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Date:
July 02, 2013

LEGEND

Distributing 1 =

Distributing 2 =

Controlled =

Sub 1 =

FSub 1 =

NewSub =

Exchange =

Business 1 =

Business 2 =

Business 1a =

Business 2a =

a =

b =

c =

d =

e =

f =

g =

h =

k =

m =

n =

State A =

Country B =

Country C =

Country D =

Country E =

Country F =

Shareholder P =

Distributing 1 Trust =

Plan A =

Plan B =

Plan C =

Trustee =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Date 9 =

Date 10 =

Date 11 =

Date 12 =

Date 13 =

Director Z =

Industry =

Contracts =

Property =

Dear :

This letter responds to your December 28, 2012 request for rulings on certain federal income tax consequences of the Proposed Transaction (described below). The information in that letter and subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the

materials submitted in support of the request for rulings. Verification of this information, representations, and other data may be required as part of the audit process. In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Proposed Transaction (i) satisfies the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations; (ii) is used principally as a device for the distribution of earnings and profits of the distributing corporation(s), or the controlled corporation, or both (see section 355(a)(1)(B) of the Internal Revenue Code and § 1.355-2(d)); or (iii) is 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 the distributing corporation(s) or the controlled corporation (see section 355(e) and § 1.355-7).

SUMMARY OF FACTS

Distributing 2, a State A corporation, is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the “Distributing 2 Group”). Distributing 2 has a single class of voting common stock outstanding which is widely held and publicly traded on the Exchange. According to publicly available securities information, only Shareholder P held five percent or more of the Distributing 2 stock as of Date 3. Shareholder P holds these shares in its capacity as fiduciary for certain employee benefit plans of Distributing 2.

Distributing 2 owns all of Distributing 1, a State A corporation and member of the Distributing 2 Group. Distributing 2 is a holding company that conducts its operations indirectly through Distributing 1 and the direct and indirect subsidiaries, partnerships, and disregarded entities of Distributing 1. The Distributing 2 Group engages in Business 1, Business 1a (a division of Business 1), Business 2, and Business 2a (a division of Business 2).

Business 1 and Business 1a are conducted by Distributing 1 and other members of the Distributing 1 “separate affiliated group” within the meaning of section 355(b)(3)(B) (the “Distributing 1 SAG”). Business 1 will remain with the Distributing 2 Group after the Proposed Transaction. Distributing 2 has submitted financial information indicating that the operations of Business 1a have had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Business 2 and Business 2a are also conducted by the Distributing 1 SAG. In the Proposed Transaction, Distributing 1 will contribute Business 2, including Business 2a (the “Business 2 Assets”) to Controlled. Controlled and the members of its “separate affiliated group” within the meaning of section 355(b)(3)(B) (the “Controlled SAG”) will conduct Business 2 after the Proposed Transaction. Distributing 2 has submitted financial information indicating that the operations of Business 2a have had gross

receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Distributing 1 wholly owns Sub 1, a State A corporation and also owns a percent of FSub 1, a Country B corporation. Sub 1 owns the remaining b percent of FSub 1.

Distributing 1 established the Distributing 1 Trust, a grantor trust within the meaning of section 671, on Date 1. The Distributing 1 Trust is administered by Trustee. The Distributing 1 Trust holds assets that Distributing 1 may use to satisfy its obligations under three unfunded deferred compensation plans maintained by Distributing 1: Plan A, Plan B, and Plan C (the "Distributing 1 Deferred Compensation Plans"). The Distributing 1 Trust's assets include shares of Distributing 2 common stock. In the External Distribution, the Distributing 1 Trust will receive shares of Controlled common stock with respect to this Distributing 2 common stock.

As of Date 2, Distributing 2 had the following equity-linked awards outstanding under various employee plans: (i) non-qualified stock options underlying c shares of Distributing 2 common stock; (ii) restricted stock awards and restricted stock units for d shares of Distributing 2 common stock; and (iii) outstanding performance-based stock awards expected to result in issuance of e shares of Distributing 2 common stock. All stock options, unvested restricted stock awards, and unvested restricted stock units of Distributing 2 held by individuals employed by Controlled at the time of the External Distribution will be converted into stock options, restricted stock, or restricted stock units, as applicable, of Controlled. All options, unvested stock awards, and unvested restricted stock units of Distributing 2 held by individuals employed by Distributing 1 at the time of the External Distribution will be adjusted to reflect the distribution of Controlled stock.

On Date 5, in connection with the announcement of its financial results for the fourth quarter of fiscal year 2013, Distributing 2 announced that its board of directors had declared a quarterly cash dividend of \$f per share payable on Date 7 to stockholders of record on Date 6 (the "2013 Quarterly Dividend"). In addition, the Distributing 2 board declared a special cash dividend of \$g per share (in an aggregate amount of approximately \$h) payable on Date 11, to stockholders of record on Date 10 (the "Special Dividend"). On Date 9, the Distributing 2 board declared a quarterly cash dividend of \$f per share payable on Date 13, to stockholders on record on Date 12 (the "2014 Quarterly Dividend," and together with the 2013 Quarterly Dividend, the "Quarterly Dividends"). The funds to support the Special Dividend are currently held by Distributing 1 and will be transferred to Distributing 2 either as an intercompany dividend or through repayment of intercompany debt (the "Intercompany Transfer"). The Quarterly Dividends, the Special Dividend, and the Intercompany Transfer all would occur regardless of the Proposed Transaction.

The Distributing 2 Group represents that the Proposed Transaction is to separate Business 1 from Business 2 for the following Corporate Business Purposes: (a) to enable each business to expand its opportunities by removing the organizational conflicts of interest that have prevented Distributing 2 from pursuing new business in both Business 1 and Business 2 markets; (b) to resolve management, operational and other business issues caused by the operation of these businesses within the same affiliated group; (c) to allow the management of each separate businesses to better focus on its particular business; and (d) to improve management incentive tools. The External Distribution is motivated, in whole or substantial part, by the Corporate Business Purposes, none of which can be achieved through an alternative nontaxable transaction that does not involve the distribution of a controlled corporation and is neither impractical nor unduly expensive.

Following the External Distribution, Controlled will be a publicly traded corporation and the common parent of an affiliated group whose includible corporations will join in filing a consolidated federal income tax return (the "Controlled Group"). Distributing 2 and Controlled will operate as independent companies having separate boards of directors with the exception of Director Z, who will serve as a director of both corporations to accommodate Controlled's need for Director Z's unique Industry experience and to provide a sense of business continuity.

PROPOSED TRANSACTION

For what are represented to be valid business reasons, the Distributing Group proposes to undertake the following steps, the first two of which have already been completed (the "Proposed Transaction"):

- (i) On Date 4, Controlled was incorporated under the laws of State A.
- (ii) Controlled formed NewSub, a State A corporation, on Date 8, to limit liabilities with respect to foreign branch offices that Controlled will establish in Country B, Country C, Country D, Country E, and Country F to conduct Business 2.
- (iii) Prior to the Contribution (described below), certain third-party contracts owned by Distributing 1 will be designated as assets of Business 1 and certain third-party contracts owned by Distributing 1 will be designated as assets of Business 2.
- (iv) Distributing 1 will contribute the Business 2 Assets (including Business 2a) to Controlled in exchange for all of the Controlled stock (aside from one share issued upon initial formation) and the assumption by Controlled of liabilities related to Business 2 (the "Contribution"). The Contribution will include the customary operating assets associated with

Business 2 such as accounts receivable, prepaid items, fixed assets, and intangibles. Intangibles will include Contracts, goodwill, customer intangibles, intellectual property rights including trademarks, copyrights, patents, and knowhow. For Contracts that must undergo an extended novation process (“Novation”), Distributing 1 will transfer all benefits and burdens associated with ownership of the Contracts. In connection with the Contribution, employees associated with Business 2 will be transferred to Controlled along with associated employee obligations such as accrued payroll, accrued vacation, and employee compensation plans.

- (v) In a related taxable transaction, FSub1 will transfer certain contracts to Controlled or NewSub.
- (vi) Distributing 1 will distribute the Controlled stock to Distributing 2 (the “Internal Distribution”).
- (vii) Controlled will borrow approximately \$m from unrelated third parties on customary lending terms (the “Financing Transaction”). The funding will be sourced from a pre-existing credit facility guaranteed by Distributing 2. The guaranty will terminate upon the External Distribution.
- (viii) Controlled will distribute approximately \$n of the Financing Transaction proceeds to Distributing 2 (the “Cash Distribution”). Controlled will retain the remaining loan proceeds for use in its business.
- (ix) Distributing 2 will distribute the Controlled stock to the Distributing 2 shareholders, pro rata (the “External Distribution”). No fractional shares of Controlled stock will be distributed in the External Distribution. Instead, all fractional shares of Controlled stock that Distributing 2 shareholders otherwise would be entitled to receive will be aggregated by a transfer agent and, as soon as practicable following the effective time of the External Distribution, will be sold at the prevailing price on the Exchange. Any Distributing 2 shareholder entitled to receive a fractional share of Controlled stock will be entitled to receive a cash payment in an amount equal to the shareholder’s proportionate interest in the net proceeds from the open market sale. As a shareholder of Distributing 2, the Distributing 1 Trust will receive shares of Controlled stock in the External Distribution (the “Retained Controlled Stock,” and the receipt of such stock by the Distributing 1 Trust, the “Retention”), but will dispose of these shares as soon as disposition is warranted consistent with the Corporate Business Purposes, but in no event later than k years after the External Distribution.

- (x) Controlled will implement a reverse split of its common stock effective immediately after the External Distribution (the "Reverse Split"). The exchange ratio has not yet been determined.

On or before completion of the Proposed Transaction, Controlled will establish three unfunded deferred compensation plans similar to Plan A, Plan B, and Plan C, and these plans will assume the liabilities relating to compensation deferred by employees of Distributing 1 and its subsidiaries under the Distributing 1 Deferred Compensation Plans who will be transferred by Distributing 1 to Controlled in the Proposed Transaction. In connection with creation of these plans, Controlled or one of its subsidiaries will establish one or more grantor trusts comparable to Distributing 1's Trust (together, the "Controlled Trust"). The Controlled Trust will receive assets (possibly including shares of Distributing 2 common stock) from the Distributing 1 Trust that may be used by Controlled to satisfy deferred compensation obligations.

As soon as is reasonably practicable after the External Distribution, the Trustee of the Distributing 1 Trust will dispose of Controlled common stock held in the Distributing 1 Trust by (1) transferring the shares to the Controlled Trust for use in paying deferred compensation by Controlled in the future, (2) exchanging the shares for other assets held in the Controlled Trust, or (3) liquidating the shares by selling them on the open market. As soon as is reasonably practicable after the External Distribution, the trustee of the Controlled Trust will dispose of any shares of Distributing 2 common stock transferred to the Controlled Trust by (1) transferring the shares to the Distributing 1 Trust for use in paying deferred compensation by Distributing 1 in the future, (2) exchanging the shares for other assets held in the Distributing 1 Trust, or (3) liquidating the shares by selling them in the open market.

In connection with the Proposed Transaction, the Distributing 2 Group and the Controlled Group will enter into certain agreements and arrangements (collectively, the "Continuing Arrangements") which will govern continuing relationships between the Distributing 2 Group and the Controlled Group, including: (i) a distribution agreement (the "Distribution Agreement"), (ii) a tax matters agreement (the "Tax Matters Agreement"), (iii) an agreement to provide certain transitional services for a limited period after the External Distribution (the "Transition Services Agreement"), (iv) an employee matters agreement, and (v) various agreements relating to intellectual property and technology (the "Technology and IP Rights Agreements"). In addition, Controlled will sublease the Property from Distributing 1 (the "Controlled Sublease") at fair rental value.

The Distribution Agreement, among other things, will (i) set forth the agreements between Distributing 2 and Controlled regarding the principal corporate actions required to effect the Contribution, the Internal Distribution, the External Distribution, and any required restructuring prior to these steps and (ii) provide for cross-indemnification between the Distributing 2 Group and Controlled Group regarding specified categories

of liability, including any failure by either Group to assume and perform any of the liabilities allocated to the Group in the Distribution Agreement (clause (ii), the “Distribution Indemnification”).

The Tax Matters Agreement, among other things, will (i) govern the filing of tax returns for the Distributing 2 Group and the Controlled Group and allocate responsibility for the payment of taxes with respect to such tax returns and (ii) provide indemnification for tax liabilities relating to any failure of any of the Distributions and/or certain other proposed transactions to qualify for tax-free treatment (together with the Distribution Indemnification, the “Contingent Liability Arrangements”).

The Technology and IP Rights Agreements, among other things, will (i) provide a non-exclusive, royalty-free, cross-license of certain technology and other intellectual property rights (excluding trademarks) between the Distributing 2 Group and the Controlled Group and (ii) permit the Distributing 2 Group to use the Distributing 2 name and trademark on a royalty-free basis for a limited, transitional period following the External Distribution not to exceed k years, as the Controlled Group will generally own the rights to such name and trademark as a result of the Contribution (together, the “Royalty-Free Rights”).

REPRESENTATIONS

Distributing 2 makes the following representations regarding the Proposed Transaction:

The Contribution and the Internal Distribution

- (a) Any indebtedness owed by Controlled (or any entity controlled directly or indirectly by Controlled) to Distributing 1 (or any entity controlled directly or indirectly by Distributing 1) after the Internal Distribution will not constitute stock or securities.
- (b) No part of the consideration distributed by Distributing 1 in the Internal Distribution will be received by Distributing 2 as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 1.
- (c) Distributing 1 and Controlled each will treat all members of its SAG (as defined in section 355(b)(3)(B)) as one corporation in determining whether the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business are satisfied.
- (d) The five years of financial information submitted for Business 1a conducted by the Distributing 1 SAG and for the Business 2a to be conducted by the

- Controlled SAG following the Contribution is representative of the present operations of each business, and there have been no substantial operational changes in either business since the date of the last financial statements submitted.
- (e) Neither Business 1a conducted by the Distributing 1 SAG nor control of any entity conducting the business will have been acquired during the five-year period ending on the date of the Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except in connection with (i) transfers between members of the affiliated group (as defined in section 1504(a), determined without regard to section 1504(b)) of which Distributing 1 was the parent, (ii) the expansion of an existing five-year trade or business, or (iii) acquisitions that were immaterial relative to the overall size and scope of Business 1a. The Distributing 1 SAG will have been the sole owner of the goodwill and significant assets of Business 1a throughout the five-year period ending on the date of the Internal Distribution and will continue to be the sole owner following the Internal Distribution.
 - (f) Neither Business 2a to be conducted by the Controlled SAG following the Contribution nor control of any entity conducting this business will have been acquired during the five-year period ending on the date of the Internal Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, except in connection with (i) transfers between members of the affiliated group (as defined in section 1504(a), determined without regard to section 1504(b)) of which Distributing 1 was the parent, (ii) the expansion of an existing five-year trade or business, or (iii) acquisitions that were immaterial relative to the overall size and scope of Business 2a. The Distributing 1 SAG will have been the sole owner of the goodwill and significant assets of Operating Group D throughout the five-year period ending on the date of the Contribution, and the Controlled SAG will be the sole owner following the Contribution.
 - (g) Apart from transitional and administrative support services that may be provided under the Transition Services Agreement, the Distributing 1 SAG will continue the active conduct of Business 1a, independently and with its separate employees, following the Internal Distribution.
 - (h) Apart from transitional and administrative support services that may be provided under the Transition Services Agreement, the Controlled SAG will continue the active conduct of Business 2a, independently and with its separate employees, following the Internal Distribution.

- (i) The Internal Distribution will be carried out to facilitate the External Distribution, which is being undertaken to accomplish the Corporate Business Purposes. The Internal Distribution is motivated in whole or substantial part by the Corporate Business Purposes.
- (j) The Internal Distribution will not be used principally as a device for the distribution of the earnings and profits of Distributing 1 or Controlled or both.
- (k) There is no plan or intention to liquidate any member of the Distributing 1 SAG engaged in Business 1a or any member of the Controlled SAG engaged in Business 2a, to merge any member of either SAG with any other entity, or to sell or otherwise dispose of the assets or shares of any member after the Internal Distribution, except for transactions in the ordinary course of business.
- (l) The total adjusted basis and the fair market value of the assets transferred to Controlled in the Contribution each will equal or exceed the sum of (i) the total liabilities to be assumed (as determined under section 357(d)) by Controlled and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing 1 from Controlled and transferred to Distributing 1's creditors in connection with the reorganization.
- (m) Any liabilities assumed (as determined under section 357(d)) by Controlled in the Contribution will have been incurred in the ordinary course of business and will be associated with the assets transferred.
- (n) The total fair market value of the assets transferred to Controlled in the Contribution will exceed the sum of (i) the amount of any liabilities assumed (as determined under section 357(d)) by Controlled in connection with the Contribution, (ii) the amount of any liabilities owed to Controlled by Distributing 1 that are discharged or extinguished in connection with the Contribution, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing 1 in connection with the Contribution. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.
- (o) The aggregate fair market value of the assets Distributing 1 transfers to Controlled in the Contribution will equal or exceed the aggregate adjusted basis of those assets.

- (p) Distributing 1 will neither accumulate its receivables nor make extraordinary payment of its payables in anticipation of the Contribution and Internal Distribution.
- (q) No two parties to the Internal Distribution are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (r) Immediately before the Internal 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 in T.D. 8597). Further, any excess loss account that Distributing 1 has in the Controlled common stock or the stock of any direct or indirect subsidiary of Controlled will be included in income immediately before the Internal Distribution to the extent required by regulations (see Treas. Reg. § 1.1502-19). At the time of the Internal Distribution, Distributing 1 will not have an excess loss account in the stock of Controlled or the stock of any direct or indirect subsidiary of Controlled.
- (s) Apart from debt arising in connection with the Continuing Arrangements and intercompany loans or other obligations that have arisen, or will arise, in the ordinary course of business, no intercorporate debt will exist between Controlled (or any entity controlled directly or indirectly by Controlled) and Distributing 1 (or any entity controlled directly or indirectly by Distributing 1) at the time of, or after, the Internal Distribution.
- (t) Apart from payments for certain services that may be rendered under the Transition Services Agreements and certain payments made as part of the Novation process, payments made in connection with all continuing transactions between Distributing 1 (or any entity controlled directly or indirectly by Distributing 1) and Controlled (or any entity controlled directly or indirectly by Controlled) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (u) For purposes of section 355(d), immediately after the Internal Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 1 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Internal Distribution.

- (v) For purposes of section 355(d), immediately after the Internal Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled common stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled common stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Internal Distribution or (ii) attributable to distributions on Distributing 1 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Internal Distribution.
- (w) The Internal Distribution is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Controlled or Distributing 1 (including any predecessor or successor of either corporation).
- (x) Immediately after the transaction (as defined in section 355(g)(4)), (i) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation (either directly or through attribution) immediately before the Internal Distribution, or (ii) neither Distributing 1 nor Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

The External Distribution

- (y) Any indebtedness owed by Controlled (or any entity controlled directly or indirectly by Controlled) to Distributing 2 (or any entity controlled directly or indirectly by Distributing 2) after the External Distribution will not constitute stock or securities.
- (z) Apart from Controlled shares distributed with respect to Distributing 2 Employee Plan Shares (the "Employee Shares Distribution"), no part of the consideration distributed by Distributing 2 in the External Distribution will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing 2. In no event will the Employee Shares Distribution represent more than 20 percent of the Controlled stock in the External Distribution.
- (aa) Distributing 2 and Controlled each will treat all members of its SAG (as defined in section 355(b)(3)(B)) as one corporation in determining whether the

- requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business are satisfied.
- (bb) The five years of financial information submitted for Business 1a conducted by the Distributing 2 SAG (through the Distributing 1 SAG) and for Business 2a to be conducted by the Controlled SAG following the Contribution is representative of the present operations of each business, and there have been no substantial operational changes in either business since the date of the last financial statements submitted.
 - (cc) Neither Business 1a conducted by the Distributing 2 SAG (through the Distributing 1 SAG) nor control of an entity conducting this business will have been acquired 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, except in connection with (i) transfers between members of the affiliated group (as defined in section 1504(a), determined without regard to section 1504(b)) of which Distributing 2 was the parent, (ii) the expansion of an existing five-year trade or business, or (iii) acquisitions that were immaterial relative to the overall size and scope of Business 1a. The Distributing 2 SAG will have been the sole owner of the goodwill and significant assets of Business 1a throughout the five-year period ending on the date of the External Distribution and will continue to be the sole owner following the External Distribution.
 - (dd) Neither Business 2a to be conducted by the Controlled SAG following the Contribution nor control of an entity conducting this business will have been acquired 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, except in connection with (i) transfers between members of the affiliated group (as defined in section 1504(a), determined without regard to section 1504(b)) of which Distributing 2 was the parent, (ii) the expansion of an existing five-year trade or business, or (iii) acquisitions that were immaterial relative to the overall size and scope of Business 2a. The Distributing 2 SAG will have been the sole owner of the goodwill and significant assets of Business 2a throughout the five-year period ending on the date of the Contribution, and the Controlled SAG will be the sole owner following the Contribution.
 - (ee) Apart from transitional and administrative support services that may be provided under the Transition Services Agreements, the Distributing 2 SAG (through Distributing 1 and its subsidiaries, all members of the Distributing 2 SAG) will continue the active conduct of Business 1a, independently and with its separate employees, following the External Distribution.

- (ff) Apart from transitional and administrative support services that may be provided under the Transition Services Agreements, the Controlled SAG will continue the active conduct of Business 2a, independently and with its separate employees, following the External Distribution.
- (gg) The External Distribution will be carried out to achieve the Corporate Business Purposes. The External Distribution is motivated in whole or substantial part by the Corporate Business Purposes.
- (hh) The External Distribution will not be used principally as a device for the distribution of earnings and profits of Distributing 2 or Controlled or both.
- (ii) There is no plan or intention to liquidate any member of the Distributing 2 SAG engaged in Business 1a or any member of the Controlled SAG engaged in Business 2a, to merge any member of either SAG with any other entity, or to sell or otherwise dispose of the assets of any member after the External Distribution, except in the ordinary course of business.
- (jj) Distributing 2 will neither accumulate its receivables nor make extraordinary payment of its payables in anticipation of the External Distribution.
- (kk) 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, and as currently in effect; Treas. Reg. § 1.1502-13 as published in T.D. 8597). Further, any excess loss account that Distributing 2 has in the Controlled stock or the stock of any direct or indirect subsidiary of Controlled will be included in income immediately before the External Distribution to the extent required by regulations (see Treas. Reg. § 1.1502-19). At the time of the External Distribution, Distributing 2 will not have an excess loss account in the stock of Controlled or the stock of any direct or indirect subsidiary of Controlled.
- (ll) Apart from debt arising in connection with the Continuing Arrangements and intercompany loans or other obligations that have arisen, or will arise, in the ordinary course of business, no intercorporate debt will exist between Controlled (or any entity controlled directly or indirectly by Controlled) and Distributing 2 (or any entity controlled directly or indirectly by Distributing 2) at the time of, or after, the External Distribution.
- (mm) Apart from payments for certain services that may be rendered under the Transition Services Agreements, payments made in connection with all continuing transactions between Distributing 2 (or any entity controlled directly or indirectly by Distributing 2) and Controlled (or any entity controlled

- directly or indirectly by Controlled) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (nn) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing 2 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 2 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution.
 - (oo) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution or (ii) attributable to distributions on Distributing 2 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution.
 - (pp) 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 section 355(d)(4)) in Controlled or Distributing 2 (including any predecessor or successor of either corporation).
 - (qq) Immediately after the transaction (as defined in section 355(g)(4)), no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Distributing 2 or Controlled.
 - (rr) The receipt by Distributing 2 shareholders of cash in lieu of fractional shares of Controlled common stock resulting from the open market sale of these shares will be solely for the purpose of avoiding the expense and inconvenience to Controlled of issuing fractional shares and does not represent separately bargained-for consideration. It is intended that the total cash consideration received by the shareholders of Distributing 2 from the open market sale of their fractional shares will not exceed one percent of the total consideration that will be distributed in the External Distribution. It is also intended that no Distributing 2 shareholder will receive cash in an amount equal to or greater than the value of one full share of Controlled common

stock. Neither Controlled nor Distributing 2 is aware of any overall plan (within the meaning of section 355(e)) to acquire an ownership interest in Controlled through the purchase of bundled Controlled shares sold in connection with the issuance of cash in lieu of fractional shares.

The Cash Distribution

- (ss) Distributing 2 will not be obligated to contribute the proceeds of the Cash Distribution to Distributing 1 and will have no plan or intention to contribute the proceeds of the Cash Distribution to Distributing 1.
- (tt) Controlled will be the sole obligor in the Financing Transaction, and after the External Distribution, neither Distributing 2 nor any member of the Distributing 2 Group will be a guarantor of the Financing Transaction.

The Retention

- (uu) The business purpose for the Retention is to facilitate bifurcation of the Distributing 1 Trust between Distributing 1 and Controlled in connection with the separation of Business 1 from Business 2.
- (vv) With one exception, none of Distributing 2's directors or officers will serve as a director or officer of Controlled as long as Distributing 2 retains the Controlled Retained Stock. Director Z will serve as a director of both Distributing 2 and Controlled solely to accommodate Controlled's business need for a director with Director Z's unique expertise and experience in the industry and to provide a sense of continuity.
- (ww) The Retained Controlled Stock will be disposed of as soon as a disposition is warranted consistent with the business purpose specified above, but in any event, not later than k years after the External Distribution.
- (xx) Distributing 1, through the Trustee, will vote the Retained Controlled Stock in proportion to the votes cast by Controlled's other shareholders and will grant Controlled a proxy for the Retained Controlled Stock requiring this manner of voting.
- (yy) The Trust has qualified as a grantor trust under section 671 at all times since its formation.
- (zz) In no event will the Retention prevent Distributing 2 from distributing stock of Controlled that represents control under section 368(c).

Other Representations

(aaa) The Reverse Split will qualify as a reorganization under section 368(a)(1)(E).

RULINGS

The Contribution and Internal Distribution

- (1) The Contribution, followed by the Internal Distribution, will qualify as a reorganization under section 368(a)(1)(D). Distributing 1 and Controlled each will be “a party to a reorganization” within the meaning of section 368(b).
- (2) No gain or loss will be recognized by Distributing 1 on the Contribution. Sections 361(a) and 357(a).
- (3) No gain or loss will be recognized by Controlled on the Contribution. Section 1032(a).
- (4) Controlled’s basis in each asset received from Distributing 1 in the Contribution will equal the basis of that asset in the hands of Distributing 1 immediately before the Contribution. Section 362(b).
- (5) Controlled’s holding period of each asset received from Distributing 1 in the Contribution will include the period during which Distributing 1 held that asset. Section 1223(2).
- (6) No gain or loss will be recognized by Distributing 1 on the Internal Distribution. Section 361(c)(1).
- (7) Provided that Controlled is a member of Distributing 1’s SAG within the meaning of Treas. Reg. § 1.355-2(g)(3) after the issuance of Controlled common stock by Controlled to Distributing 1 in the Contribution, (a) no gain or loss will be recognized by (and no amount will otherwise be included in the income of) Distributing 2 on its receipt of the Controlled common stock in the Internal Distribution (section 355(a)(1)), and (b) section 355(a)(3)(B) will not treat as “other property” any part of the Controlled common stock issued by Controlled to Distributing 1 in exchange for the Royalty-Free Rights.
- (8) The aggregate basis of the Distributing 1 stock and Controlled stock in the hands of Distributing 2 immediately after the Internal Distribution will equal the aggregate basis of the Distributing 1 stock held by Distributing 2 immediately before the Internal Distribution, allocated between the stock of Distributing 1 and Controlled in proportion to the fair market value of each in accordance with section 358(a)(1) and § 1.358-2(a)(2). Section 358(a)(1), (b), and (c).

- (9) The holding period of the Controlled stock received by Distributing 2 in the Internal Distribution will include the holding period of the Distributing 1 stock on which the Internal Distribution is made, provided the Distributing 1 stock is held by Distributing 2 as a capital asset on the date of the Internal Distribution. Section 1223(1).
- (10) Earnings and profits, if any, will be allocated between Distributing 1 and Controlled in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(a) and 1.1502-33(f)(2).
- (11) Any payments between Distributing 1 and Controlled that are made following the Internal Distribution pursuant to the Contingent Liability Arrangements regarding obligations that (i) have arisen or will arise for a taxable period ending on or before the Internal Distribution or for a taxable period beginning before but ending after the Internal Distribution and (ii) will not have become fixed and ascertainable until after the Internal Distribution, will be treated as occurring immediately before the Internal Distribution (*cf. Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84).

The External Distribution

- (12) No gain or loss will be recognized by Distributing 2 on the External Distribution. Section 355(c).
- (13) No gain or loss will be recognized by (and no amount will be included in the income of) any shareholder of Distributing 2 on the External Distribution. Section 355(a)(1).
- (14) Immediately following the External Distribution, the basis that each Distributing 2 shareholder had in a share of Distributing 2 stock before the External Distribution will be allocated between the share of Distributing 2 stock with respect to which the External Distribution is made and the share of Controlled stock received with respect to the share of Distributing 2 stock (including any fractional share interest in Controlled stock to which the shareholder may be entitled) in proportion to the fair market value of each in accordance with section 358(a)(1) and § 1.358-2(a) (Section 358(a), (b), and (c)). If a Distributing 2 shareholder that purchased or acquired shares of Distributing 2 stock on different dates or at different prices is not able to identify which particular share of Controlled stock is received with respect to a particular share of Distributing 2 stock, the shareholder may designate which share of Controlled stock is received with respect to a particular share of Distributing 2 stock, provided the terms of the designation are consistent with the terms of the External Distribution.

- (15) The holding period of the Controlled stock received by each shareholder of Distributing 2 in the External Distribution (including any fractional share interest in Controlled stock to which the shareholder may be entitled) will include the holding period of the Distributing 2 stock on which the External Distribution is made, provided the Distributing 2 stock is held by the shareholder as a capital asset on the date of the External Distribution. Section 1223(1).
- (16) Earnings and profits, if any, will be allocated between Distributing 2 and Controlled in accordance with section 312(h) and Treas. Reg. §§ 1.312-10(b) and 1.1502-33(e)(3).
- (17) Following the External Distribution, Controlled will not be a successor of Distributing 2 for purposes of section 1504(a)(3). Therefore, Controlled and its direct and indirect subsidiaries that are “includible corporations” under section 1504(b) and satisfy the ownership requirements of section 1504(a)(2) will be members of an affiliated group of corporations entitled to file a consolidated U.S. federal income tax return with Controlled as the common parent.
- (18) Any payments between Distributing 2 and Controlled that are made following the External Distribution pursuant to the Contingent Liability Arrangements regarding obligations that (i) have arisen or will arise for a taxable period ending on or before the External Distribution or for a taxable period beginning before but ending after the External Distribution and (ii) will not have become fixed and ascertainable until after the External Distribution, will be treated as occurring immediately before the External Distribution (*cf. Arrowsmith v. Commissioner, supra*; Rev. Rul. 83-73, *supra*).
- (19) The receipt by a Distributing 2 shareholder of cash in lieu of fractional shares of Controlled stock will be treated for U.S. federal income tax purposes as if the fractional shares had been distributed to the Distributing 2 shareholder as part of the External Distribution and then had been disposed of by such shareholder for the amount of such cash in a sale or exchange. The gain (or loss), if any (determined using the basis allocated to the fractional shares in ruling (14) and the holding period attributed to the fractional shares in ruling (15)), will be treated as a capital gain (or loss), provided the stock was held as a capital asset by the selling shareholder. Section 1001.

The Cash Distribution

- (20) The Cash Distribution will be treated for U.S. federal income tax purposes as occurring after the Internal Distribution and before the External Distribution.

- (21) For U.S. federal income tax purposes, the Cash Distribution will be treated as a distribution by Controlled to Distributing 2, to which section 301 applies.

The Retention

- (22) The Retention by Distributing 1's Rabbi Trust will not be in pursuance of a plan having as one of its principal purposes the avoidance of U.S. federal income tax within the meaning of section 355(a)(1)(D)(jj).

CAVEATS

No opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code and 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, no opinion is expressed regarding:

- (i) Whether the Internal Distribution and/or the External Distribution satisfy the business purpose requirement of § 1.355-2(b);
- (ii) Whether the Internal Distribution and/or the External Distribution are used primarily as a device for the distribution of earnings and profits of Distributing 1, Distributing 2, Controlled or any combination thereof (see section 355(a)(1)(B) and § 1.355-2(d));
- (iii) Whether the Internal Distribution and/or External Distribution is 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 either Distributing 1, Distributing 2, or Controlled (see section 355(e)(2)(A)(ii) and § 1.355-8);
- (iv) Whether the royalty-free rights are "assets," as that term is used under section 368(a)(1)(D), or "property," as that term is used under section 351(a) (Rev. Rul. 69-156);
- (v) Whether the Trust qualifies as a grantor trust under section 671;
- (vi) Whether the Reverse Split qualifies as a reorganization under section 368(a)(1)(E);
- (vii) The federal income tax consequences of steps (i), (ii), (iii), (v), and (x) of the Proposed Transaction; and

- (viii) The federal income tax consequences of any continuing transactions between Distributing 2 (or any entity controlled directly or indirectly by Distributing 2) and Controlled (or any entity controlled directly or indirectly by Controlled), including payments made pursuant to the Continuing Arrangements or the Controlled Sublease.

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.

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 (PLR-100557-13) of this letter ruling.

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

Sincerely,

Mark S. Jennings
Branch Chief, Branch 1
Office of Associate Chief Counsel
(Corporate)