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CC:CORP:B04
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Date:
May 04, 2007

LEGEND:

Distributing 1 =

Distributing 2 =

Distributing 3 =

Distributing 4 =

Distributing 5 =

Controlled 1 =

Controlled 2 =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

Sub 16 =

Sub 17 =

Sub 18 =

Sub 19 =

Sub 20 =

Sub 21 =

Sub 22 =

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LLC 74 =

LLC 75 =

Merger Partner =

Merger Sub =

Corporation X =

Partnership 1 =

Partnership 2 =

Business A =

Business B =

Business C =

Assets A =

Assets B =

Assets C =

Assets D =

Assets E =

Assets F =

Assets G =

Assets H =

Bank =

Distribution Agent =

Shareholder X =

Shareholder Y =

Shareholder Z =

Target Net Working Capital =

Year 1 =

Year 2 =

Year 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

5-Percent Shareholder =

Investment =

Partnerships

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b =

c =

d =

e =

f =

g =

h =

i =

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Dear :

This letter responds to your July 21, 2006 letter requesting rulings on certain federal income tax consequences of a series of proposed transactions. The information provided in that letter and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. Moreover, except as expressly set forth herein as regards § 355(e) of the Internal Revenue Code and the regulations thereunder, this office has not reviewed any information pertaining to, and has made no determination regarding, whether a Distribution, Distribution 3, or the External Distribution (each described below): (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 the earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) 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 or the controlled corporation (see § 355(e) and § 1.355-7).

SUMMARY OF FACTS

Distributing 1 is a company with a publicly traded single class of common stock. Distributing 1, through its direct and indirect subsidiaries, operates several businesses, including Business A, Business B and Business C.

Distributing 1 is the common parent of a consolidated group of corporations and has numerous corporate and non-corporate, direct and indirect subsidiaries.

Distributing 1 has repurchased its stock, both on the market and in privately negotiated transactions, from time to time in the past. Under a share repurchase program that became effective in Year 1, Distributing 1 was authorized to repurchase up to a shares of its common stock (the "Repurchase Program"). Through the end of Year 2, Distributing 1 had repurchased approximately b shares of its common stock pursuant to the Repurchase Program. In Year 3, Distributing 1's board of directors increased the share repurchase authorization by b shares to c in total, thereby increasing the number of unexercised authorized repurchase shares to approximately a. As of Date 4, Distributing 1 had repurchased an additional d shares, thereby reducing the number of unexercised authorized repurchase shares to approximately e shares. Distributing 1 anticipates further significant share repurchases going forward. The Repurchase Program does not have an expiration date.

Distributing 1 wholly owns Distributing 2. Distributing 2 wholly owns Distributing 3. Distributing 2 also owns a minority interest in Sub 1. Distributing 3 wholly owns Distributing 4, which wholly owns Distributing 5, Sub 2, Sub 3 and Sub 4, and LLC 1, LLC 2, LLC 3, LLC 4, LLC 5, LLC 6, LLC 7, LLC 8, LLC 9, LLC 10, and LLC 11, each LLC a business entity (as defined in § 301.7701-2(a) of the Procedure and Administration Regulations) that is disregarded as an entity separate from its owner for federal income tax purposes (a "disregarded entity"). Distributing 4 also owns a minority interest in Sub 5. Sub 2 wholly owns Sub 6. Sub 3 is the general partner and Sub 4 is the limited partner in Partnership 1. Sub 4 wholly owns Sub 22.

Distributing 5 wholly owns Sub 7, Sub 8, Sub 9, Sub 10, Sub 11, Sub 12, Sub 13, Sub 14, Sub 15 and Controlled 1. Sub 7 wholly owns Sub 16, Sub 17 and Sub 18. Sub 8 wholly owns Sub 19. Sub 9 wholly owns Sub 20. Sub 10 wholly owns Sub 21. Sub 15 wholly owns Controlled 2.

Merger Partner is a company with a publicly traded single class of common stock. Merger Partner wholly owns Merger Sub.

Prior to Date 5, Corporation X (Merger Partner's predecessor) was a publicly traded corporation. In Date 5, the Investment Partnerships (acting through newly formed Merger Partner) purchased all of the stock of Corporation X for cash. In connection with that transaction, Merger Partner issued its common stock to the Investment Partnerships and to n employees of Merger Partner (together with m entities controlled by an employee). The Merger Partner stock issued to the employees and to the m entities are subject to stockholder's agreements and other ancillary arrangements (the "Stockholder Agreements") that prescribe the manner in which these shares can be transferred, including through dispositions of some or all of the shares in connection with a disposition of such shares of Merger Partner stock held by the Investment Partnerships. Subsequently, Shareholder X and Shareholder Y entered into identical Stockholder Agreements relating to shares of Merger Partner common stock that Shareholder X and Shareholder Y acquired on Date 6 and Date 7, respectively.

Merger Partner also has options outstanding to acquire its common stock (the "Merger Partner Options") that are held by employees of Merger Partner and its subsidiaries. The Merger Partner Options were granted to its employees in connection with their employment and provision of services to Merger Partner and its subsidiaries. The terms of the Merger Partner Options are governed by stock option agreements between Merger Partner and each holder of a Merger Partner Option (the "Option Agreements," and, together with the Stockholder Agreements, the "Merger Partner Agreements") and related notices of stock option grant. The Option Agreements and related option notices contain terms governing the vesting, exercisability and termination of the option. Some Option Agreements also include provisions that permit or require the holder of a Merger Partner Option to exercise some or all of such options in connection with a disposition of Merger Partner stock by the Investment Partnerships.

To the extent the Merger Partner Agreements are still in effect, it is anticipated that they will either be terminated or modified (a "Termination") at or prior to the time of the Merger (defined below) such that holders of the Merger Partner Options will no longer be required to exercise any of their Merger Partner Options or to dispose of any of their Merger Partner stock in connection with the disposition of Merger Partner stock by the Investment Partnerships.

Distributing 1 wishes to separate Business A from Business B and Business C, consolidate, under Controlled 1, Assets A owned by Distributing 1's subsidiaries, and distribute the Controlled 1 stock to Distributing 1's shareholders to facilitate a combination of Business A with the business of Merger Partner (the "Corporate Business Purposes").

PROPOSED TRANSACTIONS

To achieve the Corporate Business Purposes, Distributing 1 has proposed and partially completed the following steps (the "Proposed Transaction").

(i) Distributing 4 contributed Assets A to LLC 11, a disregarded entity, in exchange for all of the membership interests in LLC 11.

(ii) LLC 8 contributed Assets B to LLC 12, a disregarded entity, in exchange for all of the membership interests in LLC 12.

(iii) LLC 9 contributed Assets B to LLC 13, a disregarded entity, in exchange for all of the membership interests in LLC 13.

(iv) Sub 6 contributed Assets B to LLC 14, a disregarded entity, in exchange for all of the membership interests in LLC 14, contributed Assets C to LLC 15, a disregarded entity, in exchange for all of the membership interests in LLC 15 and contributed Assets A to LLC 16, a disregarded entity, in exchange for all of the membership interests in LLC 16.

(v) Sub 7 contributed all of the stock in Sub 16, Sub 17 and Sub 18, along with Assets A to LLC 17, a disregarded entity, in exchange for all of the membership interests in LLC 17 and contributed Assets C, Assets D and Assets E to LLC 18, a disregarded entity, in exchange for all of the membership interests in LLC 18.

(vi) Sub 8 contributed Assets B to LLC 19, a disregarded entity, in exchange for all of the membership interests in LLC 19 and contributed Assets A to LLC 20, a disregarded entity, in exchange for all of the membership interests in LLC 20.

(vii) Sub 11 contributed Assets A to LLC 21, a disregarded entity, in exchange for all of the membership interests in LLC 21, contributed Assets C and Assets D to LLC 22, a disregarded entity, in exchange for all of the membership interests in LLC 22 and contributed Assets B to LLC 23, a disregarded entity, in exchange for all of the membership interests in LLC 23.

(viii) Sub 12 contributed Assets C to LLC 24, a disregarded entity, in exchange for all of the membership interests in LLC 24, contributed Assets A to LLC 25, a disregarded entity, in exchange for all of the membership interests in LLC 25 and contributed Assets B to LLC 26, a disregarded entity, in exchange for all of the membership interests in LLC 26.

(ix) Sub 13 contributed Assets A to LLC 27, a disregarded entity, in exchange for all of the membership interests in LLC 27 and contributed Assets B to LLC 28, a disregarded entity, in exchange for all of the membership interests in LLC 28.

(x) Sub 14 contributed Assets A to LLC 29, a disregarded entity, in exchange for all of the membership interests in LLC 29 and contributed Assets B to LLC 30,

a disregarded entity, in exchange for all of the membership interests in LLC 30.

(xi) Sub 19 contributed Assets A to LLC 31, a disregarded entity, in exchange for all of the membership interests in LLC 31.

(xii) Sub 20 contributed Assets B to LLC 32, a disregarded entity, in exchange for all of the membership interests in LLC 32 and contributed Assets A to LLC 33, a disregarded entity, in exchange for all of the membership interests in LLC 33.

(xiii) Sub 21 contributed Assets A to LLC 34, a disregarded entity, in exchange for all of the membership interests in LLC 34, contributed Assets B to LLC 35, a disregarded entity, in exchange for all of the membership interests in LLC 35 and contributed Assets C to LLC 36, a disregarded entity, in exchange for all of the membership interests in LLC 36.

(xiv) Controlled 1 contributed Assets A to LLC 37, a disregarded entity, in exchange for all of the membership interests in LLC 37 and Assets B to LLC 38, a disregarded entity, in exchange for all of the membership interests in LLC 38.

(xv) Partnership 1 contributed Assets D to LLC 39, a disregarded entity, in exchange for all of the membership interests in LLC 39.

(xvi) Sub 6 contributed all of the membership interests in LLC 14 to LLC 16. Sub 8 contributed all of the membership interests in LLC 19 to LLC 20. Sub 11 contributed all of the membership interests in LLC 23 to LLC 21. Sub 12 contributed all of the membership interests in LLC 26 to LLC 25. Sub 13 contributed all of the membership interests in LLC 28 to LLC 27. Sub 14 contributed all of the membership interests in LLC 30 to LLC 29. Sub 20 contributed all of the membership interests in LLC 32 to LLC 33. Sub 21 contributed all of the membership interests in LLC 35 to LLC 34. Controlled 1 contributed all of the membership interests in LLC 38 to LLC 37.

(xvii) Partnership 1 distributed undivided interests in certain Assets A and Assets B to each of Sub 3 and Sub 4 in accordance with the partnership interest of Sub 3 and Sub 4 (respectively f percent and g percent) in Partnership 1. Sub 3 and Sub 4 contributed their respective undivided interests in those Assets A and Assets B to LLC 40, a newly-formed LLC that is treated as a partnership for federal income tax purposes, in exchange for f percent and g percent, respectively, of the membership interests in LLC 40. LLC 40 contributed Assets B to LLC 41, a newly-formed disregarded entity, in exchange for all of the membership interests in LLC 41.

(xviii) Partnership 1 distributed undivided interests in certain other Assets A and Assets B to each of Sub 3 and Sub 4 in accordance with the partnership interest of each in Partnership 1, respectively f percent and g percent. Sub 3 and Sub 4 contributed their respective undivided interests in those Assets A and Assets B to LLC 40. LLC 40 contributed Assets B to LLC 41.

(xix) Sub 8, Sub 9 and Sub 10 (each an "Upstream Merger Parent") will cause Sub 19, Sub 20 and Sub 21, respectively (each an Upstream Merger Subsidiary) to merge (an "Upstream Merger") into LLC 42, LLC 43 and LLC 44, respectively (each a disregarded entity and an "Upstream Merger LLC") wholly owned by the respective Upstream Merger Parent, with, in each case, the Upstream Merger LLC surviving.

(xx) Sub 12 will form LLC 45 and LLC 46, each a disregarded entity, and will hold all of the membership interests in each. Sub 12 will contribute Assets F to LLC 45, and LLC 45 will license the use of such Assets F to LLC 46.

(xxi) Controlled 1 will form LLC 47 and LLC 48, each a disregarded entity, and will hold all of the membership interests in each (each a "Cross-Chain Merger LLC"). Sub 8 and Sub 13 (each a "Cross-Chain Merger Subsidiary"), and wholly owned by Distributing 5 (a "Cross-Chain Merger Parent") will merge (a "Cross-Chain Merger") into LLC 47 and LLC 48, respectively, with LLC 47 and LLC 48 surviving.

(xxii) LLC 42 will distribute all of the membership interests in LLC 31 to LLC 47. LLC 47 will contribute all of the membership interests in LLC 20 and LLC 31 to LLC 49, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 49.

(xxiii) LLC 47 will distribute to Controlled 1 all of the membership interests in LLC 49. LLC 48 will distribute to Controlled 1 all of the membership interests in LLC 27.

(xxiv) Distributing 5 (an "Upstream Merger Parent") will form LLC 50, LLC 51, LLC 52, LLC 53, LLC 54 and LLC 55, each a disregarded entity, and will hold all of the membership interests in each (each an "Upstream Merger LLC"). Sub 7, Sub 9, Sub 10, Sub 11, Sub 12 and Sub 14 (each an "Upstream Merger Subsidiary") will merge (an "Upstream Merger") into LLC 50, LLC 52, LLC 53, LLC 51, LLC 55 and LLC 54, respectively, with, in each case, the Upstream Merger LLC surviving.

(xxv) LLC 50 will form LLC 56 and LLC 57, each a disregarded entity, and will hold all of the membership interests in each. LLC 50 will contribute Assets F to LLC 57, and LLC 57 will license the use of such Assets F to LLC 56.

(xxvi) LLC 51 will form LLC 58 and LLC 59, each a disregarded entity, and will hold all of the membership interests in each. LLC 51 will contribute Assets F to LLC 59, and LLC 59 will license the use of such Assets F to LLC 58.

(xxvii) LLC 54 will form LLC 60 and LLC 61, each a disregarded entity, and will hold all of the membership interests in each. LLC 54 will contribute Assets F to LLC 61, and LLC 61 will license the use of such Assets F to LLC 60.

(xxviii) LLC 33 will form LLC 62 and LLC 63, each a disregarded entity, and will hold all of the membership interests in each. LLC 33 will contribute Assets F to LLC 63, and LLC 63 will license the use of such Assets F to LLC 62.

(xxix) LLC 33 will distribute all of the membership interests in LLC 63 to LLC 43, and LLC 43 will distribute all of the membership interests in LLC 63 to LLC 52. LLC 44 will distribute all of the membership interests in LLC 34 to LLC 53.

(xxx) LLC 50 will contribute all of the membership interests in LLC 56 to LLC 17. LLC 51 will contribute all of the membership interests in LLC 58 to LLC 21.

(xxxi) LLC 54 will contribute all of the membership interests in LLC 29 and LLC 60 to LLC 64, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 64. LLC 53 will contribute all of the membership interests in LLC 34 to LLC 65, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 65. LLC 55 will contribute all of the membership interests in LLC 25 and LLC 46 to LLC 66, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 66. LLC 43 will contribute all of the membership interests in LLC 33 to LLC 67, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 67. LLC 67 will contribute all of the membership interests in LLC 33 to LLC 68, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 68.

(xxxii) LLC 43 will distribute all of the membership interests in LLC 67 to LLC 52.

(xxxiii) LLC 50 will distribute all of the membership interests in LLC 17 and LLC 18, LLC 51 will distribute all of the membership interests in LLC 22 and LLC 21, LLC 52 will distribute all of the membership interests in LLC 67, LLC 53 will distribute all of the membership interests in LLC 65, LLC 54 will distribute all of the membership interests in LLC 64, and LLC 55 will distribute all of the membership interests in LLC 66, in each case to Distributing 5.

(xxxiv) Controlled 1 will purchase all of the stock of Controlled 2 from Sub 15 for $h.

(xxxv) Distributing 5 (a “Distributing”) will contribute (a “Contribution” and “Contribution 5”) all of the membership interests in each of LLC 17, LLC 18, LLC 22, LLC 21, LLC 64, LLC 65, LLC 66 and LLC 67 to Controlled 1 (a “Controlled”), and Distributing 5 will distribute (a “Distribution” and “Distribution 5”) all of the stock of Controlled 1 to Distributing 4.

(xxxvi) Sub 4 will transfer all of its partnership interests in Partnership 1 to Sub 22 in constructive exchange for Sub 22 common stock (the “Sub 22 Exchange”).

(xxxvii) Sub 2 (an “Upstream Merger Parent”) will cause Sub 6 (an “Upstream Merger Subsidiary”) to merge (an “Upstream Merger") into LLC 69, a newly-formed disregarded entity, wholly owned by Sub 2 (an “Upstream Merger LLC”), with LLC 69 surviving.

(xxxviii) Controlled 1 will form LLC 70, LLC 71 and LLC 72, each a disregarded entity, and will hold all of the membership interests in each (each a "Cross-Chain Merger LLC”). Sub 2, Sub 3 and Sub 4 (each a “Cross-Chain Merger Subsidiary”), and wholly owned by Distributing 4 (a “Cross-Chain Merger Parent”) will merge (a “Cross-Chain Merger“) into LLC 70, LLC 71 and LLC 72, respectively, with LLC 70, LLC 71 and LLC 72 surviving.

(xxxix) LLC 71 will contribute all of its membership interests in LLC 40 to LLC 73, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 73. LLC 72 will contribute all of its membership interests in LLC 40 to LLC 74, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 74. LLC 73 and LLC 74 will each contribute their respective interests in LLC 40 to Partnership 2, a disregarded entity, and will hold f percent and g percent, respectively, of the partnership interests in Partnership 2. LLC 69 will contribute all of the membership interests in LLC 16 to LLC 75, a newly-formed disregarded entity, and will hold all of the membership interests in LLC 75.

(xl) LLC 69 will distribute all of the membership interests in LLC 75 to LLC 70.

(xli) LLC 70 will distribute all of the membership interests in LLC 75, LLC 71 will distribute all of the membership interests in LLC 73, and LLC 72 will distribute all of the membership interests in LLC 74, in each case to Controlled 1.

(xlii) Distributing 4 (a “Distributing”) will contribute (a “Contribution” and “Contribution 4”) all of the membership interests in each of LLC 8, LLC 9, LLC 11 and all of its stock in Sub 5 to Controlled 1 (a “Controlled”), and Distributing 4 will distribute (a “Distribution” and “Distribution 4”) all of the stock of Controlled 1 to Distributing 3.

(xliii) Distributing 3 will distribute ("Distribution 3") all of the stock of Controlled 1 to Distributing 2.

(xliv) Bank will lend between $i and $j to Controlled 1.

(xlv) All disregarded entities and other entities held directly or indirectly by Controlled 1 will transfer Assets G to Controlled 1.

(xlvi) Controlled 1 (a "Distributing") will contribute (a "Contribution" and "Controlled 1 Contribution") Assets G, Assets H and all of the membership interests in each of LLC 18, LLC 22, LLC 47, LLC 48, LLC 70, LLC 71 and LLC 72 to Controlled 2 (a "Controlled"). Controlled 1 will distribute (a "Distribution" and "Controlled 1 Distribution") all of the Controlled 2 stock to Distributing 2.

(xlvii) Distributing 2 (a "Distributing") will contribute (a "Contribution" and "Contribution 2") all of its stock in Sub 1 to Controlled 1 (a "Controlled"). Distributing 2 will distribute (a "Distribution" and "Distribution 2") all of the stock of Controlled 1 to Distributing 1.

(xlviii) Distributing 1 will cause Controlled 1 to recapitalize (the "Recapitalization").

(xlix) Distributing 1 will distribute all of the stock of Controlled 1 to the Distribution Agent, who will hold the Controlled 1 stock on behalf of the Distributing 1 shareholders entitled to such stock (the "External Distribution"). To the extent that Distributing 1 shareholders would be entitled to receive fractional shares of Controlled 1 stock in the External Distribution, the Distribution Agent will aggregate such fractional shares into whole shares of Controlled 1 stock.

(l) Merger Partner will cause Merger Sub to merge into Controlled 1 with Controlled 1 surviving (the "Merger"). In the Merger, the Distribution Agent will receive, on behalf of the Distributing 1 shareholders, in exchange for their shares of Controlled 1 stock, Merger Partner stock representing, in the aggregate, between k percent and l percent of the total combined voting power of Merger Partner stock. With respect to Merger Partner stock received by the Distribution Agent in exchange for the aggregated fractional shares of Controlled 1 stock, the Distribution Agent will sell such shares of Merger Partner stock in the market and distribute the proceeds pro rata to the Distributing 1 shareholders entitled to such fractional shares.

The composition of Merger Partner's board of directors will not change as a result of the Merger. No changes have been made to Merger Partner's certificate of incorporation regarding the election of Merger Partner's board of directors in connection with the Merger. In addition, Merger Partner has no intention to change its certificate of incorporation regarding the election of its board of directors in connection with the Proposed Transaction.

In connection with the Merger, Merger Partner will designate all of the members of Controlled 1's board of directors.

(li) Distributing 1 and Merger Partner will, within p days after the Merger, calculate the net working capital of Controlled 1 at the time of the Merger (the "Final Net Working Capital"), and Controlled 1 will pay Distributing 1 the amount by which Final Net Working Capital exceeds the Target Net Working Capital, or Distributing 1 will pay Controlled 1 the amount by which Final Net Working Capital is less than the Target Net Working Capital, as applicable (the "Working Capital Adjustment"). Distributing 1 and Controlled 1 also will enter into agreements under which the parties will agree to indemnify each other for certain losses, including losses arising out of, or resulting from, the assets contributed to Controlled 1, certain events occurring before the External Distribution, untrue statements or representations, breaches of contract, violations of law, and other similar events (the "Indemnity Agreements"). The Indemnity Agreements will include a tax sharing agreement under which the parties will agree to indemnify each other for tax and related liabilities relating to certain tax periods ending before, on, and after the date of the External Distribution.

In connection with the Proposed Transaction, direct and indirect subsidiaries of Distributing 1 will restructure certain intercompany indebtedness, some of which restructuring has already occurred (the "Intercompany Debt Restructuring").

REPRESENTATIONS

Each Upstream Merger

The taxpayer makes the following representations for each Upstream Merger described above in steps (xix), (xxiv) and (xxxvii):

(a1) Upstream Merger Parent will be the owner of at least 80 percent of the single outstanding class of the Upstream Merger Subsidiary stock at the effective time of the Upstream Merger.

(b1) No shares of Upstream Merger Subsidiary stock will have been redeemed during the three years preceding the effective time of the Upstream Merger.

(c1) Upon the Upstream Merger, the Upstream Merger Subsidiary will cease to be a going concern.

(d1) Upstream Merger Subsidiary will not retain any assets following the Upstream Merger.

(e1) Except for (i) certain transfers of employees and (ii) assets treated for federal income tax purposes as acquired from a lower-tier Upstream Merger Subsidiary by Upstream Merger Subsidiary in the Upstream Merger of the lower-tier Upstream Merger Subsidiary, Upstream Merger Subsidiary will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the effective time of the Upstream Merger.

(f1) Except for dispositions (i) in the ordinary course of business, (ii) which occurred more than three years prior to the effective time of the Upstream Merger, or (iii) which occur pursuant to steps undertaken as part of the Proposed Transaction, no assets of Upstream Merger Subsidiary (other than Sub 7 and Sub 14) have been, or will be, disposed of by either Upstream Merger Subsidiary or Upstream Merger Parent.

(g1) Sub 7 will report all earned income represented by assets that will be distributed to Distributing 5.

(h1) Except for steps undertaken as part of the Proposed Transaction, prior to the effective time of the Upstream Merger, no assets of Upstream Merger Subsidiary will have been distributed in kind, transferred, or sold to Upstream Merger Parent, except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years prior to the effective time of the Upstream Merger.

(i1) The fair market value of the assets of Upstream Merger Subsidiary will exceed its liabilities at the effective time of the Upstream Merger.

(j1) Upstream Merger Parent is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(k1) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Upstream Merger have been fully disclosed.

(l1) There is no intercorporate indebtedness existing between Upstream Merger Parent and Upstream Merger Subsidiary that was issued, acquired, or will be settled at a discount.

(m1) The Upstream Merger will be pursuant to state law.

Each Cross-Chain Merger

The taxpayer makes the following representations for each Cross-Chain Merger described above in steps (xxi) and (xxxviii):

(a2) Controlled 1 has no plan or intention to reacquire any of its stock that may be deemed issued in the Cross-Chain Merger other than any such stock as may be deemed reacquired in the Recapitalization.

(b2) Controlled 1 has no plan or intention to sell or otherwise dispose of the assets acquired in the Cross-Chain Merger, except for (i) dispositions made in the ordinary course of business, (ii) transfers described in § 368(a)(2)(C) and the regulations thereunder, or (iii) dispositions pursuant to the Proposed Transaction.

(c2) The liabilities of Cross-Chain Merger Subsidiary assumed (within the meaning of § 357(d)) by Controlled 1 in the Cross-Chain Merger, and any liabilities to which the assets of Cross-Chain Merger Subsidiary are subject, were incurred by Cross-Chain Merger Subsidiary in the ordinary course of its business and are associated with the assets transferred.

(d2) Following the Cross-Chain Merger, Controlled 1 will continue the historic business of Cross-Chain Merger Subsidiary or use a significant portion of Cross-Chain Merger Subsidiary's historic business assets in a business, either directly or through one or more members of Controlled 1's qualified group (within the meaning of § 1.368-1(d)(4)(ii)) or one or more partnerships in which Controlled 1 and members of its qualified group own an aggregate interest representing a significant interest in such business or have active and substantial management functions as partners in such business (each within the meaning of § 1.368-1(d)(4)(iii)(B)).

(e2) There is no intercorporate indebtedness existing between Cross-Chain Merger Subsidiary and Controlled 1 that was issued, acquired, or will be settled at a discount.

(f2) No two parties to the Cross-Chain Merger are investment companies (as defined in § 368(a)(2)(F)(iii) and (iv)).

(g2) The fair market value of Cross-Chain Merger Subsidiary's assets transferred to Controlled 1 in the Cross-Chain Merger will equal or exceed the liabilities assumed (within the meaning of § 357(d)) by Controlled 1.

(h2) At least 40 percent of the proprietary interest in Cross-Chain Merger Subsidiary will be preserved (within the meaning of § 1.368-1(e)).

(i2) Cross-Chain Merger Subsidiary is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)).

(j2) The Cross-Chain Parent, the Cross-Chain Merger Subsidiary and Controlled 1 will pay their respective expenses, if any, incurred in connection with the Cross-Chain Merger.

(k2) The Cross-Chain Merger will be effected pursuant to a state merger statute under which, at the effective time of the transaction, (i) all of the assets and liabilities of the Cross-Chain Merger Subsidiary will become the assets and liabilities of a disregarded entity that is wholly owned by Controlled 1 and (ii) the Cross-Chain Merger Subsidiary will cease its separate legal existence for all purposes.

Contribution 5 and Distribution 5

The taxpayer makes the following representations regarding Contribution 5 and Distribution 5 described above in step (xxxv):

(a3) No part of the consideration to be distributed by Distributing 5 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(b3) The five years of financial information submitted on behalf of Distributing 5 is representative of the corporation's present operation, and with regard to Distributing 5, there have been no substantial operational changes since the date of the last financial statements submitted, except for operational changes resulting from implementation of the Proposed Transaction.

(c3) The five years of financial information submitted on behalf of Controlled 1 is representative of the present operations of Controlled 1, and with regard to Controlled 1, there have been no substantial operational changes since the date of the last financial statements submitted, except for operational changes resulting from implementation of the Proposed Transaction.

(d3) Following the transaction, Distributing 5 and Controlled 1 will each continue, independently and with its separate employees and/or, in the case of Distributing 5, employees of the Distributing 1 consolidated group, the active conduct of its share of all the integrated activities of the business conducted by Distributing 5 prior to consummation of the transaction, except that Distributing 1 and its affiliates will provide certain transitional services for Controlled 1 and its affiliates following the External Distribution.

(e3) Distribution 5 is carried out for the Corporate Business Purposes. Distribution 5 is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(f3) The Proposed Transaction is not used principally as a device for the distribution of the earnings and profits of Distributing 5, Controlled 1 or both.

(g3) (i) The total adjusted bases and the fair market value of the assets transferred to Controlled 1 by Distributing 5 equals or exceeds the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 1; and (ii) the liabilities assumed (as determined under §357(d)) in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(h3) No intercorporate debt will exist between Distributing 5 and Controlled 1 at the time of, or subsequent to, the distribution of the stock of Controlled 1 in Distribution 5, other than debt incurred in the ordinary course of business. Any such indebtedness will not constitute stock or securities.

(i3) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, at the time of Distribution 5, Distributing 5 will not have an excess loss account in the stock of Controlled 1.

(j3) Payments made in connection with all continuing transactions, if any, between Distributing 5 and Controlled 1 will be for either fair market value based on terms and conditions arrived at by the parties bargaining at arm's length or based on fully allocated cost, which Distributing 1 believes approximates fair market value, except that certain direct and indirect Distributing 5 subsidiaries intend to sublicense certain intellectual property to Controlled 1 and certain direct and indirect subsidiaries of Controlled 1 at no charge.

(k3) No two parties to the transaction will be investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(l3) For purposes of § 355(d), immediately after the 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 5 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 5 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 distribution.

(m3) For purposes of § 355(d), immediately after the 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 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 distribution or (ii) attributable to distributions on Distributing 5 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 distribution.

(n3) The total fair market value of the assets transferred by Distributing 5 to Controlled 1 in Contribution 5 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 5 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 5 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.

(o3) Provided the Service rules as requested, the distribution of Controlled 1 stock in Distribution 5 is not part of a plan or series of related transactions (within the meaning of § 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 5 or Controlled 1 (including any predecessor or successor of such corporation).

Sub 22 Exchange

The taxpayer makes the following representations regarding the Sub 22 Exchange described above in step (xxxvi):

(a4) No stock or securities will be issued for services rendered to or for the benefit of Sub 22 in connection with the Sub 22 Exchange, and no stock or securities will be issued for indebtedness of Sub 4.

(b4) The Sub 22 Exchange is not the result of the solicitation by a promoter, broker, or investment house.

(c4) Sub 4 will not retain any rights in the property transferred to Sub 22.

(d4) The adjusted basis and the fair market value of the assets to be transferred by Sub 4 to Sub 22 will equal or exceed the sum of the liabilities assumed (within the meaning of § 357(d) and taking into account the application of Rev. Rul. 80-323, 1980-2 C.B. 124) by Sub 22.

(e4) The liabilities of Sub 4 to be assumed (within the meaning of § 357(d) and taking into account the application of Rev. Rul. 80-323, 1980-2 C.B. 124) by Sub 22 were incurred in the ordinary course of business and are associated with the assets to be transferred.

(f4) Other than debt incurred in the ordinary course of business, there is no indebtedness between Sub 4 and Sub 22 and there will be no indebtedness created in favor of Sub 4 as a result of the Sub 22 Exchange.

(g4) The transfers and exchanges in connection with Sub 22 Exchange will occur under a plan agreed upon before the transaction in which the rights of the parties are defined.

(h4) All exchanges in connection with the Sub 22 Exchange will occur on approximately the same date.

(i4) There is no plan or intention on the part of Sub 22 to redeem or otherwise reacquire any stock to be issued in the Sub 22 Exchange.

(j4) Taking into account any issuance of additional shares of Sub 22 stock; any issuance of stock for services; the exercise of any Sub 22 stock rights, warrants, or subscriptions; a public offering of Sub 22 stock; and the sale, exchange, transfer by gift, or other disposition of any of the stock of Sub 22 to be received in the exchange, other than the disposition of such stock in the merger of Sub 4 into LLC 72 or the transfer by Controlled 1 to Controlled 2 of all of the membership interests in LLC 72, Sub 4 will be in “control” of Sub 22 within the meaning of § 368(c).

(k4) Sub 4 will constructively receive stock, securities or other property approximately equal to the fair market value of the property transferred to Sub 22.

(l4) Sub 22 will remain in existence and, except for transfers in the normal course of business, retain and use the property transferred to it in a trade or business.

(m4) There is no plan or intention by Sub 22 to dispose of the transferred property other than in the normal course of business operations.

(n4) Each of the parties to the Sub 22 Exchange will pay its own expenses, if any, incurred in connection with the Sub 22 Exchange.

(o4) Sub 22 will not be an investment company within the meaning of § 351(e)(1) and § 1.351-1(c)(1)(ii).

(p4) Sub 4 is not under the jurisdiction of a court in a Title 11 or similar case (within the meaning of § 368(a)(3)(A)) and the stock or securities received in the exchange will not be used to satisfy the indebtedness of Sub 4.

(q4) Sub 22 will not be a "personal service corporation" within the meaning of § 269A.

(r4) The total fair market value of the assets transferred by Sub 4 to Sub 22 will exceed the sum of (i) the amount of any liabilities assumed (within the meaning of § 357(d) and taking into account the application of Rev. Rul. 80-323, 1980-2 C.B. 124) by Sub 22 in connection with the exchange, (ii) the amount of any liabilities owed to Sub 22 by Sub 4 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 permitted to be received under § 351(a) without the recognition of gain) received by Sub 4 in connection with the exchange. The fair market value of the assets of Sub 22 will exceed the amount of its liabilities immediately after the exchange.

(s4) The total fair market value of the partnership interest in Partnership 1 transferred by Sub 4 to Sub 22 in the Sub 22 Exchange plus Sub 4's share of Partnership 1's liabilities will equal or exceed the aggregate basis of Sub 4 in the transferred partnership interest.

Contribution 4 and Distribution 4

The taxpayer makes the following representations regarding Contribution 4 and Distribution 4 described above in step (xlii):

(a5) No part of the consideration to be distributed by Distributing 4 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(b5) Distributing 4 is, and immediately after Distribution 4 will be, affiliated with Distributing 5 in a manner that satisfies § 1504(a), without regard to § 1504 (b).

(c5) Following the transaction, Distributing 4 and/or members of its "separate affiliated group" as defined in § 355(b)(3) will continue the active conduct of Business C and Controlled 1 and/or members of its "separate affiliated group" as defined in § 355(b)(3) will continue the active conduct of Business A, in each case independently and with their separate employees and/or, in the case of Distributing 4, employees of the Distributing 1 consolidated group, except that Distributing 1 and its affiliates will provide certain transitional services for Controlled 1 and its affiliates following the External Distribution.

(d5) Distribution 4 is carried out for the Corporate Business Purposes. Distribution 4 is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(e5) The Proposed Transaction is not used principally as a device for the distribution of the earnings and profits of Distributing 4, Controlled 1 or both.

(f5) (i) The total adjusted bases and the fair market value of the assets transferred to Controlled 1 by Distributing 4 equals or exceeds the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 1; and (ii) the liabilities assumed (as determined under § 357(d)) in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(g5) No intercorporate debt will exist between Distributing 4 and Controlled 1 at the time of, or subsequent to, the distribution of the stock of Controlled 1 in Distribution 4, other than debt incurred in the ordinary course of business. Any such indebtedness will not constitute stock or securities.

(h5) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, at the time of Distribution 4, Distributing 4 will not have an excess loss account in the stock of Controlled 1.

(i5) Payments made in connection with all continuing transactions, if any, between Distributing 4 and Controlled 1 will be for either fair market value based on terms and conditions arrived at by the parties bargaining at arm's length or based on fully allocated cost, which Distributing 1 believes approximates fair market value.

(j5) No two parties to the transaction will be investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(k5) For purposes of § 355(d), immediately after the 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 4 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing 4 stock, that was acquired by purchase (as defined in §§ 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the distribution.

(l5) For purposes of § 355(d), immediately after the 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 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled1 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 distribution or (ii) attributable to distributions on Distributing 4 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 distribution.

(m5) The total fair market value of the assets transferred by Distributing 4 to Controlled 1 in Contribution 4 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 4 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 4 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.

(n5) Provided the Service rules as requested, the distribution of Controlled 1 stock in Distribution 4 is not part of a plan or series of related transactions (within the meaning of § 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 4 or Controlled 1 (including any predecessor or successor of such corporation).

Distribution 3

The taxpayer makes the following representations regarding Distribution 3 described above in step (xliii):

(a6) No part of the consideration to be distributed by Distributing 3 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(b6) Distributing 3 is, and immediately after Distribution 3 will be, affiliated with Distributing 5 in a manner that satisfies § 1504(a), without regard to § 1504 (b).

(c6) Following the transaction, Distributing 3 and/or members of its “separate affiliated group” as defined in § 355(b)(3) will continue the active conduct of Business C and Controlled 1 and/or members of its “separate affiliated group” as defined in § 355(b)(3) will continue the active conduct of Business A, in each case independently and with its separate employees and/or, in the case of Distributing 3, employees of the Distributing 1 consolidated group, except that Distributing 1 and its affiliates will provide certain transitional services for Controlled 1 and its affiliates following the External Distribution.

(d6) Distribution 3 is carried out for the Corporate Business Purposes. Distribution 3 is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(e6) The Proposed Transaction is not used principally as a device for the distribution of the earnings and profits of Distributing 3, Controlled 1 or both.

(f6) No intercorporate debt will exist between Distributing 3 and Controlled 1 at the time of, or subsequent to, the distribution of the stock of Controlled 1 in Distribution 3, other than debt incurred in the ordinary course of business. Any such indebtedness will not constitute stock or securities.

(g6) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, at the time of Distribution 3, Distributing 3 will not have an excess loss account in the stock of Controlled 1.

(h6) Payments made in connection with all continuing transactions, if any, between Distributing 3 and Controlled 1 will be for either fair market value based on terms and conditions arrived at by the parties bargaining at arm's length or based on fully allocated cost, which Distributing 1 believes approximates fair market value.

(i6) For purposes of § 355(d), immediately after the 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 distribution.

(j6) For purposes of § 355(d), immediately after the 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 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 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 distribution.

(k6) Provided the Service rules as requested, the distribution of Controlled 1 stock in Distribution 3 is not part of a plan or series of related transactions (within the meaning of § 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 1 (including any predecessor or successor of such corporation).

Controlled 1 Contribution and Controlled 1 Distribution

The taxpayer makes the following representations regarding the Controlled 1 Contribution and the Controlled 1 Distribution described above in step (xlvi):

(a7) No part of the consideration to be distributed by Controlled 1 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(b7) The five years of financial information submitted on behalf of Controlled 2 is representative of the present operations of Controlled 2, and with regard to Controlled 2, there have been no operational changes since the date of the last financial statements submitted, except as intended to occur pursuant to the Proposed Transaction.

(c7) Following the transaction, Controlled 1 and Controlled 2 will each continue, independently and with its separate employees and/or, in the case of Controlled 2, employees of the Distributing 1 consolidated group, the active conduct of its share of all the integrated activities of the business conducted by Controlled 1 prior to consummation of the transaction, except that Distributing 1 and its affiliates will provide certain transitional services for Controlled 1 and its affiliates following the External Distribution.

(d7) The Controlled 1 Distribution is carried out for the Corporate Business Purposes. The Controlled 1 Distribution is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(e7) The Proposed Transaction is not used principally as a device for the distribution of the earnings and profits of Controlled 1, Controlled 2 or both.

(f7) (i) The total adjusted bases and the fair market value of the assets transferred to Controlled 2 by Controlled 1 equals or exceeds the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 2 and (ii) the liabilities assumed (as determined under § 357(d)) in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(g7) No intercorporate debt will exist between Controlled 1 and Controlled 2 at the time of, or subsequent to, the distribution of the stock of Controlled 1 in the Controlled 1 Distribution, other than debt incurred in the ordinary course of business. Any such indebtedness will not constitute stock or securities.

(h7) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as

published by T.D. 8597). Further, at the time of the Controlled 1 Distribution, Controlled 1 will not have an excess loss account in the stock of Controlled 2.

(i7) Payments made in connection with all continuing transactions, if any, between Controlled 1 and Controlled 2 will be for either fair market value based on terms and conditions arrived at by the parties bargaining at arm's length or based on fully allocated cost, which Distributing 1 believes approximates fair market value.

(j7) No two parties to the transaction will be investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(k7) For purposes of § 355(d), immediately after the 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 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 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 distribution.

(l7) For purposes of § 355(d), immediately after the 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 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 distribution or (ii) attributable to distributions on Controlled 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 distribution.

(m7) The total fair market value of the assets transferred by Controlled 1 to Controlled 2 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 2 in connection with the exchange, (ii) the amount of any liabilities owed to Controlled 2 by Controlled 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 Controlled 1 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.

(n7) Provided the Service rules as requested, the distribution of Controlled 2 stock in the Controlled 1 Distribution is not part of a plan or series of related transactions (within the meaning of § 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 Controlled 1 or Controlled 2 (including any predecessor or successor of such corporation).

Contribution 2 and Distribution 2

The taxpayer makes the following representations regarding Contribution 2 and Distribution 2 described above in step (xlvii):

(a8) No part of the consideration to be distributed by Distributing 2 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(b8) Distributing 2 is, and immediately after Distribution 2 will be, affiliated with Distributing 5 in a manner that satisfies § 1504(a), without regard to § 1504(b).

(c8) Following the transaction, Distributing 2 and/or members of its "separate affiliated group" as defined in § 355(b)(3) will continue the active conduct of Business C and Controlled 1 and/or members of its "separate affiliated group" as defined in § 355(b)(3) will continue the active conduct of Business A, in each case independently and with its separate employees and/or, in the case of Distributing 2, employees of the Distributing 1 consolidated group, except that Distributing 1 and its affiliates will provide certain transitional services for Controlled 1 and its affiliates following the External Distribution.

(d8) Distribution 2 is carried out for the Corporate Business Purposes. Distribution 2 is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(e8) The Proposed Transaction is not used principally as a device for the distribution of the earnings and profits of Distributing 2, Controlled 1 or both.

(f8) (i) The total adjusted bases and the fair market value of the assets transferred to Controlled 1 by Distributing 2 equals or exceeds the sum of the liabilities assumed (as determined under § 357(d)) by Controlled 1 and (ii) the liabilities assumed (as determined under § 357(d)) in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(g8) No intercorporate debt will exist between Distributing 2 and Controlled 1 at the time of, or subsequent to, the distribution of the stock of Controlled 1 in Distribution 2, other than debt incurred in the ordinary course of business. Any such indebtedness will not constitute stock or securities.

(h8) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany

transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, at the time of Distribution 2, Distributing 2 will not have an excess loss account in the stock of Controlled 1.

(i8) Payments made in connection with all continuing transactions, if any, between Distributing 2 and Controlled 1 will be for either fair market value based on terms and conditions arrived at by the parties bargaining at arm's length or based on fully allocated cost, which Distributing 1 believes approximates fair market value.

(j8) No two parties to the transaction will be investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(k8) For purposes of § 355(d), immediately after the 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 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 distribution.

(l8) For purposes of § 355(d), immediately after the 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 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 distribution or (ii) attributable to distributions on 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 distribution.

(m8) The total fair market value of the assets transferred by Distributing 2 to Controlled 1 in Contribution 2 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 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 1 will exceed the amount of its liabilities immediately after the exchange.

(n8) Provided the Service rules as requested, the distribution of Controlled 1 stock in Distribution 2 is not part of a plan or series of related transactions (within the meaning of § 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 1 (including any predecessor or successor of such corporation).

External Distribution

The taxpayer makes the following representations regarding the External Distribution described above in step (xlix):

(a9) The indebtedness owed by Controlled 1 to Distributing 1 after the External Distribution will not constitute stock or securities.

(b9) No part of the consideration to be distributed by Distributing 1 will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.

(c9) Distributing 1 is, and immediately after the External Distribution will be, affiliated with Distributing 5 in a manner that satisfies § 1504(a), without regard to § 1504 (b).

(d9) Following the transaction, Distributing 1 and/or members of its "separate affiliated group" as defined in § 355(b)(3) will continue the active conduct of Business C and Controlled 1 and/or members of its "separate affiliated group" as defined in § 355(b)(3) will continue the active conduct of Business A, in each case independently and with their separate employees, except that Distributing 1 and its affiliates will provide certain transitional services for Controlled 1 and its affiliates following the External Distribution.

(e9) The External Distribution is carried out for the Corporate Business Purposes. The External Distribution is motivated, in whole or substantial part, by one or more of these Corporate Business Purposes.

(f9) The Proposed Transaction is not used principally as a device for the distribution of the earnings and profits of Distributing 1, Controlled 1 or both.

(g9) No intercorporate debt will exist between Distributing 1 and Controlled 1 at the time of, or subsequent to, the distribution of the stock of Controlled 1 in the Distributing 1 Distribution, other than debt incurred in the ordinary course of business. Any such indebtedness will not constitute stock or securities.

(h9) Immediately before the distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, any excess loss account Distributing 1 may have in

the stock of Controlled 1 will be included in income immediately before the External Distribution (see § 1.1502-19).

(i9) Payments made in connection with all continuing transactions, if any, between Distributing 1 and Controlled 1 will be for either fair market value based on terms and conditions arrived at by the parties bargaining at arm's length or based on fully allocated cost, which Distributing 1 believes approximates fair market value.

(j9) For purposes of § 355(d), immediately after the 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 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 distribution.

(k9) For purposes of § 355(d), immediately after the 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 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 distribution or (ii) attributable to distributions on 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 distribution.

(l9) All repurchases of stock by Distributing 1 prior to the date of the External Distribution were not (or, to the extent they have not yet occurred, will not be) related to the Proposed Transaction and the amount and timing of such repurchases would have been the same regardless of the Proposed Transaction.

(m9) Provided the Service rules as requested, the distribution of Controlled 1 stock in the External Distribution is not part of a plan or series of related transactions (within the meaning of § 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 of such corporation).

(n9) The shareholders of Controlled 1 immediately before the Merger will receive in the Merger stock possessing at least o percent of the total combined voting power of all classes of Merger Partner stock entitled to vote and at least o percent of the total value of shares of all classes of Merger Partner stock.

(o9) Based on Distributing 1's and Controlled 1's review of schedules 13D and 13G filings with the SEC with respect to Distributing 1, in the previous five-year period,

other than Shareholder Z: (1) no shareholder has been a 5-Percent Shareholder of Distributing 1 during the previous five-year period and (2) no shareholder will be a 5-Percent Shareholder of Distributing 1 immediately following the External Distribution.

Merger

The taxpayer makes the following representations regarding the Merger described above in step (l):

(a10) The fair market value of Merger Partner stock and other consideration received by each Controlled 1 shareholder will be approximately equal to the fair market value of the Controlled 1 stock surrendered in the exchange.

(b10) At least 40 percent of the proprietary interest in Controlled 1 will be exchanged for Merger Partner stock and will be preserved (within the meaning of § 1.368-1(e)).

(c10) Following the transaction, Controlled 1 will hold (i) 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 (ii) 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 transaction. For purposes of this representation, amounts paid by Controlled 1 or Merger Sub to dissenters, amounts paid by Controlled 1 or Merger Sub to shareholders who receive cash or other property, amounts used by Controlled 1 or Merger Sub to pay reorganization expenses, and all redemptions and distributions (except for regular, normal dividends) made by Controlled 1 will be included as assets of Controlled 1 or Merger Sub, respectively, immediately prior to the transaction.

(d10) Prior to the transaction, Merger Partner will be in control of Merger Sub within the meaning of § 368(c).

(e10) None of the compensation received by any shareholder-employee of Controlled 1 will be separate consideration for, or allocable to, any of his or her shares of Controlled 1 stock; none of the shares of Merger Partner stock received by any shareholder-employee will be separate consideration for, or allocable to, any employment agreement; and the compensation paid to any shareholder-employee will be for services actually rendered and will be commensurate with amounts paid to third parties bargaining at arm's-length for similar services.

(f10) Controlled 1 has no plan or intention to issue additional shares of its stock that would result in Merger Partner losing control of Controlled 1 within the meaning of § 368(c).

(g10) Merger Partner has no plan or intention to reacquire, directly or through a related person (within the meaning of § 1.368-1(e)(3)), any of its stock issued in the Merger.

(h10) Merger Sub will have no liabilities assumed (within the meaning of § 357(d)) by Controlled 1, and will not transfer to Controlled 1 any assets subject to liabilities, in the Merger.

(i10) Following the Merger, Merger Partner will continue Controlled 1's historic business or use a significant portion of Controlled 1's historic business assets in a business, either directly or through one or more members of Merger Partner's qualified group (within the meaning of § 1.368-1(d)(4)(ii)) or one or more partnerships in which Merger Partner and members of its qualified group own an aggregate interest representing a significant interest in such business or have active and substantial management functions as partners in such business (each within the meaning of § 1.368-1(d)(4)(iii)(B)).

(j10) There is no intercorporate indebtedness existing between Merger Partner and Controlled 1 or between Merger Sub and Controlled 1 that was issued, acquired, or will be settled at a discount.

(k10) In the Merger, shares of Controlled 1 stock representing control of Controlled 1, as defined in § 368(c), will be exchanged solely for voting stock of Merger Partner. For purposes of this representation, shares of Controlled 1 stock exchanged for cash or other property originating with Merger Partner will be treated as outstanding Controlled 1 stock on the date of the Merger.

(l10) At the time of the Merger, Controlled 1 will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Controlled 1 that, if exercised or converted, would affect Merger Partner's acquisition or retention of control of Controlled 1, as defined in § 368(c).

(m10) Merger Partner does not own, nor has it owned during the past five years, any shares of the stock of Controlled 1.

(n10) Merger Partner has no plan or intention to liquidate Controlled 1, to merge Controlled 1 with or into another corporation, to sell or otherwise dispose of the stock of Controlled 1 except for transfers of stock to corporations controlled by Merger Partner, or to cause Controlled 1 to sell or otherwise dispose of any of its assets or of any of the assets acquired from Merger Sub, except for (i) dispositions made in the ordinary course of business or (ii) transfers of assets to a corporation controlled by Controlled 1.

(o10) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(p10) On the date of the Merger, the fair market value of the assets of Controlled 1 will exceed the sum of its liabilities, plus the amount of liabilities, if any, to which its assets are subject.

(q10) Controlled 1 is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

(r10) Controlled 1, Merger Sub, Merger Partner, and the shareholders of Controlled 1 will pay their respective expenses, if any, incurred in connection with the Merger.

(s10) The payment of cash in lieu of fractional shares of Merger Partner stock is solely for the purpose of avoiding the expense and inconvenience to Merger Partner of issuing fractional shares and does not represent separately bargained-for consideration. The total cash consideration that will be paid in the transaction to the Controlled 1 shareholders instead of issuing fractional shares of Merger Partner stock will not exceed m percent of the total consideration that will be issued in the transaction to the Controlled 1 shareholders in exchange for their shares of Controlled 1 stock. The fractional share interests of each Controlled 1 shareholder will be aggregated, and no Controlled 1 shareholder of record will receive cash in an amount equal to or greater than the value of one full share of Merger Partner stock.

RULINGS

The Upstream Mergers

Based solely on the information and representations submitted, we rule as follows on each Upstream Merger:

(1A) Each Upstream Merger will be treated as a complete liquidation under § 332 (§ 332(b) and § 1.332-2(d)).

(2A) No gain or loss will be recognized by the Upstream Merger Parent on its deemed receipt of the Upstream Merger Subsidiary's assets and the deemed assumption of liabilities (§ 332(a)).

(3A) No gain or loss will be recognized by the Upstream Merger Subsidiary on the deemed distribution of its assets to, and deemed assumption of liabilities by, the Upstream Merger Parent (§§ 336(d)(3) and 337(a)).

(4A) Except as provided in § 334(b)(1)(B) (which requires a fair market value basis under certain circumstances) the Upstream Merger Parent's basis in each asset deemed received from the Upstream Merger Subsidiary in the

Upstream Merger will be the same as the basis of that asset in the hands of the Upstream Merger Subsidiary immediately before the Upstream Merger (§ 334(b)(1)).

(5A) The Upstream Merger Parent's holding period in each asset deemed received from the Upstream Merger Subsidiary in the Upstream Merger will include the period during which that asset was held by the Upstream Merger Subsidiary (§ 1223(2)).

(6A) The Upstream Merger Parent will succeed to and take into account as of the close of the effective date of the Upstream Merger the items of the Upstream Merger Subsidiary described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§§ 381(a) and 1.381(a)-1).

The Cross-Chain Mergers

Based solely on the information and representations submitted, we rule as follows on each Cross-Chain Merger:

(1B) Provided that the Cross-Chain Merger qualifies as a statutory merger under applicable law, the merger of the Cross-Chain Merger Subsidiary into the Cross-Chain Merger LLC will qualify as a statutory merger for purposes of § 368(a)(1)(A) and the transaction will qualify as a reorganization under § 368(a)(1)(A). Controlled 1 and the Cross-Chain Merger Subsidiary will each be "a party to a reorganization" under § 368(b).

(2B) No gain or loss will be recognized by the Cross-Chain Merger Subsidiary on the transfer of its assets to the Cross-Chain Merger LLC solely in constructive exchange for shares of Controlled 1 stock and the assumption by the Cross-Chain Merger LLC of the liabilities of the Cross-Chain Merger Sub (§§ 357(a) and 361(a)).

(3B) No gain or loss will be recognized by Controlled 1 on the receipt by the Cross-Chain Merger LLC of the assets of the Cross-Chain Merger Subsidiary in constructive exchange for Controlled 1 common stock (§ 1032(a)).

(4B) The basis of each asset received by the Cross-Chain Merger LLC will equal the basis of that asset in the hands of the Cross-Chain Merger Subsidiary immediately before its transfer (§ 362(b)).

(5B) The holding period of each asset received by the Cross-Chain Merger LLC from the Cross-Chain Merger Subsidiary will include the period during which the Cross-Chain Merger Subsidiary held that asset (§ 1223(2)).

(6B) Controlled 1 will succeed to and take into account, as of the close of the effective date of the Cross-Chain Merger, the items of the Cross-Chain

Merger Subsidiary described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§§ 381(a) and 1.381(a)-1).

(7B) No gain or loss will be recognized by the Cross-Chain Merger Parent on the constructive exchange of its stock in the Cross-Chain Merger Subsidiary solely for stock in Controlled 1 (§ 354(a)(1)).

(8B) The aggregate basis in the Controlled 1 stock held by Cross-Chain Merger Parent after the Cross-Chain Merger will be (i) increased by the Cross-Chain Parent's basis in its Cross-Chain Merger Subsidiary stock and (ii) decreased by the amount of any excess loss account in such stock immediately before the Cross-Chain Merger (§§ 358(a), 1.358-2(a)(2), and 1.1502-19T).

(9B) The holding period of the Controlled 1 stock deemed received by the Cross-Chain Merger Parent in the Cross-Chain Merger will include the holding period of the Cross-Chain Merger Subsidiary stock surrendered in exchange therefor, provided the Cross-Chain Merger Subsidiary stock is held as a capital asset on the effective date of the Cross-Chain Merger (§ 1223(1)).

Sub 22 Exchange

Based solely on the information and representations submitted, we rule as follows on the Sub 22 Exchange:

(1C) No gain or loss will be recognized by Sub 4 on the Sub 22 Exchange (§§ 351(a) and 357(a); Rev. Rul. 2003-51, 2003-1 C.B. 938).

(2C) The basis of the Sub 22 stock deemed received by Sub 4 will be the same as the basis of the assets exchanged therefor, reduced by any assumed liabilities not described under § 357(c)(3) (§ 358(a) and (d).

(3C) No gain or loss will be recognized by Sub 22 on the receipt of assets from Sub 4 in constructive exchange for Sub 22 stock (§ 1032(a)).

(4C) The basis of each asset received by Sub 22 will equal the basis of that asset in the hands of Sub 4 immediately before the Sub 22 Exchange (§ 362(a)).

(5C) The holding period of each asset received by Sub 22 in the Sub 22 Exchange will include the period during which Sub 4 held that asset (§ 1223(2)).

The Contributions and Distributions

Based solely on the information and representations submitted, we rule as follows on each Contribution and its respective Distribution:

(1D) Each Contribution followed by its respective Distribution will be a reorganization within the meaning of § 368(a)(1)(D). Each Distributing and Controlled will be "a party to a reorganization" within the meaning of § 368(b).

(2D) No gain or loss will be recognized by Distributing on the Contribution (§§ 357(a), 357(c) and 361(a)).

(3D) No gain or loss will be recognized by Controlled on the receipt of assets from Distributing in exchange for actual or deemed-received Controlled stock (§ 1032(a)).

(4D) The basis of each asset received by Controlled will equal the basis of that asset in the hands of Distributing immediately before its transfer (§ 362(b)).

(5D) The holding period of each asset received by Controlled will include the period during which Distributing held that asset (§ 1223(2)).

(6D) No gain or loss will be recognized by Distributing on the distribution of its stock in Controlled to the shareholder of Distributing (§ 361(c)).

(7D) No gain or loss will be recognized by (and no amount will be includible in the income of) the shareholder of Distributing on the receipt of stock of Controlled (§ 355(a)(1)).

(8D) Section 355(a)(3)(B) will not treat as "other property" any part of the Controlled stock actually or deemed issued by Controlled to Distributing in exchange for any intellectual property rights transferred to Controlled in the Contribution.

(9D) The aggregate basis of the stock of Distributing and Controlled in the hands of Distributing's shareholder immediately after the Distribution will equal the shareholder's aggregate basis in the Distributing stock held immediately before the Distribution. Such aggregate basis will be allocated between the Distributing stock and the Controlled stock in proportion to the fair market value of each in accordance with § 1.358-2(a)(2) (§ 358(a)(1), (b)).

(10D) The holding period of the Controlled stock received by Distributing's shareholder will include the holding period of the Distributing stock on which the distribution is made, provided that such Distributing stock is held as a capital asset on the date of the Distribution (§ 1223(1)).

(11D) Earnings and profits will be allocated between Distributing and Controlled in accordance with § 312(h), § 1.312-10(a) and § 1.1502-33(f)(2).

Distribution 3

Based solely on the information and representations submitted, we rule as follows on Distribution 3:

(1E) No gain or loss will be recognized by Distributing 3 on the distribution of its stock in Controlled 1 to the shareholder of Distributing 3 (§ 355(c)(1)).

(2E) No gain or loss will be recognized by (and no amount will be includible in the income of) the shareholder of Distributing 3 on the receipt of stock of Controlled 1 in Distribution 3 (§ 355(a)(1)).

(3E) The aggregate basis of the stock of Distributing 3 and Controlled 1 in the hands of Distributing 3's shareholder immediately after Distribution 3 will equal the shareholder's aggregate basis in the stock of Distributing 3 held immediately before Distribution 3. Such aggregate basis will be allocated between the Distributing 3 stock and the Controlled 1 stock in proportion to the fair market value of each in accordance with § 1.358-2(a)(2) (§ 358(a)(1), (b)).

(4E) The holding period of the Controlled 1 stock received by Distributing 3's shareholder will include the holding period of the Distributing 3 stock on which the distribution is made, provided that such Distributing 3 stock is held as a capital asset on the date of Distribution 3 (§ 1223(1)).

(5E) Earnings and profits will be allocated between Distributing 3 and Controlled 1 in accordance with § 312(h), § 1.312-10(b) and § 1.1502-33(f)(2).

External Distribution

Based solely on the information and representations submitted, we rule as follows on the External Distribution:

(1F) No gain or loss will be recognized by Distributing 1 on the distribution of its stock in Controlled 1 to the Distributing 1 shareholders (§ 355(c)(1)).

(2F) Except to the extent required under § 897 with respect to foreign shareholders of Distributing 1 who own or owned during the five years preceding the External Distribution more than five percent of the fair market value of the Distributing 1 common stock, no gain or loss will be recognized by (and no amount will be includible in the income of) the Distributing 1 shareholders on the receipt of Controlled 1 stock in the External Distribution (§ 355(a)(1)).

(3F) Earnings and profits will be allocated between Distributing 1 and Controlled 1 under § 312(h), §§ 1.312-10(b) and 1.1502-33(e)(3).

(4F) Payments made by Distributing 1 or Controlled 1 pursuant to the Working Capital Adjustment or the Indemnity Agreements regarding items that (i) relate to periods ending on or before the External Distribution, and (ii) will not become fixed and ascertainable until after the External Distribution, will be treated as occurring immediately before the External Distribution. (See Arrowsmith v. Commissioner, 344 U.S. 6 (1952)).

(5F) Except in the case of a Distributing 1 shareholder who recognizes gain or loss under § 897, the aggregate basis of the stock of Distributing 1 and Controlled 1 in the hands of each Distributing 1 shareholder immediately after the External Distribution will equal such shareholder's aggregate basis in the stock of Distributing 1 immediately before the External Distribution. Such aggregated basis will be allocated between the Distributing 1 stock and the Controlled 1 stock in proportion to the fair market value of each in accordance with § 1.358-2(a)(2) (§ 358(b)).

(6F) Except in the case of a Distributing 1 shareholder who recognizes gain or loss under § 897, the holding period of the Controlled 1 stock received by a Distributing 1 shareholder in the External Distribution will include the holding period of the Distributing 1 stock on which the distribution was made, provided that such Distributing 1 stock is held as a capital asset on the date of the External Distribution (§ 1223(1)).

(7F) Repurchases of stock occurring before the External Distribution pursuant to the Repurchase Program (the "Distributing 1 Pre-Distribution Redemptions") will not be treated as direct or indirect acquisitions of stock in applying § 355(e)(2)(A)(ii) and will not have any effect on the determination of whether there has been an acquisition of a 50-percent or greater interest in a Distributing, Controlled, Distributing 3 or Distributing 1, i.e., the Distributing 1 Pre-Distribution Redemptions will not affect the determination of the percentage of the total combined voting power or value of the stock of a Distributing, Controlled, Distributing 3 or Distributing 1 acquired within the meaning of § 355(e).

(8F) For purposes of § 355(e), each Controlled 1 shareholder that is entitled to receive cash in lieu of fractional shares of Merger Partner stock in the Merger will be treated as receiving such fractional shares of Merger Partner stock in the Merger and then disposing of such shares in transactions that are not taken into account in applying § 355(e)(2)(A)(ii).

(9F) In applying § 355(e)(3)(A)(iv), the methodology of the example in the legislative history to § 355(e)(3)(A)(iv) is applicable to the Merger for purposes of testing a Distribution, Distribution 3, and the External Distribution under § 355(e) and applies separately with respect to each of the vote test and the value test of that provision (see S. Rep. No 105-74, at 174-175 (1998); see also H.R. Conf. Rep. No. 105-220, at 532-533(1997); i.e., for purposes of determining the size of acquisitions of Controlled 1 stock that occur pursuant to the Merger, § 355(e)(3)(A)(iv) will apply such that any acquisition of Controlled 1 stock by Merger Partner pursuant to the Merger will not be taken into account for purposes of § 355(e)(2)(A)(ii) to the extent that the percentage of the Controlled 1 stock owned directly or indirectly by each person owning Controlled 1 stock immediately before the Merger does not decrease. For these

purposes, § 318(a)(2)(C) will apply in determining whether a person holds Controlled 1 stock, except that § 318(a)(2)(C) will apply without regard to the phrase “50 percent or more in value” (§ 355(e)(4)(C)(ii)).

(10F) The continuation of the membership of the Merger Partner board of directors will not be taken into account in applying § 355(e)(2)(A)(ii).

(11F) The designation of the members of the Controlled 1 board of directors will not be taken into account in applying § 355(e)(2)(A)(ii).

(12F) In applying § 1.355-7(d)(7) (Safe Harbor VII), § 1.355-7(d)(8) (Safe Harbor VIII) and § 1.355-7(d)(9) (Safe Harbor IX) to acquisitions of Merger Partner stock following the Merger, Merger Partner will be treated as Controlled 1 and an acquisition of stock in Merger Partner will be treated as an acquisition of stock in Controlled 1 to the extent such acquirer of Merger Partner stock would be deemed to hold stock in Controlled 1 under § 355(e)(4)(C)(ii).

(13F) The prior existence of the Merger Partner Agreements or actions taken pursuant thereto will not cause an acquirer of Merger Partner stock pursuant to the exercise of an option or other right after a Termination to be treated as part of a coordinating group for purposes of applying § 1.355-7(d)(8) (Safe Harbor VIII).

Merger

Based solely on the information and representations submitted, we rule as follows on the Merger:

(1G) The Merger will qualify as a reorganization under § 368(a)(1)(A). The reorganization will not be disqualified because voting stock of Merger Partner is used in the merger (§ 368(a)(2)(E)). Controlled 1, Merger Partner and Merger Sub each will be a “party to a reorganization” under § 368(b).

(2G) No gain or loss will be recognized by Merger Sub on the transfer of its assets to Controlled 1 in constructive exchange for Controlled 1 stock and the assumption by Controlled 1 of related liabilities (§§ 361(a) and 357(a)).

(3G) No gain or loss will be recognized by Controlled 1 on its receipt of assets of Merger Sub in constructive exchange for Controlled 1 stock (§ 1032(a)).

(4G) No gain or loss will be recognized by Merger Partner on its receipt of Controlled 1 stock in constructive exchange for Merger Sub stock (§ 354(a)(1)).

(5G) The basis Controlled 1 will have in each Merger Sub asset received in the Merger will equal the basis of that asset in the hands of Merger Sub immediately before the exchange (§ 362(b)).

(6G) The holding period Controlled 1 will have for each Merger Sub asset will include the period during which Merger Sub held that asset (§ 1223(2)).

(7G) Immediately after the Merger, Merger Partner's basis in the stock of Controlled 1 will equal the sum of (a) Merger Partner's basis in the stock of Merger Sub immediately before the Merger and (b) Controlled 1's net asset basis within the meaning of § 1.1502-31(c) (§§ 1.358-6(c)(2)(i)(A) and 1.1502-31(b)(2)).

(8G) The holding period Merger Partner will have in the stock of Controlled 1 attributable to the stock of Merger Sub will include the period during which Merger Partner held the stock of Merger Sub (§ 1223(1)).

(9G) No gain or loss will be recognized by a Controlled 1 shareholder on the exchange of Controlled 1 common stock solely for Merger Partner common stock (including any fractional share interest to which the shareholder would be entitled) (§ 354(a)(1)).

(10G) The aggregate basis in the hands of a Controlled 1 shareholder of the Merger Partner common stock received in the transaction (including any fractional share interest to which the shareholder would be entitled) will equal the aggregate basis of the Controlled 1 common stock exchanged therefor (§ 358(a)(1)).

(11G) The holding period a Controlled 1 shareholder will have for Merger Partner common stock received in the transaction (including any fractional share interest to which the shareholder would be entitled) will include the holding period in the Controlled 1 common stock exchanged therefor, provided the Controlled 1 common stock is a capital asset in the Controlled 1 shareholder's hands on the date of the exchange (§ 1223(1)).

(12G) If cash is received by a Controlled 1 shareholder as a result of the sale of a fractional share of Merger Partner stock by the Distribution Agent on behalf of the shareholder, the shareholder will recognize gain or loss measured by the difference between the amount of cash received and the shareholder's basis in the fractional share (§ 1001). If the fractional share interest is a capital asset in the hands of the Controlled 1 shareholder, the gain or loss will be capital gain or loss, subject to the provisions and limitations of Subchapter P of Chapter 1 of the Code (§§ 1221 and 1222).

CAVEATS

We express no opinion about the tax treatment of the Proposed Transactions under other provisions of the Code and regulations or the tax treatment of any condition existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

(i) Whether a Distribution, Distribution 3, or the External Distribution satisfies the business purpose requirement of § 1.355-2(b);

(ii) Whether a Distribution, Distribution 3, or the External Distribution is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation (see §§ 355(a)(1)(B) and 1.355-2(d));

(iii) Whether a Distribution, Distribution 3, or the External Distribution and an acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii);

(iv) The federal income tax consequences of the Intercompany Debt Restructuring.

(v) Whether the transfer of any intellectual property rights in Contribution 1 constitutes a transfer of property (see Rev. Rul. 69-156, 1969-1 C.B. 101).

(vi) Whether any entity described as a disregarded entity actually qualifies as a disregarded entity under § 301.7701-3.

(vii) The federal income tax consequences of payments made in continuing transactions between Distributing 1 and any member of its consolidated group and Controlled 1.

(viii) Whether § 1.355-7(d)(8) (Safe Harbor VIII) applies to any acquisition of Merger Partner stock pursuant to the exercise of a Merger Partner Option.

(ix) The consequences to any person under § 897 as a result of the transactions described above, including but not limited to (i) whether any gain is recognized under § 897 and (ii) whether Distributing 1 was at any time a United States real property holding corporation during the five-year period immediately preceding the date of the External Distribution.

(x) The consequences under § 367 to any transaction described above.

PROCEDURAL STATEMENTS

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

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.

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,

Richard K. Passales
Senior Counsel, Branch 4
Associate Chief Counsel (Corporate)