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Legend

Distributing 1 =

Distributing 2 =

Distributing 3 =

Controlled 1 =

Controlled 2 =

Controlled 3 =

Sub 1 =

PLR-127921-12

2

Sub 2 =

Sub 3 =

FSub1 =

DRE 1 =

DRE 2 =

DRE 3 =

DRE 4 =

DRE 5 =

PRS 1 =

PRS 2 =

Merger Partner =

Merger Sub =

Business A =

Business B =

Business C =

Business D =

Business E =

Business F =

Business G =

Business H =

Facility G =

Facility H =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

l =

m =

n =

State A =

State B =

State C =

Territory A =

Country A =

Country B =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Foreign Transaction =

Consent =

Pension
Underfunding
True-Up Payment =

Pension
Overfunding
True-Up Payment =

Controlled 2
Class A Stock =

Controlled 2
Class B Stock =

Stock Repurchase
Plans =

Specified Stock
Repurchase Plan =

Distributing 3 PSU
Award =

Merger Partner
RSU Award =

Dear :

This letter responds to a June 27, 2012 letter requesting rulings on certain federal income tax consequences of the Proposed Transaction (defined below). The information provided in that letter and in later correspondence is summarized below.

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

In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Distributing 1 Distribution, the Distributing 2 Distribution, and the External Distribution (each as defined below): (i) satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) are used principally as a device for the distribution of earnings and profits of any distributing corporation or any controlled corporation or both (see § 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); and (iii) 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 corporation or any controlled corporation (see § 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

Summary of Facts

Distributing 3 is a widely held publicly traded State A corporation and is the parent of a worldwide group of entities (the “Distributing 3 Global Group”). Distributing 3 is also the common parent of an affiliated group of corporations filing a consolidated federal income tax return (the “Distributing 3 Consolidated Group”). Distributing 3 has a single class of stock outstanding (the “Distributing 3 Common Stock”).

Distributing 3 owns, among other assets, all of the equity interests in the following entities: Sub 1, a Territory A corporation; Sub 2, a State B corporation; and DRE 1, a State C limited liability company that is disregarded as separate from Distributing 3 for federal income tax purposes. Distributing 3 also owns a percent of PRS 1, a State B limited liability company that is taxable as a partnership for federal income tax purposes, and a percent of PRS 2, a State B limited liability company that is taxable as a partnership for federal income tax purposes. The remaining PRS 1 interests are held by a third party, and the remaining PRS 2 interests are held by Merger Partner.

DRE 1 owns all of the equity interests in each of Distributing 1, a Country A corporation, and Distributing 2, a State C corporation. DRE 1 also owns b percent of the outstanding stock of FSub 1, a company organized under the laws of Country B that is treated as a corporation for federal income tax purposes (such stock, the “FSub 1 Interests”). The remaining FSub 1 stock is held by a third party. Distributing 3 has been engaged in discussions with the third party regarding the transfer of the FSub 1 Interests to DRE 4

pursuant to the Proposed Transaction. To facilitate the transfer of the FSub 1 Interests to DRE 4 pursuant to the Proposed Transaction, Distributing 3 (or a member of the Distributing 3 Global Group) may purchase prior to the External Distribution the remaining c percent of the outstanding stock of FSub 1 owned by the third party, in which event DRE 4 would own the FSub 1 Interests following the External Distribution and Distributing 3 (or a member of the Distributing 3 Global Group) would retain a minority shareholder interest in FSub 1 following the External Distribution.

The Distributing 3 Global Group is principally engaged in Business A, Business B, Business C, and Business D. Distributing 2, a member of the Distributing 3 “separate affiliated group” as defined in § 355(b)(3) (the “Distributing 3 SAG”), directly and actively engages in Business E, which is part of Business A. Distributing 1 directly and actively engages in Business F, which is part of Business A. Financial information has been submitted indicating that each of Business E and Business F has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Merger Partner is a widely held publicly traded State C corporation. Currently, Merger Partner’s board of directors (“Merger Partner’s Board”) has d members. Merger Partner owns all of the stock in Merger Sub, a State C corporation. Merger Partner, through its subsidiaries and other entities, (the “Merger Partner Group”), conducts businesses complementary with Business C.

Distributing 3 has determined that the separation of Business C from Business A, Business B, and Business D (the “Remaining Businesses”) will serve the following corporate business purposes: (i) facilitating the strategic combination of Business C with Merger Partner’s complementary businesses, (ii) leveraging the efficiencies of the combined Business C resulting from the Proposed Transaction, and (iii) improving strategic and management “fit and focus” with respect to each of the Remaining Businesses and Business C by allowing management of each business to focus its attention, as well as available financial and human resources, on growing each respective business.

On Date 1, Distributing 3 formed a new domestic corporation as a subsidiary of Distributing 3 (“Controlled 3”). As of Date 2, (1) Distributing 3 and Controlled 3 entered into a separation agreement (the “Separation Agreement”), which governs certain terms regarding the separation of Business C and the Remaining Businesses and includes a working capital adjustment and a post-closing working capital adjustment (together, the “Working Capital Adjustment”); (2) Distributing 3, Controlled 3, Merger Partner, and Merger Sub entered into a merger agreement, which provides for the combination of Controlled 3 and Merger Partner (as amended, the “Merger Agreement”); and (3) Distributing 3, Controlled 3, and Merger Partner entered into an employee matters agreement (the “Employee Matters Agreement”), which governs the parties’ compensation and employee benefit obligations relating to the separation of Business C

from the Remaining Businesses and includes a pension true-up adjustment (the “Pension True-Up Adjustment”) pursuant to which the parties may be required to make or cause to be made the Pension Underfunding True-Up Payment or the Pension Overfunding True-Up Payment if the trust associated with certain Controlled 3 pension plans is underfunded or overfunded, as applicable.

In addition, as of Date 2, (1) Distributing 3 entered into a committed financing arrangement pursuant to which one or more financial institutions (collectively, the “Financial Institution”) will lend funds to Distributing 3 (the “Distributing 3 Financing Commitment”); and (2) Controlled 3 entered into a committed financing arrangement pursuant to which the Financial Institution will lend funds to Controlled 3 (the “Controlled 3 Financing Commitment”).

In connection with the Proposed Transaction, Distributing 3 (or the applicable member of the Distributing 3 Group) and Controlled 3 and/or Merger Partner (and/or the applicable member of the Merger Partner Group), will enter into certain other agreements relating to the separation of Business C from the Remaining Businesses, including (1) a tax matters agreement (the “Tax Matters Agreement”); (2) a transition services agreement (the “Transition Services Agreement”); and (3) and certain other agreements and arrangements necessitated by or facilitative of the Proposed Transaction (collectively, together with the Separation Agreement, the Merger Agreement, the Employee Matters Agreement, the Distributing 2 and Controlled 3 Financing Commitments, the Committed Exchange Arrangement (as defined below in step (ii)) and the Securities Exchange Agreement (as defined below in step (ii)), the Transaction Agreements”). In addition, in connection with the Proposed Transaction, Distributing 3 (and/or the applicable member of the Distributing 3 Group) and Controlled 3 and/or Merger Partner (and/or the applicable member of the Merger Partner Group) will enter into certain continuing commercial agreements or arrangements (or will possibly maintain certain commercial arrangements) under which Business C and the Remaining Businesses may provide goods, services, or facilities to each other on terms that are intended to reflect arm’s-length negotiation (the “Commercial Arrangements” and, together with the Transaction Agreements, the “Continuing Arrangements”).

Proposed Transaction

For what are represented to be valid business purposes, Distributing 3 proposes to effect the External Distribution (as defined in step (xxii) below). The following steps have been proposed and/or completed to implement the External Distribution.

- (i) Distributing 3 formed or caused to be formed (1) Controlled 3; (2) a new domestic limited liability company as a subsidiary of Sub 3 treated as a “disregarded entity” for federal income tax purposes (“DRE 2”); (3) a new company under the laws of Country A as a subsidiary of DRE 2 treated as a corporation for federal income tax purposes (“Controlled 1”); (4) a new

domestic limited liability company as a subsidiary of Distributing 3 treated as a “disregarded entity” for federal income tax purposes (“DRE 3”); (5) a new domestic corporation as a subsidiary of Distributing 2 (“Controlled 2”); (6) a new domestic limited liability company as a subsidiary of Distributing 3 treated as a “disregarded entity” for federal income tax purposes (“DRE 4”); and (7) a new domestic limited liability company as a subsidiary of Controlled 3 that will be treated as a “disregarded entity” for federal income tax purposes (“DRE 5”).

- (ii) At least e days before Merger Partner’s shareholders vote on whether to approve the Merger (as defined in step (xxiii) below) (or, if later, e days before the date Distributing 3’s board of directors declares the dividend of Controlled 3 stock effecting the External Distribution (as defined in step (xxii) below) or e days before the date of the commencement of the Exchange Offer (as defined in step (xxii) below), the Financial Institution will, pursuant to the Distributing 3 Financing Commitment, make a loan for its own account to Distributing 3 (the “Distributing 3 Debt”). Under the Distributing 3 Financing Commitment, the Distributing 3 Debt will mature f days after its issuance (prepayable without penalty) and will bear interest at a floating rate. Distributing 3 will use the proceeds of the Distributing 3 Debt for general corporate purposes (which may include the repayment of debt). The Financial Institution may enter into hedging arrangements (interest or credit risk) with respect to the Distributing 3 Debt, provided that neither Distributing 3 nor Merger Partner nor any member of their respective affiliated groups will be a party to such arrangements.

More than e days after the issuance of the Distributing 3 Debt, Distributing 3 expects to enter into an exchange agreement with the Financial Institution (the “Securities Exchange Agreement”) pursuant to which the Financial Institution will agree to exchange the Distributing 3 Debt for Controlled 3 debt (the “Controlled 3 Securities”) received by Distributing 3 in the Controlled 3 Contribution (as defined in step (xviii) below) (the “Securities Exchange”). It is also expected that an underwriting, securities purchase or securities placement agreement with the Financial Institution will be entered into by Controlled 3 at the same time, pursuant to which there will be an offering of the Controlled 3 Securities to investors on terms described in the underwriting, securities purchase or securities placement agreement, which will close at least g days after the issuance of the Distributing 3 Debt. If entered into before the approval of the Merger (as defined in step (xxiii) below) by Merger Partner’s shareholders, consummation of the transactions provided for in the Securities Exchange Agreement and the underwriting, securities purchase or securities placement agreement will be contingent upon such event occurring.

The Merger Agreement provides that, so long as Controlled 3 and the Financial Institution are able to market and price the Securities Offering (as defined in step (xvii) below) where the yield to maturity on the Controlled 3 Securities is at or below a predetermined cap (the “Cap”), Distributing 3 will take reasonable best efforts to enter into the Securities Exchange Agreement and complete the Securities Exchange. The Cap has been set such that the inability to market and price the Securities Offering (as defined in step (xvii) below) within the Cap is expected to occur only in the event of market disruption or material and adverse deterioration of the financial markets.

To ensure that the Proposed Transaction can be completed in the unlikely event of market disruption or material and adverse deterioration of the financial markets, Distributing 3 and the Financial Institution have entered into a committed exchange arrangement (the “Committed Exchange Arrangement”). Pursuant to the Committed Exchange Arrangement, the Financial Institution has committed, in certain circumstances and subject to certain conditions, to exchange the Distributing 3 Debt for unsecured senior loans of Controlled 3 (such loans, the “Controlled 3 Exchange Loans” and such exchange, the “Committed Exchange”). The Committed Exchange would occur in lieu of the Securities Exchange, but only if the Controlled 3 Securities cannot be priced within the Cap, the Merger Partner shareholders approve the Merger (as defined in step (xxiii) below), and Distributing 3 effects the External Distribution (either through the One-Step Spin-Off or the Exchange Offer and Clean Up Spin-Off (each as defined below)). The Controlled 3 Loans will bear interest at a rate equal to the Cap and the terms of the Controlled 3 Exchange Loans will be similar to those of the Controlled 3 Securities. Any exchange of Distributing 3 Debt for Controlled 3 Exchange Loans will comply with the timing limitations described above with respect to the Securities Exchange – that is, the Distributing 3 Debt will be (i) issued at least e days before the Merger Partner shareholders vote on the Merger (as defined in step (xxiii) below) (or, if later, e days before the date Distributing 3’s board of directors declares the dividend of Controlled 3 stock effecting the External Distribution (as defined in step (xxii) below) or e days before the date of the commencement of the Exchange Offer), and (ii) held by the Financial Institution for at least g days for its own account before the Committed Exchange.

Pursuant to a letter agreement entered into by Distributing 3 and the Financial Institution in connection with the Committed Exchange Arrangement, upon notice by the Financial Institution at any time on or prior to the date of the Merger that the Controlled 3 Securities cannot be resold to bona fide third-party investors at such time at a yield less than the Cap, the Financial Institution may elect to have the Distributing 3 Debt repaid on the date of the

- Merger with unsecured securities of Controlled 3 (the “Controlled 3 Demand Securities”).
- (iii) Sub 3 will convert to a limited liability company pursuant to a state conversion statute (“Sub 3 LLC”), and thereafter will be treated as a “disregarded entity” for federal income tax purposes (until the effective time of the Sub 3 Contribution) (the “Sub 3 Reorganization”).
 - (iv) The Foreign Transaction will be effected pursuant to the following steps:
 - (a) Distributing 1 will reorganize its existing share capital into two classes: (1) fixed-value preferred shares with a redemption amount intended to equal the net value of its assets and liabilities relating to Business C (the “Distributing 1 Preferred Stock”); and (2) common shares (the “Distributing 1 Common Stock”).
 - (b) In the context of a three-party agreement among Sub 3 LLC, DRE 2, and Controlled 1: (1) Sub 3 LLC will transfer all the Distributing 1 Preferred Stock to Controlled 1; (2) Controlled 1 will issue common stock of Controlled 1 (“Controlled 1 Common Stock”) to DRE 2; and (3) DRE 2 will issue equity interests to Sub 3 LLC.
 - (c) Distributing 1 will transfer assets and liabilities relating to Business C to Controlled 1 in exchange for fixed-value preferred shares with a redemption amount intended to equal the net value of the assets and liabilities relating to Business C (the “Controlled 1 Preferred Stock”).
 - (d) Distributing 1 will redeem the Distributing 1 Preferred Stock in exchange for a Distributing 1 note (the “Distributing 1 Note”), and Controlled 1 will redeem the Controlled 1 Preferred Stock in exchange for a Controlled 1 note (the “Controlled 1 Note”).
 - (e) The Distributing 1 Note and Controlled 1 Note will be legally set-off and cancelled since they will be equal in value.

The taxpayer intends and has requested a ruling that, for federal income tax purposes, the transactions that comprise the Foreign Transaction will be treated as (a) a transfer by Distributing 1 to Controlled 1 of all Distributing 1’s assets relating to Business C in exchange for Controlled 1 stock and the assumption of any liabilities relating to Business C (the “Controlled 1 Contribution”); and (b) a distribution by Distributing 1 of all the Controlled 1 stock to its sole shareholder (the “Distributing 1 Distribution”).

- (v) Distributing 3 will transfer the assets and liabilities comprising Business G to DRE 3.
- (vi) Distributing 3 will recapitalize or cause to be recapitalized Controlled 2 by amending or causing to be amended Controlled 2's certificate of incorporation to authorize the issuance of the Controlled 2 Class A Stock and the Controlled 2 Class B Stock pursuant to steps (vii) and (viii) below and to cancel all the outstanding shares of Controlled 2 stock issued to Distributing 2 for nominal consideration in connection with the formation of Controlled 2.
- (vii) Distributing 3 will transfer all its equity interests in DRE 3 to Controlled 2 in exchange for the Controlled 2 Class A Stock and the assumption of liabilities of Business G (the "Controlled 2 Contribution A").
- (viii) Distributing 2 will transfer assets relating to Business C (including intellectual property relating to Business C) to Controlled 2 in exchange for the Controlled 2 Class B Stock and the assumption of liabilities (the "Controlled 2 Contribution B" and, together with the Controlled 2 Contribution A, the "Controlled 2 Contribution").
- (ix) Distributing 2 will distribute all the Controlled 2 Class B Stock to Sub 3 LLC (the "Distributing 2 Distribution").
- (x) Sub 3 LLC will distribute all the (a) Controlled 2 Class B Stock and (b) DRE 2 equity interests to DRE 1.
- (xi) DRE 1 will distribute all the (a) Controlled Class B Stock and (b) DRE 2 equity interests to Distributing 3.
- (xii) Distributing 3 will transfer to DRE 4 certain assets and liabilities relating to Business C (including (a) all its equity interests in PRS 1; (b) all its equity interests in PRS 2; (c) all the Controlled 2 Class A Stock and the Controlled 2 Class B Stock; (d) all the stock of Sub 2; (e) cash equal to the book value of the assets relating to Business C owned by Sub 1 (the "Sub 1 Business C Assets"); (f) certain other assets and liabilities relating to Business C; and (g) if the FSub 1 Interests will be transferred at or prior to the External Distribution (as defined in step (xxii) below), cash in an amount equal to the value of the FSub 1 Interests agreed upon by Distributing 3 and Merger Partner.
- (xiii) DRE 4 will purchase for cash the Sub 1 Business C Assets from Sub 1.

- (xiv) If Distributing 3 determines that no Consent is necessary or Distributing 3 obtains any required Consent prior to the External Distribution (as defined in step (xxii) below):
- (a) DRE 4 will purchase for cash the FSub 1 Interests from Sub 3 LLC; and
 - (b) Sub 3 LLC will distribute the cash received from DRE 4 to DRE 1 and DRE 1 will distribute such cash to Distributing 3.
- (xv) Pursuant to the Controlled 3 Financing Commitment, Controlled 3 will borrow cash under a credit facility to be established in connection with the Proposed Transaction (the “Controlled 3 Financing”). If circumstances permit, Merger Partner intends to cause the repayment of the Controlled 3 Financing, in whole or in part, within h days after the day on which Controlled 3 incurs such Controlled 3 Financing, but no sooner than i days after the date on which Controlled 3 incurs such Controlled 3 Financing.
- (xvi)
- (a) Distributing 3 will transfer to Controlled 3 certain assets relating to Business C (including all its DRE 4 interests) in actual or constructive exchange for (a) Controlled 3 stock; (b) the Controlled 3 Securities, Controlled 3 Exchange Loans, or Controlled 3 Demand Securities, as applicable (such distribution of Controlled 3 Securities, Controlled 3 Exchange Loans, or Controlled 3 Demand Securities, as applicable, the “Special Debt Distribution”); (c) cash (such distribution of cash, the “Special Cash Distribution”) funded in whole or in part from the Controlled 3 Financing; and (d) the assumption of certain liabilities relating to Business C (“Controlled 3 Contribution A”).
 - (b) Distributing 3 will use the proceeds of the Special Cash Distribution as follows: (1) to make distributions to its shareholders (which distributions could include regular quarterly dividends to Distributing 3’s shareholders); (2) to repurchase outstanding Distributing 3 Common Stock (which repurchases could be made pursuant to Distributing 3’s existing stock repurchase plans); (3) to pay its creditors (which payment could include certain long-term indebtedness previously incurred by Distributing 3 (including interest and associated fees, such as consent fees, as well as principal), ordinary course liabilities (whenever incurred), and borrowings under a revolving credit facility that may be incurred by Distributing 3 prior to the completion of the Proposed Transaction); or (4) a combination of (1) through (3); in each case, prior to or within j months following the External Distribution (as defined in step (xxii) below). The Special Cash Distribution proceeds would be held in a segregated account until they are

used as described above (the cash deposited in such segregated account may be invested in bank interest bearing deposit accounts, bank certificates of deposit, money market funds or government funds or a combination of the foregoing). Distributing 3 would use a reasonable method to distinguish funds representing the Special Cash Distribution proceeds from funds representing earnings attributable thereto.

- (xvii) At a time when the Distributing 3 Debt has been outstanding for at least g days, the Financial Institution will exchange the Distributing 3 Debt for the Controlled 3 Securities, Controlled 3 Exchange Loans, or Controlled 3 Demand Securities, as applicable, pursuant to the terms of the Securities Exchange Agreement (the "Securities Exchange"). It is anticipated that the Financial Institution immediately would sell, in a public offering or otherwise, the Controlled 3 Securities, Controlled 3 Exchange Loans, or Controlled 3 Demand Securities, as applicable, received in the Securities Exchange (the "Securities Offering").
- (xviii) Pursuant to an agreement entered into among Distributing 3, Controlled 3 and DRE 5: (a) Distributing 3 will transfer to DRE 5 all the DRE 2 equity interests, (b) DRE 5 will issue DRE 5 equity interests to Controlled 3, and (c) Controlled 3 will issue Controlled 3 stock to Distributing 3 ("Controlled 3 Contribution B" and, together with Controlled 3 Contribution A, the "Controlled 3 Contribution").
- (xix) DRE 2 will dissolve and liquidate into DRE 5.
- (xx) At least k days after the later of the date Sub 3 LLC distributes all the Controlled 2 Class B Stock and DRE 2 equity interests to DRE 1 or the date Sub 3 LLC transfers the cash received from DRE 4 in exchange for the FSub 1 Interests (if such transfer occurs prior to the External Distribution (as defined in step (xxii) below)), Distributing 3 will cause an election to be made to treat Sub 3 LLC as a corporation for federal income tax purposes (from and after the election, Sub 3 LLC will be referred to as "New Sub 3")(the "Sub 3 Contribution").
- (xxi) To the extent necessary, Distributing 3 will cause Controlled 3 to issue additional shares of Controlled 3 stock or otherwise recapitalize the outstanding shares of Controlled 3 stock to have the appropriate number of shares of Controlled 3 stock outstanding at the time of the External Distribution and Merger.
- (xxii) Distributing 3 will either (a) distribute all of the Controlled 3 stock to its shareholders on a pro rata basis (the "One-Step Spin-Off") or (b) consummate an offer to exchange shares of Controlled 3 stock for currently

outstanding shares of Distributing 3 stock (the “Exchange Offer”) and, in the event that Distributing 3’s stockholders subscribe for less than all of the Controlled 3 stock in the Exchange Offer, distribute any unsubscribed Controlled 3 stock on a pro rata basis immediately following the Exchange Offer (the “Clean Up Spin-Off” and, the One-Step Spin-Off or the Exchange Offer, together with any Clean Up Spin-Off, the “External Distribution”).

- (xxiii) Pursuant to the Merger Agreement, Merger Sub will merge with and into Controlled 3, with Controlled 3 surviving (the “Merger”). Pursuant to the Merger Agreement, except for cash received in lieu of fractional shares, the shareholders of Controlled 3 will receive solely voting stock of Merger Partner. In the aggregate, the shareholders of Controlled 3 will receive stock representing at least l percent of the total voting power and total combined value of Merger Partner’s stock. Fractional shares of Merger Partner will be aggregated by an exchange agent and sold on the market, with the applicable Controlled 3 shareholders receiving their respective shares of the proceeds.

Pursuant to the Merger Agreement, following the Merger, Merger Partner’s Board initially will consist of the current d members of Merger Partner’s Board and m additional members designated by Distributing 3. All such members of Merger Partner’s Board will be required to stand for election in the normal course following the Merger. Under Merger Partner’s governing documents, Merger Partner’s Board is empowered to manage the corporation’s business, except with respect to certain matters traditionally reserved to shareholders under State C law. The initial composition of Merger Partner’s Board following the Merger has been contemplated in issuing the rulings below.

In addition, pursuant to the Merger Agreement, in order to avoid the expense and inconvenience of issuing fractional shares, Merger Partner will deliver shares to an exchange agent on behalf of the Controlled 3 shareholders representing the aggregate of the fractional shares to which they are entitled, and the exchange agent will sell the shares in an open market transaction and remit the cash proceeds to the shareholders otherwise entitled to receive the fractional shares. The sale of such fractional shares in the market has been contemplated in issuing the rulings below.

Furthermore, Distributing 3 has periodically repurchased stock pursuant to publicly announced share repurchase programs. From Date 3 to Date 4, Distributing 3 repurchased approximately n shares under the Stock Repurchase Plans (the “Completed Repurchases”). Depending on prevailing market conditions, available cash, and other relevant business considerations, Distributing 3 may repurchase additional shares of Distributing 3 Common Stock in open market transactions prior to the date of the External Distribution, pursuant to the Specified Stock Repurchase Plan (the “Additional Repurchases”). The Completed Repurchases and the Additional Repurchases have been contemplated in issuing the rulings below.

In addition, in connection with the Proposed Transaction and pursuant to the Merger Agreement, (1) each Distributing 3 option granted pursuant to the Distributing 3 Stock Plans held by a current employee of Business C that is scheduled to vest after Date 5 will be converted into a Merger Partner option and will otherwise be subject to the same terms and conditions, subject to an adjustment to equalize the value of such options; (2) each Distributing 3 PSU Award granted in Date 6 and Date 7 that is held by a current employee of Business C will be converted into a Merger Partner RSU Award and shall otherwise be subject to the same terms and conditions, subject to an adjustment to equalize the value of such awards.

Representations

The Sub 3 Reorganization

- (1) Distributing 3 will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Sub 3 immediately prior to the Sub 3 Reorganization. For purposes of this representation, amounts used by Sub 3 to pay its reorganization expenses, amounts paid by Sub 3 to shareholders who receive cash or other property, and all redemptions and distributions (except for regular, normal dividends) made by Sub 3 immediately preceding the transfer will be included as assets of Sub 3 held immediately prior to the Sub 3 Reorganization.
- (2) During the five-year period ending on the date of the Sub 3 Reorganization:
 - (a) no person related (as defined in Treas. Reg. § 1.368-1(e)(4)) to Distributing 3 will have acquired Sub 3 stock with consideration other than Distributing 3 stock;
 - (b) no person related to Distributing 3 will have acquired or redeemed Sub 3 stock with consideration other than Distributing 3 stock or Sub 3 stock;
 - and (c) no distribution will have been made with respect to the stock of Sub 3, other than ordinary, normal, regular dividend distributions made pursuant to the historic dividend-paying practice of Sub 3, either directly or through any transaction, agreement, or arrangement with any other person.
- (3) Distributing 3 has no plan or intention to sell or otherwise dispose of any of the assets of Sub 3 that will be deemed to be acquired in the Sub 3 Reorganization, except for dispositions made in the ordinary course of business, transfers set forth in the Proposed Transaction or transfers described in § 368(a)(2)(C) or Treas. Reg. § 1.368-2(k).
- (4) The liabilities of Sub 3 that will be deemed to be assumed by Distributing 3 (within the meaning of § 357(d)) were incurred by Sub 3 in the ordinary course of its business and are associated with the assets that will be deemed to be transferred to Distributing 3.

- (5) Following the Sub 3 Reorganization, Distributing 3 will continue, either directly or through one or more members of Distributing 3's qualified group (as defined in Treas. Reg. § 1.368-1(d)(4)(ii)), the historic business of Sub 3 or will use a significant portion of Sub 3's historic business assets in a business.
- (6) Except as otherwise provided in the Transaction Agreements, Distributing 3 will pay or assume the expenses, if any, of each party incurred in connection with the Sub 3 Reorganization in accordance with the guidelines of Rev. Rul. 73-54, 1973-1 C.B. 189.
- (7) There is no intercorporate indebtedness existing between Distributing 3 and Sub 3 that was issued or acquired at a discount or that will be settled at a discount.
- (8) No two parties to the Sub 3 Reorganization are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (9) The total fair market value of the assets of Sub 3 at the time of the Sub 3 Reorganization will exceed the sum of its liabilities as of such time (including any liabilities cancelled, extinguished, or assumed (as determined under § 357(d)) in connection with the Sub 3 Reorganization). The fair market value of the assets of Distributing 3 will exceed the amount of its liabilities immediately after the Sub 3 Reorganization.
- (10) Sub 3 is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (11) Items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations as a result of the Sub 3 Reorganization (see Treas. Reg. §§ 1.1502-13 and -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 by T.D. 8597).
- (12) The Sub 3 Reorganization (i) will be undertaken pursuant to an overall plan that was adopted and approved by the Board of Directors of Sub 3 and each of its affiliates, as necessary; and (ii) will be reported consistently by the respective parties for federal income tax purposes.
- (13) The Sub 3 Reorganization will be carried out for the corporate business purpose of facilitating the External Distribution by aligning the entities conducting Business C under Controlled 3. The Sub 3 Reorganization is motivated in whole or substantial part by this corporate business purpose.

The Controlled 2 Contribution

- (14) No stock or securities will be issued for services rendered to or for the benefit of Controlled 2 in connection with the Controlled 2 Contribution, and no stock or securities will be issued for indebtedness of Controlled 2 that is not evidenced by a security or for interest on indebtedness of Controlled 2 which accrued on or after the beginning of the holding period of Distributing 3 or Distributing 2, as applicable, for the debt.
- (15) The patents or patent applications transferred to Controlled 2 in the Controlled 2 Contribution qualify as “property” within the meaning of § 351 of the Code.
- (16) Distributing 2 will transfer all substantial rights in such patents or patent applications within the meaning of § 1235 of the Code.
- (17) With respect to any copyrights transferred to Controlled 2 in the Controlled 2 Contribution, all rights, title and interests for each copyright, in each medium of exploitation, will be transferred to Controlled 2.
- (18) Distributing 2 will not retain any significant power, right, or continuing interest, within the meaning of § 1253(b) of the Code, in the franchises, trademarks or trade names being transferred.
- (19) The Controlled 2 Contribution will not be the result of the solicitation by a promoter, broker, or investment house.
- (20) Neither Distributing 3 nor Distributing 2 will retain any rights in the property transferred to Controlled 2.
- (21) The value of the stock received or deemed to be received in exchange for accounts receivable will be equal to the net value of the accounts transferred, i.e., the face amount of the accounts receivable previously included in income less the amount of the reserve for bad debts.
- (22) The total adjusted basis of the assets to be transferred to Controlled 2 by Distributing 3 and Distributing 2 will, in each instance, equal or exceed the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 2 plus any liabilities to which the transferred assets are subject.
- (23) The liabilities assumed, if any, (as determined under § 357(d)) by Controlled 2 will be incurred in the ordinary course of business and will be associated with the assets transferred.

- (24) There will be no indebtedness created in favor of either Distributing 3 or Distributing 2 (or a disregarded entity of either Distributing 3 or Distributing 2) as a result of the Controlled 2 Contribution.
- (25) The total fair market value of the assets transferred to Controlled 2 by Distributing 3 and Distributing 2 in the Controlled 2 Contribution will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of § 357(d)) by Controlled 2 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 2 by Distributing 3 or Distributing 2 (or a disregarded entity of Distributing 3 or Distributing 2) that are discharged or extinguished in connection with the exchange, and (iii) the amount of cash and the fair market value of any other property (other than stock and securities of Controlled 2 permitted to be received under § 361(a) without the recognition of gain) received by Distributing 3 or Distributing 2 (or a disregarded entity of Distributing 3 or Distributing 2) in connection with the exchange. The fair market value of the assets of Controlled 2 will exceed the amount of its liabilities immediately after the exchange.
- (26) The Controlled 2 Contribution will occur under a plan agreed upon before the transactions in which the rights of the parties are defined.
- (27) All exchanges will occur on approximately the same date.
- (28) There is no plan or intention on the part of Controlled 2 to redeem or otherwise reacquire any stock to be issued in the Controlled 2 Contribution.
- (29) There is no plan or intention to amend Controlled 2's certificate of incorporation to alter the rights associated with the Controlled 2 Class A Stock or Controlled 2 Class B Stock.
- (30) 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 and Distributing 2 will be in "control" of Controlled 2 immediately after the Controlled 2 Contribution within the meaning of § 368(c) of the Code.
- (31) Each of Distributing 3 and Distributing 2 will receive or be deemed to receive solely Controlled 2 common stock approximately equal to the fair market value of the property transferred to Controlled 2.
- (32) Controlled 2 will remain in existence following the Proposed Transaction.

- (33) Except as otherwise provided in the Transaction Agreements, each of the parties to the Controlled 2 Contribution will pay its own expenses, if any, incurred in connection with the Controlled 2 Contribution.
- (34) Controlled 2 will not be an investment company within the meaning of § 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- (35) None of Distributing 3, Distributing 2, or Controlled 2 is under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)).
- (36) Controlled 2 will not be a “personal service corporation” within the meaning of § 269A.

The Sub 3 Contribution

- (37) No stock or securities will be issued or deemed to be issued for services rendered to or for the benefit of New Sub 3 in connection with the Sub 3 Contribution, and no stock or securities will be issued or deemed to be issued for indebtedness of New Sub 3 that is not evidenced by a security or for interest on indebtedness of New Sub 3 which accrued on or after the beginning of the holding period of Distributing 3 for the debt.
- (38) None of the stock to be transferred or deemed transferred in connection with the Sub 3 Contribution will be “section 306 stock” within the meaning of § 306(c).
- (39) The Sub 3 Contribution will not be the result of the solicitation by a promoter, broker, or investment house.
- (40) Neither Distributing 3 nor a disregarded entity of Distributing 3 will retain any rights in the property transferred to New Sub 3.
- (41) The total adjusted basis of the assets to be transferred to New Sub 3 by Distributing 3 will equal or exceed the sum of the liabilities assumed (as determined under § 357(d)) by New Sub 3 plus any liabilities to which the transferred assets are subject.
- (42) The liabilities assumed, if any, (as determined under § 357(d)) will be owed by New Sub 3 to affiliates other than Distributing 3 or a disregarded entity of Distributing 3 and will be incurred in the ordinary course of business and will be associated with the assets transferred.
- (43) There will be no indebtedness between New Sub 3 and Distributing 3 or a disregarded entity of Distributing 3, and there will be no indebtedness created

in favor of Distributing 3 or a disregarded entity of Distributing 3 as a result of the Sub 3 Contribution.

- (44) The total fair market value of the assets transferred to New Sub 3 by Distributing 3 in the Sub 3 Contribution will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of § 357(d)) by New Sub 3 in connection with the exchange, (ii) the amount of any liabilities owed to New Sub 3 by Distributing 3 (or a disregarded entity of Distributing 3) that are discharged or extinguished in connection with the exchange, and (iii) the amount of cash and the fair market value of any other property (other than stock and securities of New Sub 3 permitted to be received under § 361(a) without the recognition of gain) received by Distributing 3 (or a disregarded entity of Distributing 3) in connection with the exchange. The fair market value of the assets of New Sub 3 will exceed the amount of its liabilities immediately after the exchange.
- (45) The Sub 3 Contribution will occur under a plan agreed upon before the transactions in which the rights of the parties are defined.
- (46) All exchanges will occur on approximately the same date.
- (47) There is no plan or intention on the part of New Sub 3 to redeem or otherwise reacquire any stock to be issued in the Sub 3 Contribution.
- (48) Taking into account any issuance of additional shares of New Sub 3 stock; any issuance of stock for services; the exercise of any New Sub 3 stock rights, warrants, or subscriptions; a public offering of New Sub 3 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of New Sub 3 to be received in the exchange, Distributing 3 will be in "control" of New Sub 3 immediately after the Sub 3 Contribution within the meaning of § 368(c) of the Code.
- (49) Distributing 3 will receive or be deemed to receive solely common stock of New Sub 3 approximately equal to the fair market value of the property deemed transferred to New Sub 3.
- (50) New Sub 3 will remain in existence following the Proposed Transaction.
- (51) There is no plan or intention by New Sub 3 to dispose of the transferred property other than in the normal course of business operations.
- (52) Except as otherwise provided in the Transaction Agreements, each of the parties to the Sub 3 Contribution will pay its own expenses, if any, incurred in connection with the Sub 3 Contribution.

- (53) New Sub 3 will not be an investment company within the meaning of § 351(e)(1) and Treas. Reg. § 1.351-1(c)(1)(ii).
- (54) Neither Distributing 3 nor New Sub 3 is under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)).
- (55) New Sub 3 will not be a “personal service corporation” within the meaning of § 269A.

The Controlled 1 Contribution and the Distributing 1 Distribution

- (56) The total adjusted bases of the assets to be transferred to Controlled 1 by Distributing 1 will equal or exceed the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 1 plus any liabilities to which the transferred assets are subject. The liabilities assumed, if any, (as determined under § 357(d)) by Controlled 1 will be incurred in the ordinary course of business and will be associated with the assets transferred.
- (57) The total fair market value of the assets transferred to Controlled 1 by Distributing 1 in the Controlled 1 Contribution will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of 357(d)) by Controlled 1 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 1 by Distributing 1 that are discharged or extinguished in connection with the exchange, and (iii) the amount of cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing 1 in connection with the exchange. The fair market value of the assets of Controlled 1 will exceed the amount of its liabilities immediately after the exchange.
- (58) No party to the Distributing 1 Distribution will be an investment company as defined in § 368(a)(2)(F)(iii) and (iv).
- (59) No part of the consideration to be distributed by Distributing 1 in the Distributing 1 Distribution will be received by Distributing 3 for federal income tax purposes as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.
- (60) The five years of financial information submitted for Business F conducted by Distributing 1 is representative of the present operations and there have been no substantial operational changes other than those described in the Ruling Request since the date of the last financial statements submitted.

- (61) The five years of financial information submitted for Business H that will be conducted by Controlled 1 is representative of the present operations and there have been no substantial operational changes since the date of the last financial statements submitted.
- (62) Following the Distributing 1 Distribution, Distributing 1 will continue the active conduct of Business F, independently and with its separate employees.
- (63) Following the Distributing 1 Distribution, Controlled 1 will continue the active conduct of Business H, independently and with its separate employees.
- (64) Neither Business F of Distributing 1 nor control of any entity conducting this business was acquired during the five-year period ending on the date of the Distributing 1 Distribution in a transaction in which gain or loss was recognized or treated as recognized in whole or in part.
- (65) Neither Business H of Controlled 1 nor control of any entity conducting this business was acquired during the five-year period ending on the date of the Distributing 1 Distribution in a transaction in which gain or loss was recognized or treated as recognized in whole or in part.
- (66) The Distributing 1 Distribution will be carried out for the corporate business purpose of facilitating the External Distribution by aligning the entities conducting Business C under Controlled 3. The Distributing 1 Distribution is motivated in whole or substantial part by this corporate business purpose.
- (67) The Distributing 1 Distribution will not be used principally as a device for distributing the earnings and profits of Distributing 1 or Controlled 1 or both.
- (68) For purposes of § 355(d), immediately after the Distributing 1 Distribution, no person (determined after applying the aggregation rules of § 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 § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distributing 1 Distribution.
- (69) For purposes of § 355(d), immediately after the Distributing 1 Distribution, no person (determined after applying the aggregation rules of § 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 § 355(d)(5) and (8)) during the five-year

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

- (70) Excluding the acquisition of stock (if any) attributable to the initial composition of Merger Partner's Board, the receipt of cash in lieu of fractional shares by shareholders in the Merger, and the Completed Repurchases and the Additional Repurchases, the Distributing 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 § 355(d)(4)) in Distributing 1 or Controlled 1 (including any predecessor or successor to any such corporation).
- (71) Following the Distributing 1 Distribution, no person will hold a greater than 50-percent interest in either Distributing 1 or Controlled 1 (within the meaning of 355(g)) who did not hold such an interest immediately before the Distributing 1 Distribution.
- (72) No intercorporate debt will exist between Distributing 1 and Controlled 1 at the time of or subsequent to the Distributing 1 Distribution, except that Distributing 1 (or its successors) may owe Controlled 1, or Controlled 1 may owe Distributing 1 (or its successors) amounts payable under the Transition Services Agreement or the other Continuing Arrangements. Any such indebtedness owed by Controlled 1 to Distributing 1 on completion of the Distributing 1 Distribution will not constitute stock or securities.
- (73) Except as set forth in the Transition Services Agreement or the other Continuing Arrangements, payments made in connection with all continuing transactions following the Proposed Transaction between 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.
- (74) Except as otherwise provided in the Transaction Agreements, Distributing 1 and Controlled 1 each will pay its own expenses, if any, incurred in connection with the Controlled 1 Contribution and Distributing 1 Distribution.
- (75) Neither Distributing 1 nor Controlled 1 accumulated its receivables or made extraordinary payment of its payables in anticipation of the Distributing 1 Distribution, except pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction.

- (76) Each of Distributing 1 and Controlled 1 will be a controlled foreign corporation (as defined in § 957(a)) both before and after the Distributing 1 Distribution.
- (77) Neither Distributing 1 nor Controlled 1 is or will be a passive foreign investment corporation (as defined in § 1297(a)).
- (78) Distributing 3 will be a § 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to Distributing 1 immediately before and after the Distributing 1 Distribution and a § 1248 shareholder with respect to Controlled 1 immediately after the Distributing 1 Distribution.
- (79) The notice requirements of Treas. Reg. § 1.367(b)-1(c) will be satisfied for the Distributing 1 Distribution.
- (80) The Distributing 1 Distribution is not an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i), 1.367(b)-4(b)(2)(i) or 1.367(b)-4(b)(3).
- (81) Controlled 1 will not hold any United States real property interests, as defined in § 897(c)(1), immediately before or after the Distributing 1 Distribution.
- (82) The Distributing 1 Distribution will not include the transfer of stock in any corporation that has been a U.S. transferor, the transferee foreign corporation, or the transferred corporation with respect to any unexpired gain recognition agreement within the meaning of Treas. Reg. §§ 1.367(a)-3 and 1.367(a)-8.

The Controlled 2 Contribution B and the Distributing 2 Distribution

- (83) The total adjusted bases of the assets to be transferred to Controlled 2 by Distributing 2 will equal or exceed the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 2 plus any liabilities to which the transferred assets are subject. The liabilities assumed, if any, (as determined under § 357(d)) by Controlled 2 will be incurred in the ordinary course of business and will be associated with the assets transferred.
- (84) The total fair market value of the assets transferred to Controlled 2 by Distributing 2 in the Controlled 2 Contribution B will exceed the sum of: (i) the amount of any liabilities assumed (within the meaning of § 357(d)) by Controlled 2 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 2 by Distributing 2 that are discharged or extinguished in connection with the exchange, and (iii) the amount of cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing 2 in connection with the exchange. The fair market value of the

assets of Controlled 2 will exceed the amount of its liabilities immediately after the exchange.

- (85) No party to the Distributing 2 Distribution will be an investment company as defined in § 368(a)(2)(F)(iii) and (iv).
- (86) No part of the consideration to be distributed by Distributing 2 in the Distributing 2 Distribution will be received by Distributing 3 for federal income tax purposes as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2.
- (87) The five years of financial information submitted for Business E conducted by Distributing 2 is representative of the present operations and there have been no substantial operational changes since the date of the last financial statements submitted.
- (88) The five years of financial information submitted for Business G to be conducted by Controlled 2 is representative of the present operations and there have been no substantial operational changes since the date of the last financial statements submitted.
- (89) Following the Distributing 2 Distribution, Distributing 2 will continue the active conduct of Business E, independently and with its separate employees.
- (90) Following the Distributing 2 Distribution, Controlled 2 will continue the active conduct of Business G, independently and with its separate employees.
- (91) Neither Business E of Distributing 2 nor control of any entity conducting this business was acquired during the five-year period ending on the date of the Distributing 2 Distribution in a transaction in which gain or loss was recognized or treated as recognized in whole or in part.
- (92) Neither Business G of Controlled 2 nor control of any entity conducting this business was acquired during the five-year period ending on the date of the Distributing 2 Distribution in a transaction in which gain or loss was recognized or treated as recognized in whole or in part.
- (93) The Distributing 2 Distribution will be carried out for the corporate business purpose of facilitating the External Distribution by aligning the entities conducting Business C under Controlled 3. The Distributing 2 Distribution is motivated in whole or substantial part by this corporate business purpose.
- (94) The Distributing 2 Distribution will not be used principally as a device for distributing the earnings and profits of Distributing 2 or Controlled 2 or both.

- (95) For purposes of § 355(d), immediately after the Distributing 2 Distribution, no person (determined after applying the aggregation rules of § 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 § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distributing 2 Distribution.
- (96) For purposes of § 355(d), immediately after the Distributing 2 Distribution, no person (determined after applying the aggregation rules of § 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 § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distributing 2 Distribution or (ii) attributable to distributions on Distributing 2's stock or securities that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distributing 2 Distribution.
- (97) Excluding the acquisition of stock (if any) attributable to the initial composition of Merger Partner's Board, the receipt of cash in lieu of fractional shares by shareholders in the Merger, and the Completed Repurchases and the Additional Repurchases, the Distributing 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 § 355(d)(4)) in Distributing 2 or Controlled 2 (including any predecessor or successor to any such corporation).
- (98) Following the Distributing 2 Distribution, no person will hold a greater than 50-percent interest in either Distributing 2 or Controlled 2 (within the meaning of § 355(g)) who did not hold such an interest immediately before the Distributing 2 Distribution.
- (99) No intercorporate debt will exist between Distributing 2 and Controlled 2 at the time of or subsequent to the Distributing 2 Distribution, except that Distributing 2 (or its successors) may owe Controlled 2, or Controlled 2 may owe Distributing 2 (or its successors) amounts payable under the Transition Services Agreement or the other Continuing Arrangements. Any such indebtedness owed by Controlled 2 to Distributing 2 on completion of the Distributing 2 Distribution will not constitute stock or securities.

- (100) Except as set forth in the Transition Services Agreement or the other Continuing Arrangements, payments made in connection with all continuing transactions following the Proposed Transaction between Distributing 2 and Controlled 2 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (101) Except as otherwise provided in the Transaction Agreements, Distributing 2 and Controlled 2 each will pay its own expenses, if any, incurred in connection with the Controlled 2 Contribution B and Distributing 2 Distribution.
- (102) Neither Distributing 2 nor Controlled 2 accumulated its receivables or made extraordinary payment of its payables in anticipation of the Distributing 2 Distribution, except pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction.
- (103) Immediately before the Distributing 2 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 -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 by T.D. 8597). Further, Distributing 2's excess loss account, if any, with respect to Controlled 2 will be included in income immediately before the Distributing 2 Distribution (see Treas. Reg. § 1.1502-19).
- (104) At the time of the Distributing 2 Distribution, Distributing 3 will not have an excess loss account in the stock of Distributing 2.

The Controlled 3 Contribution and the External Distribution

- (105) The total adjusted bases of the assets transferred to Controlled 3 by Distributing 3 in the Controlled 3 Contribution will equal or exceed the sum of (i) any liabilities assumed (within the meaning of § 357(d)) by Controlled 3, and (ii) the total amount of money and other property (within the meaning of § 361(b)) received by Distributing 3 and transferred by it to its creditors and shareholders in connection with the plan of reorganization. The liabilities, if any, assumed (within the meaning of § 357(d)) by Controlled 3 and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (106) The total fair market value of the assets that Distributing 3 will transfer to Controlled 3 in the Controlled 3 Contribution will exceed the sum of: (i) the total liabilities (if any) assumed (within the meaning of § 357(d)) by Controlled

3, (ii) the amount of liabilities (if any) owed to Controlled 3 by Distributing 3 that are discharged or extinguished in the exchange, and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing 3 from Controlled 3 in the exchange. The fair market value of the assets of Controlled 3 will exceed the amount of its liabilities immediately after the External Distribution.

- (107) No party to the External Distribution will be an investment company as defined in § 368(a)(2)(F)(iii) and (iv).
- (108) The Controlled 3 Securities, Controlled 3 Exchange Loans, and Controlled 3 Demand Securities, as applicable, will constitute securities for purposes of the application of § 361(a).
- (109) If the External Distribution includes an exchange of Distributing 3 stock for Controlled 3 stock, the fair market value of the Controlled 3 stock and other consideration to be received by each shareholder of Distributing 3 will be approximately equal to the fair market value of the Distributing 3 stock surrendered by the exchanging shareholder of Distributing 3 in the exchange.
- (110) No part of the consideration to be distributed in the External Distribution will be received by any shareholder of Distributing 3 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 3.
- (111) In applying § 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing 3 will treat all members of the Distributing 3 SAG as one corporation.
- (112) The five years of financial information submitted for Business E conducted by the Distributing 3 SAG is representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (113) In applying § 355(b)(2)(A) regarding the active conduct of a trade or business, Controlled 3 will treat all members of its separate affiliated group (the "Controlled 3 SAG") as defined in § 355(b)(3)(B), as one corporation.
- (114) The five years of financial information submitted for Business G conducted by the Controlled 3 SAG is representative of its present operation, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

- (115) Following the External Distribution, the Distributing 3 SAG will continue the active conduct of Business E independently and with its separate employees (except as provided pursuant to the Transition Services Agreement or the other Continuing Arrangements).
- (116) Following the External Distribution, the Controlled 3 SAG will continue the active conduct of Business G independently and with its separate employees (except as provided pursuant to the Transition Services Agreement or the other Continuing Arrangements).
- (117) The Distributing 3 SAG neither acquired Business E nor acquired control of an entity conducting Business E during the five-year period ending on the date of the External Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (118) The Controlled 3 SAG neither acquired Business G nor acquired control of an entity conducting Business G during the five-year period ending on the date of the External Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (119) The External Distribution will be carried out for the corporate business purposes of (1) facilitating the Merger, (2) leveraging the efficiencies of the combined Business C resulting from the Proposed Transaction, and (3) improving strategic and management “fit and focus” with respect to each of the Remaining Businesses and Business C. The External Distribution is motivated, in whole or in part, by these corporate business purposes.
- (120) The External Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing 3 or Controlled 3 or both.
- (121) For purposes of § 355(d), immediately after the External Distribution, no person (determined after applying § 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 § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the External Distribution.
- (122) For purposes of § 355(d), immediately after the External Distribution, no person (determined after applying § 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 (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying

§ 355(d)(6)) ending on the date of the External Distribution or (ii) attributable to distributions on Distributing 3 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the External Distribution.

- (123) Excluding the acquisition of stock (if any) attributable to the initial composition of Merger Partner's Board, the receipt of cash in lieu of fractional shares by shareholders in the Merger, and the Completed Repurchases and the Additional Repurchases, the External 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 § 355(d)(4)) in Distributing 3 or Controlled 3 (including any predecessor or successor of any such corporation).
- (124) The Completed Repurchases were not (and the Additional Repurchases, if any, will not be) related to the Proposed Transaction, and the amount and timing of such Completed Repurchases would have been the same regardless of the Proposed Transaction and the amount and timing of such Additional Repurchases would have been the same (or possibly effected earlier) regardless of the Proposed Transaction.
- (125) The payment of cash in lieu of fractional shares of Controlled 3 will be solely for the purpose of avoiding the expense and inconvenience to Controlled 3 of issuing fractional shares and does not represent separately bargained-for consideration. The method used for handling fractional share interests is intended to limit the amount of cash received by any one of the shareholders to less than the value of one full share of Controlled 3 stock. The fractional share interests of each Controlled 3 shareholder will be aggregated and no Controlled 3 shareholder will receive cash in an amount equal to or greater than the value of one full share of Controlled 3 stock.
- (126) Immediately after the External Distribution (taking into account § 355(g)(4)), neither Distributing 3 nor Controlled 3 will be a disqualified investment corporation (within the meaning of § 355(g)(2)).
- (127) No intercorporate debt will exist between Distributing 3 and Controlled 3 at the time of or subsequent to the External Distribution, except that Distributing 3 (or its successors) may owe Controlled 3, or Controlled 3 may owe Distributing 3 (or its successors) amounts payable under the Transition Services Agreement or the other Continuing Arrangements. Any such indebtedness owed by Controlled 3 to Distributing 3 on completion of the External Distribution will not constitute stock or securities.

- (128) Immediately before the External 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 -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 by T.D. 8597). Further, Distributing 3's excess loss account, if any, with respect to Controlled 3 will be included in income immediately before the External Distribution (see Treas. Reg. § 1.1502-19).
- (129) Except as set forth in the Transition Services Agreement or the other Continuing Arrangements, payments made in connection with all continuing transactions following the Proposed Transaction between Distributing 3 and Controlled 3 will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (130) The sum of the amount of Distributing 3 debt exchanged for Controlled 3 Securities in the Securities Exchange (or exchanged for Controlled 3 Exchange Loans in the Committed Exchange or exchanged for Controlled 3 Demand Securities, as applicable) plus the amount of Distributing 3 debt repaid with any cash distribution from Controlled 3 in the Controlled 3 Contribution or pursuant to the Working Capital Adjustment will be less than the weighted quarterly average of all of Distributing 3's debt for the 12 months ending on the day before its board first discussed the proposed divestiture of Business C.
- (131) Except as otherwise provided in the Transaction Agreements, Distributing 3 and Controlled 3, and their respective shareholders, will each pay their own expenses, if any, incurred in connection with the External Distribution.
- (132) Neither Distributing 3 nor Controlled 3 accumulated its receivables or made extraordinary payment of its payables in anticipation of the External Distribution, except pursuant to the elimination or reduction of intercompany balances in connection with the Proposed Transaction.
- (133) Currently, none of Distributing 1, Distributing 2, or Distributing 3 have any foreign 5-percent shareholders.

The Merger

- (134) The fair market value of the Merger Partner common stock received by each Controlled 3 shareholder who participates in the Merger (including any fractional share interests with respect to which cash is received) will be approximately equal to the fair market value of the Controlled 3 common stock surrendered by the shareholder in the Merger.

- (135) Following the Proposed Transaction, Controlled 3 will hold at least 90 percent of the fair market value of its net assets and at least 70 percent of the fair market value of its gross assets and at least 90 percent of the fair market value of Merger Sub's net assets and at least 70 percent of the fair market value of Merger Sub's gross assets held immediately prior to the Merger. For purposes of this representation, amounts used by Controlled 3 or Merger Sub to pay reorganization expenses, amounts paid by Controlled 3 or Merger Sub to shareholders who receive cash or other property, and all redemptions and distributions (except for regular, normal dividends) made by Controlled 3 or Merger Sub immediately preceding the transfer will be included as assets of Controlled 3 or Merger Sub, respectively, held immediately prior to the Merger.
- (136) Prior to the Merger, Merger Partner will be in control of Merger Sub within the meaning of § 368(c).
- (137) There is no plan or intention for Merger Partner or any person related (within the meaning of Treas. Reg. § 1.368-1(e)(3)) to Merger Partner to acquire, directly or indirectly, any Merger Partner common stock issued in the proposed reorganization. In addition, neither Merger Partner nor any person related (within the meaning of Treas. Reg. § 1.368-1(e)(3)) will have acquired, directly or indirectly, any stock of Controlled 3 with consideration other than Merger Partner common stock.
- (138) Controlled 3 has no plan or intention to issue additional shares of stock that would result in Merger Partner's losing control (within the meaning of § 368(c)) of Controlled 3.
- (139) Subsequent to the Merger, there will be no outstanding warrants, options, convertible securities, restricted stock, or any other type of right pursuant to which any person could acquire stock in Controlled 3 that, if exercised or converted, would affect Merger Partner's acquisition or retention of control of Controlled 3, as defined in § 368(c).
- (140) There is no plan or intention to liquidate or merge Controlled 3 with and into another corporation, to sell or otherwise dispose of the stock of Controlled 3, or to cause Controlled 3 to sell or otherwise dispose of any of its assets, except for transfers made in the ordinary course of business or transfers of assets to which § 368(a)(2)(C) or Treas. Reg. § 1.368-2(k) applies.
- (141) The liabilities of Merger Sub assumed by Controlled 3 and the liabilities to which the transferred assets of Merger Sub are subject were incurred by Merger Sub in the ordinary course of its business.

- (142) Following the Merger, Merger Partner and Controlled 3 will continue Controlled 3's "historic business" or use a "significant portion" (as those terms are used in Treas. Reg. § 1.368-1(d)) of Controlled 3's historic assets in a business.
- (143) Merger Partner, Controlled 3, and the Controlled 3 shareholders each will pay their own expenses incurred in connection with the Merger.
- (144) Merger Partner will acquire Controlled 3 common stock solely in exchange for Merger Partner voting stock. In addition, no liabilities of Controlled 3 or the Controlled 3 shareholders will be assumed by Merger Partner, nor will any of the stock of Controlled 3 acquired by Merger Partner be subject to any liabilities, except that Merger Partner and its subsidiaries will guarantee the credit facility under which Controlled 3 borrowed pursuant to the Controlled 3 Financing and the Controlled 3 Securities, Controlled 3 Exchange Loans, or Controlled 3 Demand Securities, as applicable.
- (145) Merger Partner does not own, directly or indirectly, and has not owned during the past five years, directly or indirectly, any stock of Controlled 3.
- (146) The shareholders of Controlled 3 will have no dissenters' rights with respect to the Merger, and, therefore, no funds will be supplied, directly or indirectly, by Merger Partner to, and Merger Partner will not directly or indirectly reimburse, Controlled 3 for any payments to any dissenting shareholders for the value of their stock.
- (147) No two parties to the Merger will be investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (148) There is no intercorporate indebtedness existing between Merger Partner and Controlled 3 or between Merger Sub and Controlled 3 that was issued, acquired, or will be settled at a discount.
- (149) None of Controlled 3, Merger Partner, or Merger Sub will be under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (150) Immediately before the Merger, the total fair market value of the assets of Controlled 3 will exceed the sum of its liabilities plus the liabilities, if any, to which the assets are subject.
- (151) The receipt of cash in lieu of fractional shares, if any, of Merger Partner stock will be solely for the purpose of avoiding the expense and inconvenience of issuing and maintaining fractional shares and will not represent separately bargained-for consideration. The total cash consideration that will be received

in connection with the Merger in lieu of fractional shares of Merger Partner stock is not intended to exceed one percent of the total consideration that will be distributed to holders of Controlled 3 stock in the Merger. Any fractional share interests will be aggregated, and it is intended that no Controlled 3 shareholder will receive cash in lieu of fractional shares in an amount equal to or greater than the value of one full share of Merger Partner stock.

Other Representations

- (152) Merger Partner uses the FIFO inventory method of accounting.
- (153) Each of Distributing 3, Distributing 2, Controlled 3, and Controlled 2 has elected, or will elect, to be on the LIFO inventory method of accounting effective prior to the External Distribution.

Rulings

The Sub 3 Reorganization

- (1) The Sub 3 Reorganization will be treated as a transfer by Sub 3 of substantially all of its assets to Distributing 3 solely in exchange for Distributing 3 voting stock and Distributing 3's assumption of Sub 3's liabilities followed by the distribution by Sub 3 of the Distributing 3 voting stock to Distributing 3 in complete liquidation.
- (2) The deemed transfer by Sub 3 of substantially all of its assets to Distributing 3 solely in exchange for Distributing 3 voting stock and Distributing 3's assumption of Sub 3's liabilities followed by the deemed distribution by Sub 3 of the Distributing 3 voting stock to Distributing 3 in complete liquidation will qualify as a "reorganization" under § 368(a)(1)(C). The Sub 3 Reorganization will not be disqualified or recharacterized by reason of the subsequent transfers set forth in the Proposed Transaction. Section 368(a)(2)(C); Treas. Reg. § 1.368-2(k). Sub 3 and Distributing 3 will each be a "party to a reorganization" within the meaning of § 368(b).
- (3) No gain or loss will be recognized by Sub 3 on the deemed transfer of substantially all of its assets to Distributing 3 solely in exchange for shares of Distributing 3 voting stock and Distributing 3's assumption of Sub 3's liabilities. Sections 361(a) and 357(a).
- (4) No gain or loss will be recognized by Sub 3 on the deemed distribution of Distributing 3 voting stock to Distributing 3. Section 361(c).

- (5) No gain or loss will be recognized by Distributing 3 upon the deemed receipt of the assets of Sub 3 solely in exchange for Distributing 3 voting stock. Section 1032(a).
- (6) The basis of the assets of Sub 3 in the hands of Distributing 3 will be the same as the basis of those assets in the hands of Sub 3 immediately prior to the Sub 3 Reorganization. Section 362(b).
- (7) The holding period of the assets of Sub 3 in the hands of Distributing 3 will include the period during which those assets were held by Sub 3. Section 1223(2).
- (8) No gain or loss will be recognized by Distributing 3 upon the deemed receipt of Distributing 3 voting stock solely in exchange for Sub 3 stock. Section 354(a)(1).
- (9) Under § 381(a) and Treas. Reg. § 1.381-1, the taxable year of Sub 3 will end on the effective date of the closing of the Sub 3 Reorganization.

The Controlled 2 Contribution

- (10) Distributing 3 will not recognize any gain or loss in the Controlled 2 Contribution. Sections 351(a) and 357(a).
- (11) Controlled 2 will not recognize any gain or loss in the Controlled 2 Contribution. Section 1032(a).
- (12) Distributing 3's basis in the Controlled 2 Class A Stock received by Distributing 3, for federal income tax purposes, in the Controlled 2 Contribution will equal its basis in the property it contributed to Controlled 2, for federal income tax purposes, in the Controlled 2 Contribution, decreased by the amount of its liabilities (other than liabilities described in § 357(c)(3)) assumed by Controlled 2 in the Controlled 2 Contribution. Section 358(a) and (d).
- (13) Controlled 2's basis in each asset received from Distributing 3, for federal income tax purposes, in the Controlled 2 Contribution will equal the basis of such asset in the hands of Distributing 3, for federal income tax purposes, immediately before its contribution to Controlled 2. Section 362(a).
- (14) Distributing 3's holding period in the Controlled 2 Class A Stock received by Distributing 3, for federal income tax purposes, in the Controlled 2 Contribution will include the holding period of the property contributed by Distributing 3, for federal income tax purposes, provided that such property is held by

Distributing 3, for federal income tax purposes, as a capital asset on the date of the Controlled 2 Contribution. Section 1223(1).

- (15) Controlled 2's holding period in each asset received from Distributing 3, for federal income tax purposes, in the Controlled 2 Contribution will include the period during which Distributing 3 held such asset, for federal income tax purposes. Section 1223(2).

The Sub 3 Contribution

- (16) Distributing 3 will not recognize any gain or loss in the Sub 3 Contribution. Sections 351(a) and 357(a).
- (17) New Sub 3 will not recognize any gain or loss in the Sub 3 Contribution. Section 1032(a).
- (18) Distributing 3's basis in the New Sub 3 stock deemed received, for federal income tax purposes, in the Sub 3 Contribution will equal its basis in the property deemed contributed to New Sub 3 in the Sub 3 Contribution decreased by the amount of liabilities (other than liabilities described in § 357(c)(3)) deemed assumed by New Sub 3 in the Sub 3 Contribution. Section 358(a) and (d).
- (19) New Sub 3's basis in each asset deemed received from Distributing 3, for federal income tax purposes, in the Sub 3 Contribution will equal the basis of such asset in the hands of Distributing 3, for federal income tax purposes, immediately before its deemed contribution to New Sub 3. Section 362(a).
- (20) Distributing 3's holding period in the New Sub 3 stock deemed received by Distributing 3, for federal income tax purposes, in the Sub 3 Contribution will include the holding period of the property deemed contributed by Distributing 3, for federal income tax purposes, provided that such property is held by Distributing 3, for federal income tax purposes, as a capital asset on the date of the Sub 3 Contribution. Section 1223(1).
- (21) New Sub 3's holding period in each asset deemed received from Distributing 3, for federal income tax purposes, in the Sub 3 Contribution will include the period during which Distributing 3 held such asset, for federal income tax purposes. Section 1223(2).

The Controlled 1 Contribution and the Distributing 1 Distribution

- (22) For federal income tax purposes, the transactions that comprise the Foreign Transaction will be treated as (a) a transfer by Distributing 1 to Controlled 1 of

all Distributing 1's assets relating to Business C in exchange for Controlled 1 stock and the assumption of any liabilities relating to Business C; and (b) a distribution by Distributing 1 of all the Controlled 1 stock to its sole shareholder.

- (23) The Controlled 1 Contribution followed by the Distributing 1 Distribution will be a "reorganization" within the meaning of § 368(a)(1)(D). Distributing 1 and Controlled 1 each will be a "party to a reorganization" within the meaning of § 368(b).
- (24) Distributing 1 will recognize no gain or loss upon the Controlled 1 Contribution. Sections 361 and 357(a).
- (25) Controlled 1 will recognize no gain or loss upon the Controlled 1 Contribution. Section 1032(a).
- (26) Controlled 1's basis in each of the assets received will be equal to the basis of the asset in the hands of Distributing 1 immediately prior to the Controlled 1 Contribution. Section 362(b).
- (27) Controlled 1's holding period in each of the assets received will include the period during which such asset was held by Distributing 1. Section 1223(2).
- (28) Distributing 1 will recognize no gain or loss upon the Distributing 1 Distribution. Section 361(c).
- (29) Distributing 1's shareholder will recognize no gain or loss (and no amount will be includible in its income) upon the receipt of Controlled 1 stock in the Distributing 1 Distribution. Section 355(a)(1).
- (30) The basis of the Controlled 1 stock and the Distributing 1 stock in the hands of Distributing 1's shareholder immediately after the Distributing 1 Distribution will equal the basis of the Distributing 1 stock held by Distributing 1's shareholder immediately before the Distributing 1 Distribution, allocated between the stock of Distributing 1 and Controlled 1 in proportion to the fair market value of each immediately following the Distributing 1 Distribution in accordance with section 358(a)(1) and Treas. Reg. § 1.358-2(a)(2)(iv). Section 358(b)(2) and (c).
- (31) The holding period of the Controlled 1 stock received by Distributing 1's shareholder will include the holding period of the Distributing 1 shares held by Distributing 1's shareholder with respect to which the Distributing 1 Distribution is received, provided the Distributing 1 stock was held as a capital asset on the date of the Distributing 1 Distribution. Section 1223(1).

- (32) Earnings and profits will be allocated between Distributing 1 and Controlled 1 in accordance with § 312(h) and Treas. Reg. § 1.312-10(a).
- (33) The Controlled 1 Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and -4(a) apply.
- (34) No amount will be included in income as a deemed dividend equal to the § 1248 amount under 367(b) as a result of the Controlled 1 Contribution. Treas. Reg. §§ 1.367(b)-1(b) and -4(b).
- (35) The Distributing 1 Distribution will be a distribution to which Treas. Reg. §§ 1.367(b)-1(c), -5(a), -5(c), and -5(f) apply. If Distributing 3's post distribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing 1 or Controlled 1 is less than its pre-distribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)) with respect to Distributing 1 or Controlled 1, Distributing 3's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Distributing 3's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, Distributing 3 must instead include such amount in income as a deemed dividend from such corporation. If Distributing 3 reduces the basis in the stock of Distributing 1 or Controlled 1 (or has an inclusion with respect to such stock), Distributing 3 must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).

The Controlled 2 Contribution B and the Distributing 2 Distribution

- (36) The Controlled 2 Contribution B followed by the Distributing 2 Distribution will be a "reorganization" within the meaning of § 368(a)(1)(D). Distributing 2 and Controlled 2 each will be a "party to a reorganization" within the meaning of § 368(b).
- (37) Distributing 2 will recognize no gain or loss upon the Controlled 2 Contribution B. Sections 361 and 357(a).
- (38) Controlled 2 will recognize no gain or loss upon the Controlled 2 Contribution B. Section 1032(a).
- (39) Controlled 2's basis in each of the assets received will be equal to the basis of the asset in the hands of Distributing 2 immediately prior to the Controlled 2 Contribution B. Section 362(b).
- (40) Controlled 2's holding period in each of the assets received will include the period during which such asset was held by Distributing 2. Section 1223(2).

- (41) Distributing 2 will recognize no gain or loss upon the Distributing 2 Distribution. Section 361(c).
- (42) Distributing 2's shareholder will recognize no gain or loss (and no amount will be includible in its income) upon the receipt of Controlled 2 Class B Stock in the Distributing 2 Distribution. Section 355(a)(1).
- (43) The basis of the Controlled 2 Class B Stock and the Distributing 2 stock in the hands of Distributing 2's shareholder immediately after the Distributing 2 Distribution will equal the basis of the Distributing 2 stock held by Distributing 2's shareholder immediately before the Distributing 1 Distribution, allocated between the Distributing 2 stock and Controlled 2 Class B Stock in proportion to the fair market value of each immediately following the Distributing 2 Distribution in accordance with section 358(a)(1) and Treas. Reg. § 1.358-2(a)(2)(iv). Section 358(b)(2) and (c).
- (44) The holding period of the Controlled 2 Class B Stock received by Distributing 2's shareholder will include the holding period of the Distributing 2 shares held by Distributing 2's shareholder with respect to which the Distributing 2 Distribution is received, provided the Distributing 2 stock was held as a capital asset on the date of the Distributing 2 Distribution. Section 1223(1).
- (45) Earnings and profits will be allocated between Distributing 2 and Controlled 2 in accordance with § 312(h) and Treas. Reg. § 1.312-10(a).

The Controlled 3 Contribution and the External Distribution

- (46) The Controlled 3 Contribution (including the receipt of the Special Cash Distribution, the Controlled 3 Securities, Controlled 3 Exchange Loans, or Controlled 3 Demand Securities, as applicable, and any payment to Distributing 3 pursuant to the Working Capital Adjustment or the Pension True-Up Adjustment), together with the Securities Exchange or the Committed Exchange and the External Distribution, will be a "reorganization" within the meaning of § 368(a)(1)(D). Distributing 3 and Controlled 3 each will be a "party to a reorganization" within the meaning of § 368(b).
- (47) Distributing 3 will recognize no gain or loss upon the Controlled 3 Contribution. Sections 361 and 357(a).
- (48) Controlled 3 will recognize no gain or loss upon the Controlled 3 Contribution. Section 1032(a).

- (49) Controlled 3's basis in each of the assets received will be equal to the basis of the asset in the hands of Distributing 3 immediately prior to the Controlled 3 Contribution. Section 362(b).
- (50) Controlled 3's holding period in each of the assets received will include the period during which such asset was held by Distributing 3. Section 1223(2).
- (51) Distributing 3 will recognize no gain or loss upon (a) the External Distribution and (b) the Securities Exchange or the Committed Exchange, as applicable. Section 361(c).
- (52) Distributing 3's shareholders will recognize no gain or loss (and no amount will be includible in their income) upon the receipt of Controlled 3 stock in the External Distribution. Section 355(a)(1).
- (53) The basis of the Controlled 3 stock and the Distributing 3 stock in the hands of Distributing 3's shareholders immediately after the External Distribution will equal the basis of the Distributing 3 stock held by the Distributing 3 shareholders immediately before the External Distribution, allocated between the stock of Distributing 3 and Controlled 3 in proportion to the fair market value of each immediately following the External Distribution in accordance with § 358(a)(1) and Treas. Reg. § 1.358-2(a)(2)(iv). Section 358(b)(2) and (c).
- (54) If the Exchange Offer is consummated, the basis of the shares of Controlled 3 stock received by shareholders of Distributing 3 in the Exchange Offer will be the same as the respective shareholder's basis in the Distributing 3 stock surrendered in exchange therefor, allocated in the manner described in § 358(a)(1) and Treas. Reg. § 1.358-2(a)(2). Section 358(b)(2).
- (55) The holding period of the Controlled 3 stock received by each Distributing 3 shareholder will include the holding period of the Distributing 3 shares held by each such shareholder, provided the Distributing 3 stock was held as a capital asset on the date of the External Distribution. Section 1223(1).
- (56) Earnings and profits will be allocated between Distributing 3 and Controlled 3 in accordance with § 312(h) and Treas. Reg. § 1.312-10(a).
- (57) Except for purposes of 355(g), (i) any Underfunding True-Up Payment or Overfunding True-Up Payment, (ii) any Working Capital Adjustment, and (iii) any other payments made between any of Distributing 3 and Controlled 3 (or its successor) and their respective affiliates under any of the Continuing Arrangements regarding liabilities, indemnities, or other obligations that (a) have arisen or will arise for a taxable period ending on or before the External

Distribution and (b) will not become fixed and ascertainable until after the External Distribution, will be viewed as occurring before the External Distribution. Cf. Arrowsmith v. Commissioner, 344 U.S. 6 (1952) (tax character of later transaction will derive from earlier, related transaction); Rev. Rul. 83-73, 1983-1 C.B. 84.

- (58) The earnings and profits of Controlled 1, to the extent attributable to Distributing 3 under Treas. Reg. § 1.1248-2 or -3 (whichever is applicable), that were accumulated in tax years of such foreign corporation beginning after December 31, 1962, and during the period in which such corporation was a controlled foreign corporation, will be attributable to such stock held by Controlled 3. Treas. Reg. § 1.1248-1(a)(1).
- (59) In the event that Distributing 3 transfers the FSub 1 Interests to Controlled 3 prior to the External Distribution as described in step (xvi)(a), the earnings and profits of FSub 1, to the extent attributable to Distributing 3 under Treas. Reg. § 1.1248-2 or -3 (whichever is applicable), that were accumulated in tax years of such foreign corporation beginning after December 31, 1962, and during the period in which such corporation was a controlled foreign corporation, will be attributable to such stock held by Controlled 3. Treas. Reg. § 1.1248-1(a)(1).

The Merger

- (60) The Merger will constitute a “reorganization” within the meaning of § 368(a)(1)(A) (by application of § 368(a)(2)(E)).
- (61) Merger Partner, Merger Sub, and Controlled 3 will each be a “party to a reorganization” within the meaning of § 368(b).
- (62) Pursuant to 354(a)(1), Controlled 3’s shareholders will recognize no gain or loss on the receipt of shares of Merger Partner voting common stock (including any fractional share interests deemed received) solely in exchange for its shares of Controlled 3 stock in the Merger.
- (63) Merger Sub will recognize no gain or loss on the transfer of its assets to Controlled 3 in constructive exchange for Controlled 3 stock and the assumption of liabilities by Controlled 3. Sections 361(a) and 357(a).
- (64) Merger Partner will recognize no gain or loss upon the receipt of Controlled 3 stock in exchange solely for Merger Partner voting common stock in the Merger. Section 1032(a).
- (65) Pursuant to 358(a)(1), Controlled 3’s shareholders’ tax basis in the shares of Merger Partner voting common stock received by Controlled 3’s shareholders

in the Merger (including any fractional share interest deemed received) will be the same as Controlled 3's shareholders' tax basis in the shares of Controlled 3 stock surrendered in exchange therefor.

- (66) The receipt by Controlled 3 shareholders of cash in lieu of fractional shares of Merger Partner common stock will be treated for federal income tax purposes as if the fractional shares had been distributed to the Controlled 3 shareholders as part of the Merger and then had been disposed of by such shareholders for the amount of such cash in a sale or exchange pursuant to which gain or loss is recognized under § 1001.

Other Rulings

- (67) Controlled 3 may elect to use the LIFO inventory method for the taxable year that includes the Controlled 3 Contribution, and Controlled 2 may elect to use the LIFO inventory method for the taxable year that includes the Controlled 2 Contribution. To elect the LIFO inventory method, each taxpayer must have a properly executed Form 970 included with the Distributing 3 Consolidated Group's federal income tax return for the appropriate taxable year.
- (68) Under § 22.01 of the Appendix of Rev. Proc. 2011-14, 2011-4 I.R.B. 330, Controlled 3's change from the LIFO inventory method to the FIFO inventory method must be implemented with a § 481(a) adjustment. A positive § 481(a) adjustment is includible in income ratably over a four-year adjustment period beginning with the year of change.
- (69) Under § 22.01 of the Appendix of Rev. Proc. 2011-14, 2011-4 I.R.B. 330, Controlled 2's change from the LIFO inventory method to the FIFO inventory method must be implemented with a § 481(a) adjustment. A positive § 481(a) adjustment is includible in income ratably over a four-year adjustment period beginning with the year of change.

Caveats

No opinion is expressed about the 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 Transaction that are not specifically covered by the above rulings. In particular, this office has not reviewed any information pertaining to and has made no determination regarding:

- (i) Whether the Distributing 1 Distribution, the Distributing 2 Distribution, and the External Distribution satisfy the business purpose requirement of Treas. Reg. § 1.355-2(b);

- (ii) Whether the Distributing 1 Distribution, the Distributing 2 Distribution, and the External Distribution are used principally as a device for the distribution of earnings and profits of Distributing 1, Distributing 2, Distributing 3, Controlled 1, Controlled 2, Controlled 3 or any combination thereof (see § 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); and
- (iii) Whether the Distributing 1 Distribution, the Distributing 2 Distribution, the External Distribution and any acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii), provided that for purposes of rulings (28), (41), and (51), we have assumed that any acquisitions of stock that result or are deemed to result from (a) the initial composition of Merger Partner's Board following the Merger, (b) the issuance of cash in lieu of fractional shares in the Merger, and (c) the Completed Repurchases and the Additional Repurchases are, in each case, acquisitions of stock that are part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) that includes the Distributing 1 Distribution, the Distributing 2 Distribution, and the External Distribution.

Procedural Statements

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

Temporary or final regulations pertaining to one or more of the issues addressed in this ruling have not yet been adopted. Therefore, this ruling will be modified or revoked by the adoption of temporary or final regulations to the extent the regulations are inconsistent with any conclusion in the letter ruling. See section 11.04 of Rev. Proc. 2012-1, 2012-1 I.R.B. 1, 50-51. However, when the criteria in section 11.06 of Rev. Proc. 2012-1, 2012-1 I.R.B. 1, 51 are satisfied, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by

attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Gerald B. Fleming
Senior Technician Reviewer, Branch 2
Office of Associate Chief Counsel (Corporate)

cc: