

ANNEX 2-D
MODEL WAIVER OF CONFIDENTIALITY PROTECTIONS
TO PERMIT CONFIDENTIAL COMMUNICATIONS
BETWEEN ANTITRUST ENFORCEMENT AGENCIES

[Letterhead of Company Providing Waiver]

[Date]

[Lead Case Officer][Lead Case Officer]
[U.S. Department of Justice][Antitrust Enforcement Agency Z]
[Address][Address]

With respect to [the proposed acquisition of A Corp. by B Corp.] the undersigned attorney or corporate officer, acting on behalf of [indicate entity], hereby waives confidentiality protections under [insert names of applicable laws from both jurisdictions, e.g., the Hart-Scott-Rodino Act, 15 U.S.C. 18a(h), the Antitrust Civil Process Act, 15 U.S.C. §§ 1311 et seq., and any other applicable confidentiality provisions] (collectively “Confidentiality Rules”), solely to permit discussions between the staffs of the United States Department of Justice and [indicate antitrust enforcement agency Z] investigating [the proposed acquisition of A Corp. by B Corp.] under their respective merger review legislation [insert names of applicable laws from both jurisdictions, e.g., the Clayton Act] that would otherwise be foreclosed by the Confidentiality Rules of their respective jurisdiction.

[Indicate entity] grants this waiver on the understanding that the United States Department of Justice and [indicate antitrust enforcement agency Z] will continue to protect the confidentiality of [indicate entity]’s information vis-à-vis any other party in accordance with their normal practices and their respective Confidentiality Rules (see attached policy statement).

Signed:

Position:

Telephone:

**MODEL WAIVER OF CONFIDENTIALITY PROTECTIONS
TO PERMIT LIMITED CONFIDENTIAL COMMUNICATIONS
BETWEEN ANTITRUST ENFORCEMENT AGENCIES**

[Letterhead of Company Providing Waiver]

[Date]

[Lead Case Officer]
[U.S. Department of Justice]
[Address]

[Lead Case Officer]
[Antitrust Enforcement Agency Z]
[Address]

With respect to [the proposed acquisition of A Corp. by B Corp.] the undersigned attorney or corporate officer, acting on behalf of [indicate entity], hereby waives confidentiality protections under [insert names of applicable laws from both jurisdictions, e.g., the Hart-Scott-Rodino Act, 15 U.S.C. 18a(h), the Antitrust Civil Process Act, 15 U.S.C. §§ 1311 et seq., and any other applicable confidentiality provisions] (collectively “Confidentiality Rules”), solely to permit discussions on the following subjects: [insert list of the specific documents and/or products and issues -- e.g., market definition, barriers to entry, remedies, etc.] between the staffs of the United States Department of Justice and [antitrust enforcement agency Z] investigating [the proposed acquisition of A Corp. by B Corp.] under their respective merger review legislation [insert names of applicable laws from both jurisdictions, e.g., the Clayton Act] that would otherwise be foreclosed by the Confidentiality Rules of their respective jurisdictions.

[Indicate entity] grants this waiver on the understanding that the United States Department of Justice and [indicate antitrust enforcement agency Z] will continue to protect the confidentiality of [indicate entity]’s information vis-à-vis any other party in accordance with their normal practices and their respective Confidentiality Rules (see attached policy statement).

Signed:

Position:

Telephone:

**MODEL WAIVER OF CONFIDENTIALITY PROTECTIONS
TO PERMIT EXCHANGES OF CONFIDENTIAL INFORMATION
BETWEEN ANTITRUST ENFORCEMENT AGENCIES**

[Letterhead of Company Providing Waiver]

[Date]

[Lead Case Officer]
[U.S. Department of Justice]
[Address]

[Lead Case Officer]
[Antitrust Enforcement Agency Z]
[Address]

With respect to [the proposed acquisition of A Corp. by B Corp.] the undersigned attorney or corporate officer, acting on behalf of [indicate entity], hereby waives confidentiality protections under [insert names of applicable laws from both jurisdictions, e.g., the Hart-Scott-Rodino Act, 15 U.S.C. 18a(h), the Antitrust Civil Process Act, 15 U.S.C. §§ 1311 et seq., and any other applicable confidentiality provisions], (collectively, “Confidentiality Rules”), for the purpose of allowing the Antitrust Division of United States Department of Justice and [indicate foreign antitrust authority] to share documents, information and analyses.

Specifically, [indicate entity] authorizes the staffs of the United States Department of Justice and [indicate foreign antitrust authority] investigating [the proposed acquisition of A Corp. By B Corp.] under their respective merger review legislation [insert names of applicable laws from both jurisdictions, e.g., the Clayton Act] to share with one another [indicate entity] documents, graphics, statements and oral communications, and their own internal analyses of [indicate entity] materials whose disclosure would be otherwise foreclosed by the Confidentiality Rules of their respective jurisdictions.

[Indicate entity] grants this waiver on the understanding that the United States Department of Justice and [indicate antitrust enforcement agency Z] will treat [indicate entity] documents and information as being subject to all confidentiality protections to the fullest extent of their customary practices and Confidentiality Rules that would be applicable as if [indicate entity] had provided the information directly to them (see attached policy statement).

This authorization does not cover any materials asserted to be privileged, including correspondence sent to and from in-house counsel and in-house counsel legal advice provided to satisfy the standards for attorney-client privilege or work product doctrine under U.S. law and is not a waiver of any rights to assert any applicable privileges pertaining to such materials, including the attorney work product or attorney client privileges.

Signed:
Position:

Telephone: