**Outbound Investment: Draft Model Representations for Preferred Stock Purchase Agreement**

**REPRESENTATION GIVEN BY THE COMPANY IN SECTION 2 OF THE MODEL SPA:**

**Company “Not Covered” Representation**

**This is a model representation for use when investors in the financing are required to comply with the outbound rules to ensure the target of the investment (the Company) is not covered by the rules. Adding the second, bracketed sentence of the representation will allow an investor to ensure the Company has examined not just itself but also all of its indirectly controlled businesses and indirect investee businesses. The bracketed addition provides more comprehensive coverage against the investor potentially missing a filing, but will also require the Company to diligence its investments more deeply. If the parties believe the investment is clearly outside the rules, they may choose to include only the first two sentences of the representation, which will be simpler to confirm and will provide significant comfort that the rules do not apply.**

2.[34] Outbound Investment Rules. The Company either is (i) not a “person of a country of concern”; or (ii) not engaged in any “covered activity,” as these terms are defined in 31 C.F.R. Part 850, as implemented or revised from time to time (the “**Outbound Investment Rules**”). The Company has no intention of becoming a “person of a country of concern” that engages in any “covered activity.” [The Company is not a person that directly or indirectly holds a board seat on, a voting or equity interest in, or any contractual power to direct or cause the direction of the management of policies of any “covered foreign person” (as defined in the Outbound Investment Rules).]

**REPRESENTATIONS GIVEN BY THE INVESTORS IN SECTION 3:**

**Investor “Not Contributing to the PRC Percentage on a Company’s Cap Table” Representation; Investor “Not a U.S. Person” Representation**

**This is a model representation to help companies and their stakeholders confirm the percentage of the Company’s capitalization controlled by persons of a country of concern. In some cases, the Company may request the second sentence of the representation to ensure the investment will not be subject to U.S. reporting obligations.**

3.[14] Outbound Investment Country Status. Except as otherwise disclosed in writing to the Company, the Purchaser is not a “person of a country of concern” within the meaning of the Outbound Investment Rules. [Except as otherwise disclosed in writing to the Company, the Purchaser is neither: (i) a “U.S. person” nor (ii) a “controlled foreign entity,” as these terms are defined in the Outbound Investment Rules.]