in the First Controlled 1 Contribution.

(rrrrrrrr) The total fair market value of the assets transferred to Controlled 1 in the First Controlled 1 Contribution will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of section 357(d)) by Controlled 1 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 1 by Distributing 2 that are discharged or extinguished in connection with the exchange, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing 2 in connection with the exchange. The total fair market value of the assets of Controlled 1 exceeded the total amount of its liabilities immediately after the exchange.

(ssssssss) The liabilities, if any, to be assumed (as determined under section 357(d)) by Controlled 1 in the First Controlled 1 Contribution were incurred in the ordinary course of business and are associated with the assets being transferred.

(ttttttt) Immediately before Distributing 2's distribution of its Controlled 1 stock, Distributing 2 will not have an excess loss account with respect to such Controlled 1 stock. (See section 1.1502-19.)

(uuuuuuuu) Distributing 2 will neither accumulate its receivables nor make extraordinary payments of its payables in anticipation of the First Controlled 1 Distribution.

(vvvvvvvv) Except for trade payables in the ordinary course of business, no intercorporate debt will exist between Distributing 2 (or any subsidiary of Distributing 2) and Controlled 1 (or any subsidiary of Controlled 1) at the time of, or subsequent to, the First Controlled 1 Distribution.

(wwwwwww) Payments made in connection with all continuing transactions between Distributing 2 (or any subsidiary of Distributing 2) and Controlled 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(xxxxxxx) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).

(yyyyyyyy) For purposes of section 355(d), immediately after the First Controlled 1 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 2 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Controlled 1 Distribution.

(zzzzzzzz) For purposes of section 355(d), immediately after the First Controlled 1 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 1 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Controlled 1 Distribution or (ii) attributable to distributions on Distributing 2 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Controlled 1 Distribution.

(aaaaaaaa) The First Controlled 1 Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of section 355(d)(4)) in Distributing 2 or Controlled 1 (including any predecessor or successor of any such corporation).

(bbbbbbbbb) Neither Distributing 2 nor Controlled 1 is a disqualified investment corporation as defined in section 355(g)(2).

#### Second Controlled 1 Distribution

(cccccccc) The indebtedness owed by Controlled 1 to Distributing 1, if any, after the Second Controlled 1 Distribution will not constitute stock or securities.

(ddddddddd) No part of the consideration distributed by Distributing 1 will be received by LLC Parent as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.

(eeeeeeee) Pursuant to section 355(b)(3)(A) and (B), Distributing 1 and Controlled 1 will each treat all members of its respective separate affiliated group (as defined in section 355(b)(3)(B)) as one corporation in determining whether it meets the requirement of section 355(b)(2)(A) regarding active conduct of a trade or business.

(fffffffff) The five years of financial information submitted on behalf of both the business conducted by Distributing 1 (through its indirect, wholly-owned subsidiary, Distributing 3), and the business conducted by Controlled 1 (through its direct, wholly-owned subsidiary, Controlled 2), is representative of the present operations of each business and there have been no substantial operational changes in either business since the date of the last financial statements submitted. Immediately after the Second Controlled 1 Distribution, Distributing 3 will continue to be affiliated with Distributing 1, and Controlled 2 will continue to be affiliated with Controlled 1.

(ggggggggg) Following the Second Controlled 1 Distribution, Distributing 1 and Controlled 1 will each continue the active conduct of its business, independently and with its separate employees.

(hhhhhhhhh) The Second Controlled 1 Distribution will be carried out for the corporate business purposes of: (1) making Controlled 1 stock available as a viable acquisition currency; (2) incentivizing, attracting and retaining key employees; and (3) resolving certain systemic problems arising from the operation of Businesses A-F and Businesses G-J within the same affiliated group. The Second Controlled 1 Distribution is motivated in whole or substantial part by these corporate business purposes.

(iiiiiii) The Second Controlled 1 Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing 1 or Controlled 1 or both.

(jjjjjjjj) Except for the Contributions of Controlled 3 and Controlled 4, and LLC Sub 1's deemed contribution of all of the stock of Controlled 1 to LLC Sub 2, to the best knowledge of the management of Distributing 1, there is no plan or intention to liquidate either Distributing 1 or Controlled 1, to merge either corporation with any other corporation, or to sell or otherwise dispose of the assets of either corporation after the Second Controlled 1 Distribution, except in the ordinary course of business.

(kkkkkkkkk) The total fair market value of the assets of Controlled 1 will exceed the total amount of its liabilities immediately after the exchange.

(lllllllll) Distributing 1 will neither accumulate its receivables nor make extraordinary payments of its payables in anticipation of the Second Controlled 1 Distribution.

nmmmmmmmm) No intercorporate debt will exist between Distributing 1 (or any subsidiary of Distributing 1) and Controlled 1 (or any subsidiary of Controlled 1) at the time of, or subsequent to, the Second Controlled 1 Distribution.

(nnnnnnnnn) Payments made in connection with all continuing transactions, if any, between Distributing 1 (or any subsidiary of Distributing 1) and Controlled 1 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(ooooooooo) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).

(ppppppppp) For purposes of section 355(d), immediately after the Second Controlled 1 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 1 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Controlled 1 Distribution.

(qqqqqqqqq) For purposes of section 355(d), immediately after the Second Controlled 1 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled 1 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Controlled 1 Distribution or (ii) attributable



to distributions on Distributing 1 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Controlled 1 Distribution.

(rrrrrrrrr) Each of the following direct or indirect acquisitions of stock of the distributing corporation or any controlled corporation (including any predecessor or successor of any such corporation) is or may be part of a plan or series of related transactions (within the meaning of § 1.355-7) that includes the distribution of controlled corporation stock: the acquisitions of interests in LLC Sub 2 by Target Shareholder and by the management of Controlled 1. Taking all of these acquisitions into account, stock representing a 50-percent or greater interest (within the meaning of § 355 (d) (4)) in the distributing or controlled corporation (including any predecessor or successor of any such corporation) will not be acquired by any person or persons.

(sssssssss) Neither Distributing 1 nor Controlled 1 is a disqualified investment corporation as defined in section 355(g)(2)(A).

(ttttttttt) Immediately before the Second Controlled 1 Distribution, items of income, gain, loss, deduction and credit will be taken into account as required by the applicable intercompany transaction regulations (see Treas. Reg. § 1.1502-13 and Treas. Reg. § 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Treas. Reg. § 1.1502-13 as published in T.D. 8597). Further, Distributing 1's excess loss account with respect to the Controlled 1 stock, if any, will be included in income immediately before the Second Controlled 1 Distribution (see Treas. Reg. § 1.1502-19T).

(uuuuuuuuu) No excess loss accounts will be eliminated by the Proposed Transactions.

(vvvvvvvvv) Neither Distributing 1 nor Controlled 1 is, or will be, a United States real property holding corporation (as defined in section 897(c)(2)) at any time during the five-year period ending on the date of the Second Controlled 1 Distribution, and neither Distributing 1 nor Controlled 1 will be a United States real property holding corporation immediately after the Second Controlled 1 Distribution.

(wwwwwwwww) The Distributing 1 Consolidated Group will allocate a portion of its COFL account to Controlled 1 as of the end of the year in which the Second Controlled 1 Distribution occurs (and after the Distributing 1 Consolidated Group makes the additions or reductions to such account as required under Treas. Reg. §§ 1.1502-9(b)(3), (b)(4), and (c)(1)) pursuant to the methodology in Treas. Reg. § 1.1502-9(c).

#### Additional Representations

(xxxxxxxxx) With respect to each of Sub 8, Controlled 3 and Controlled 4, Controlled 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b),

immediately before and after the Sub 8 Contribution and the Second Controlled 3 Contribution.

(yyyyyyyyyy) If gain is realized in the Sub 8 Contribution, Controlled 2 will comply with the requirements of Treas. Reg. §§ 1.367(a)-3(b)(1)(ii) and -8(g) by entering into a five-year gain recognition agreement in accordance with Treas. Reg. §§ 1.367(a)-8(b) and -8(g)(2)(iii). Upon the Second Controlled 3 Contribution, Controlled 2 will comply with the requirements of Treas. Reg. § 1.367(a)-8.

(zzzzzzzzzz) The Sub 8 Contribution and the Second Controlled 3 Contribution are each an exchange to which Treas. Reg. § 1.367(b)-4 applies; however, neither the Sub 8 Contribution nor the Second Controlled 3 Contribution is an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i) -4(b)(2)(i), or -4(b)(3).

(aaaaaaaaaa) The notice requirements of Treas. Reg. § 1.367(b)-1(c) will be satisfied for the Sub 8 Contribution and the Second Controlled 3 Contribution.

(bbbbbbbbbb) At all times before and immediately after the Sub 8 Contribution and the Second Controlled 3 Contribution, none of Sub 8, Controlled 3 or Controlled 4 is, or will be, a passive foreign investment company, as defined in section 1297(a).

(ccccccccc) Sub 8, Sub 9, Controlled 3 and Controlled 4 are, and will each be, a CFC, within the meaning of section 957(a), immediately before and after the Sub 8 Contribution and the Second Controlled 3 Contribution.

(dddddddddd) With respect to Sub 9, Controlled 2 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), immediately before and after the Sub 9 Contribution.

(eeeeeeeeee) If gain is realized with respect to the Sub 9 Contribution, Controlled 2 will comply with the requirements of Treas. Reg. §§ 1.367(a)-3(b)(1)(ii) by entering into a five-year gain recognition agreement in accordance with Treas. Reg. § 1.367(a)-8(b).

(fffffffff) The Sub 9 Contribution is an exchange to which Treas. Reg. § 1.367(b)-4 applies; however, the Sub 9 Contribution is not an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i) -4(b)(2)(i), or -4(b)(3).

(gggggggggg) The notice requirements of Treas. Reg. § 1.367(b)-1(c) will be satisfied for the Sub 9 Contribution.

(hhhhhhhhh) At all times before and immediately after the Sub 9 Contribution, Sub 9 is not, and will not be, a passive foreign investment company, as defined in section 1297(a).

(iiiiiii) Sub 9 is and will be a CFC, within the meaning of section 957(a), immediately before and after the Sub 9 Contribution.

## **Rulings**

Based solely on the information submitted, we rule as follows with respect to the Proposed Transactions:

### Controlled 3 Distribution

- (1) The First Controlled 3 Contribution followed by the Controlled 3 Distribution will be a reorganization under section 368(a)(1)(D). Distributing 4 and Controlled 3 will each be “a party to a reorganization” within the meaning of section 368(b).
- (2) No gain or loss will be recognized by Distributing 4 on the First Controlled 3 Contribution (sections 361(a) and 357(a)).
- (3) No gain or loss will be recognized by Controlled 3 on the First Controlled 3 Contribution (section 1032(a)).
- (4) The basis of each asset received by Controlled 3 in the First Controlled 3 Contribution will equal the basis of that asset in the hands of Distributing 4 immediately before the First Controlled 3 Contribution (section 362(b)).
- (5) The holding period of each asset received by Controlled 3 in the First Controlled 3 Contribution will include the period during which Distributing 4 held that asset (section 1223(2)).
- (6) No gain or loss will be recognized by Distributing 4 on the Controlled 3 Distribution (section 361(c)(1)).
- (7) No gain or loss will be recognized by Distributing 2 on the Controlled 3 Distribution (section 355(a)(1)).
- (8) Distributing 2’s aggregate basis in the stock of Distributing 4 and Controlled 3 immediately after the Controlled 3 Distribution will be the same as Distributing 2’s basis in the stock of Distributing 4 immediately before the Controlled 3 Distribution, allocated between the Distributing 4 stock and the Controlled 3 stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2) (section 358(a)(1), (b) and (c)).
- (9) The holding period of the Controlled 3 stock received by Distributing 2 in the Controlled 3 Distribution will include the holding period of the Distributing 4 stock on which the Controlled 3 Distribution is made, provided the Distributing 4 stock is held by Distributing 2 as a capital asset on the date of the Controlled 3 Distribution (section 1223(1)).

(10) The First Controlled 3 Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.

(11) No amount will be included in income as a deemed dividend equal to the section 1248 amount under section 367(b) as a result of the First Controlled 3 Contribution (Treas. Reg. §§ 1.367(b)-1(b) and -4(b)).

(12) The Controlled 3 Distribution will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), -5(a), and -5(c) apply. If Distributing 2's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 4 or Controlled 3 is less than Distributing 2's predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)) with respect to Distributing 4 or Controlled 3, Distributing 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Distributing 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce basis below zero, Distributing 2 must instead include such amount in income as a deemed dividend from such corporation (see Treas. Reg. § 1.367(b)-5(f)). If Distributing 2 reduces the basis in the stock of Distributing 4 or Controlled 3 (or has an inclusion with respect to such stock), Distributing 2 shall increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

#### Controlled 4 Distribution

(13) For U.S. Federal income tax purposes, the Controlled 4 Contribution and the Controlled 4 Distribution will be treated as if (i) Distributing 4 purchased all of Sub 6's Business E assets in exchange for the Distributing 4 note and the assumption by Distributing 4 of liabilities associated with the purchased assets, (ii) Distributing 4 transferred the Sub 6's Business E assets to newly formed Controlled 4 in exchange for Controlled 4 stock and the assumption by Controlled 4 of liabilities associated with the transferred assets, and (iii) Distributing 4 distributed the Controlled 4 stock to Distributing 2 (Rev. Rul. 77-191, 1977-1 C.B. 94).

(14) The Controlled 4 Contribution followed by the Controlled 4 Distribution will be treated as a reorganization under section 368(a)(1)(D). Distributing 4 and Controlled 4 will each be "a party to a reorganization" within the meaning of section 368(b).

(15) No gain or loss will be recognized by Distributing 4 on the Controlled 4 Contribution (section 361(a) and 357(a)).

(16) No gain or loss will be recognized by Controlled 4 on the Controlled 4 Contribution (section 1032(a)).

(17) The basis of each asset received by Controlled 4 in the Controlled 4 Contribution will equal the basis of that asset in the hands of Distributing 4 immediately before the Controlled 4 Contribution (section 362(b)).

(18) The holding period of each asset received by Controlled 4 in the Controlled 4 Contribution will include the period during which Distributing 4 held that asset (section 1223(2)).

(19) No gain or loss will be recognized by Distributing 4 on the Controlled 4 Distribution (section 361(c)(1)).

(20) No gain or loss will be recognized by Distributing 2 on the Controlled 4 Distribution (section 355(a)(1)).

(21) Distributing 2's aggregate basis in the stock of Distributing 4 and Controlled 4 immediately after the Controlled 4 Distribution will be the same as Distributing 2's basis in the stock of Distributing 4 immediately before the Controlled 4 Distribution, allocated between the Distributing 4 stock and the Controlled 4 stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2) (section 358(a)(1), (b) and (c)).

(22) The holding period of the Controlled 4 stock received by Distributing 2 in the Controlled 4 Distribution will include the holding period of the Distributing 4 stock on which the Controlled 4 Distribution is made, provided the Distributing 4 stock is held by Distributing 2 as a capital asset on the date of the Controlled 4 Distribution (section 1223(1)).

(23) The Controlled 4 Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.

(24) No amount will be included in income as a deemed dividend equal to the section 1248 amount under section 367(b) as a result of the Controlled 4 Contribution (Treas. Reg. § 1.367(b)-1(b) and -4(b)).

(25) The Controlled 4 Distribution will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), -5(a), and -5(c) apply. If Distributing 2's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 4 or Controlled 4 is less than Distributing 2's predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)) with respect to Distributing 4 or Controlled 4, Distributing 2's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Distributing 2's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce basis below zero, Distributing 2 must instead include such amount in income as a deemed dividend from such corporation (see Treas. Reg. § 1.367(b)-5(f)). If Distributing 2 reduces the basis in the stock of Distributing 4 or Controlled 4 (or has an inclusion with respect to such stock),

Distributing 2 shall increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

#### Controlled 2 Distribution

(26) The First Controlled 2 Contribution followed by the Controlled 2 Distribution will be a reorganization under section 368(a)(1)(D). Distributing 3 and Controlled 1 will each be “a party to a reorganization” within the meaning of section 368(b).

(27) No gain or loss will be recognized by Distributing 3 on the First Controlled 2 Contribution (sections 361(a) and 357(a)).

(28) No gain or loss will be recognized by Controlled 2 on the First Controlled 2 Contribution (section 1032(a)).

(29) The basis of each asset received by Controlled 2 in the First Controlled 2 Contribution will equal the basis of that asset in the hands of Distributing 3 immediately before the First Controlled 2 Contribution (section 362(b)).

(30) The holding period of each asset received by Controlled 2 in the First Controlled 2 Contribution will include the period during which Distributing 3 held that asset (section 1223(2)).

(31) No gain or loss will be recognized by Distributing 3 on the Controlled 2 Distribution (section 361(c)(1)).

(32) No gain or loss will be recognized by Distributing 2 on the Controlled 2 Distribution (section 355(a)(1)).

(33) Distributing 2's aggregate basis in the stock of Distributing 3 and Controlled 2 immediately after the Controlled 2 Distribution will be the same as Distributing 2's basis in the stock of Distributing 3 immediately before the Controlled 2 Distribution, allocated between the Distributing 3 stock and the Controlled 2 stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2) (section 358(a)(1), (b) and (c)).

(34) The holding period of the Controlled 2 stock received by Distributing 2 in the Controlled 2 Distribution will include the holding period of the Distributing 3 stock on which the Controlled 2 Distribution is made, provided the Distributing 3 stock is held by Distributing 2 as a capital asset on the date of the Controlled 2 Distribution (section 1223(1)).

(35) Earnings and profits, if any, will be allocated between Distributing 3 and Controlled 2 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(f)(2).

First Controlled 1 Distribution

(36) The Controlled 1 Contribution followed by the First Controlled 1 Distribution will be a reorganization under section 368(a)(1)(D). Distributing 2 and Controlled 1 will each be “a party to a reorganization” within the meaning of section 368(b).

(37) To the extent the cash Controlled 1 distributed to Distributing 2 in the Controlled 1 Contribution does not exceed the aggregate adjusted basis of the property contributed to Controlled 1 (reduced by any liabilities assumed by Controlled 1) and such cash is used to pay Creditor, Distributing 2 will not recognize any gain or loss on the Controlled 1 Contribution §§ 361(a), 361(b)(1)(A), 361(b)(3), and 357(a)).

(38) No gain or loss will be recognized by Controlled 1 on the Controlled 1 Contribution (section 1032(a)).

(39) The basis of each asset, including each stock interest in Controlled 2, Controlled 3 and Controlled 4, received by Controlled 1 in the Controlled 1 Contribution will equal the basis of that asset in the hands of Distributing 2 immediately before the Controlled 1 Contribution (section 362(b)).

(40) The holding period of each asset, including each stock interest in Controlled 2, Controlled 3 and Controlled 4, received by Controlled 1 in the Controlled 1 Contribution will include the period during which Distributing 2 held that asset (section 1223(2)).

(41) Earnings and profits of each of Controlled 3 and Controlled 4, to the extent attributable to the stock of Controlled 3 and Controlled 4, respectively, under Treas. Reg. § 1.1248-2 or § 1.1248-3 (whichever is applicable), that were accumulated in taxable years of such foreign corporation beginning after December 31, 1962 and during the period the corporation was a controlled foreign corporation, shall be attributable to such stock now held by Controlled 1 (Treas. Reg. § 1.1248-1(a)).

(42) No gain or loss will be recognized by Distributing 2 on the First Controlled 1 Distribution (section 361(c)(1)).

(43) No gain or loss will be recognized by Distributing 1 on the First Controlled 1 Distribution (section 355(a)(1)).

(44) Distributing 1's aggregate basis in the stock of Distributing 2 and Controlled 1 immediately after the First Controlled 1 Distribution will be the same as

Distributing 1's basis in the stock of Distributing 2 immediately before the First Controlled 1 Distribution, allocated between the Distributing 2 stock and the Controlled 1 stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2) (section 358(a)(1), (b) and (c)).

(45) The holding period of the Controlled 1 stock received by Distributing 1 in the First Controlled 1 Distribution will include the holding period of the Distributing 2 stock on which the First Controlled 1 Distribution is made, provided the Distributing 2 stock is held by Distributing 1 as a capital asset on the date of the First Controlled 1 Distribution (section 1223(1)).

(46) Earnings and profits, if any, will be allocated between Distributing 2 and Controlled 1 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(f)(2).

#### Second Controlled 1 Distribution

(47) No gain or loss will be recognized by Distributing 1 on the Second Controlled 1 Distribution (section 355(c)).

(48) No gain or loss will be recognized by LLC Parent on the Second Controlled 1 Distribution (section 355(a)(1)).

(49) LLC Parent's aggregate basis in the stock of Distributing 1 and Controlled 1 immediately after the Second Controlled 1 Distribution will be the same as LLC Sub's basis in the stock of Distributing 1 immediately before the Second Controlled 1 Distribution, allocated between the Distributing 1 stock and the Controlled 1 stock in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2) (section 358(a)(1), (b) and (c)).

(50) The holding period of the Controlled 1 stock received by LLC Parent in the Second Controlled 1 Distribution will include the holding period of the Distributing 1 stock on which the Second Controlled 1 Distribution is made, provided the Distributing 1 stock is held by LLC Parent as a capital asset on the date of the Second Controlled 1 Distribution (section 1223(1)).

(51) Earnings and profits, if any, will be allocated between Distributing 1 and Controlled 1 in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(e)(3).

(52) Except to the extent required under Treas. Reg. § 1.1502-9(b)(5)(i) with respect to the Distributing 4 Stock Distribution, no recapture will arise under section 904(f)(3) to reduce the COFL account to be apportioned (in the manner described in representation (wwwwwwwww)) as a result of any of the transaction steps described herein (section 904(f)(3)(D)(iii)).



Contributions of Controlled 3 and Controlled 4

(53) As a result of the Second Controlled 2 Contribution, earnings and profits of each of Controlled 3 and Controlled 4, to the extent attributable to the stock of Controlled 3 and Controlled 4, respectively, under Treas. Reg. § 1.1248-2 or § 1.1248-3 (whichever is applicable), that were accumulated in taxable years of such foreign corporation beginning after December 31, 1962 and during the period the corporation was a controlled foreign corporation, shall be attributable to such stock now held by Controlled 2 (Treas. Reg. § 1.1248-1(a)).

(54) The Sub 8 and Sub 9 Contributions are transactions to which section 367(a) applies. If gain is realized from either the Sub 8 or Sub 9 Contribution, then upon the filing of a five-year gain recognition agreement by Controlled 2 pursuant to Treas. Reg. §§ 1.367(a)-8(b) and -8(g)(2)(iii), with respect to the Sub 8 Contribution (taking into account the Second Controlled 3 Contribution) and the Sub 9 Contribution, Controlled 2 will not recognize gain under section 367(a)(1) related to the Sub 8 Contribution, Sub 9 Contribution or the Second Controlled 3 Contribution (Treas. Reg. §§ 1.367(a)-3(b)(1)(ii) and -8(g)(2)).

(55) No amount will be included in income as a deemed dividend equal to the section 1248 amount under section 367(b) upon either the Sub 8, Sub 9 or the Second Controlled 3 Contributions (Treas. Reg. §§ 1.367(b)-1(b) and -4(b)).

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Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express no opinion regarding whether the terms of the Transitional Services Agreements represent arm's-length terms. To the extent that the terms of any of the Transitional Agreements are not arm's-length, adjustments should be made to reflect any difference between the true fair market value and the amount of any actual payment made by Distributing 1 (or any of its subsidiaries) to Controlled 1 (or any of its subsidiaries) or by Controlled 1 (or any of its subsidiaries) to Distributing 1 (or any of its subsidiaries) under the Transitional Agreements as if it were a contribution or distribution made as part of the Proposed Transactions.

No opinion is expressed about the federal tax treatment of the Proposed Transaction under other provisions of the Code or Regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above ruling.

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Each taxpayer involved in the transaction should attach a copy of this ruling letter to the taxpayer's federal income tax return for the taxable year in which the Proposed Transactions are completed.

Under a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

*Marlene P. Oppenheim*

Marlene P. Oppenheim  
Senior Counsel, Branch 5  
Office of Associate Chief Counsel (Corporate)