



## **EMerge Alliance Antitrust Guidelines**

The EMerge Alliance (“the Alliance”) intends to conduct its affairs in compliance with the antitrust laws of the United States and, as applicable, the antitrust laws of the states within the United States and the antitrust/competition laws of other countries (generally, “Antitrust Laws”). The Antitrust Laws are intended to preserve and promote free, fair and open competition. This competition benefits consumers and companies that are innovative and efficient. A violation of the Antitrust Laws can have serious consequences for the Alliance and for participating companies. Accordingly, the Alliance hereby issues the following guidelines for itself and its statutory and non statutory members including all Governing Members, Participant Members, General Members, Supporters, Liaisons, and Advisory Counsel Members, as well as attendees, licensees, customers, and other participants (collectively “Alliance Participants”), as guidance in connection with participation in the Alliance’s activities. Prior to any and all meetings of the Alliance, or subgroups thereof, the participants in that meeting shall be reminded of these guidelines and their obligation of compliance herewith.

1. The Alliance and its committees or activities shall not be used for the purpose of bringing about or attempting to bring about any understanding or agreement, written or oral, formal or informal, express or implied, between and among competitors with regard to their prices, terms or conditions of sale, distribution, volume of production, territories, customers, or credit terms.

2. In connection with participation in the Alliance, there shall be no discussion, communication, agreement or disclosure among Alliance Participants that are actual or potential competitors, regarding their prices, discounts or terms or conditions of sale or licensing of products or services, pricing methods, profits, profit margins or cost data, production plans, market shares, sales territories or markets, allocation of territories or customers, or any limitation on the timing, cost or volume of their research, production or sales.

3. Each Alliance Participant is obligated and expected to exercise its independent business judgment in pricing its services or products, dealing with its customers and suppliers, and choosing the markets in which it will compete.

4. The Alliance and the Alliance Participants, in connection with their participation in the Alliance, shall not enter into any agreement or understanding among themselves to refrain, or to encourage others to refrain, from purchasing any raw materials, product, equipment, services or other supplies from any supplier or vendor or from dealing with any supplier or vendor.

5. The Alliance and the Alliance Participants, in connection with their participation in the Alliance, shall not attempt to prevent any person from gaining access to any market or customer for goods and services, or attempt to prevent any person from obtaining a supply of goods or services or otherwise purchasing goods or services freely in the market. (This paragraph is not intended to preclude the Alliance or any Alliance Participant from disclosing and asserting its intellectual property rights.)

6. The qualifications for participation in the Alliance are as established by the Board of Directors of the Alliance. No Alliance Participant shall be excluded from a working group of the Alliance for an anti-competitive reason.

7. To the extent that the Alliance develops, administers or approves guidelines, standards, specifications, test procedures, or certification programs, an Alliance Participant's decision to adhere to or participate therein shall be voluntary on the part of the Alliance Participant, and shall in no way be compelled or coerced by the Alliance. This guideline shall not, however, prevent the Alliance from adopting testing and certification programs and/or mandatory product compliance and robustness regimes for companies choosing to implement the specifications as well as logo and trademark usage requirements tied to adherence with the Alliance's guidelines, standards, specifications, test procedures or certifications programs.

8. Guidelines, specifications, standards, test procedures, and certification programs, which may be developed, administered, approved, or adopted by the Alliance, shall be based upon appropriate technical, business and consumer considerations, and shall not be based upon any effort or purpose to unreasonably reduce or eliminate competition in the sale, supply and furnishing of products and services.

9. The Alliance may condition use of its trademark(s), logo(s), and other intellectual property, on compliance with terms and conditions developed to regulate the use of and to protect such mark, and otherwise to maintain and enforce a compliance certification program in accordance with agreed terms and conditions and in conformity with the antitrust laws. Such terms and conditions may include a requirement of adherence with the Alliance's guidelines, standards, specifications, test procedures or certifications programs. The Alliance also reserves the right to take appropriate action against any person or entity which engages in false or misleading advertising regarding the use of or compliance with guidelines, standards, specifications, or test procedures of the Alliance or with the Alliance's certification program.

10. In conducting any meeting of the Board of Directors of the Alliance and any committee or working group of the Alliance, the Chair or Secretary of each such meeting shall prepare and follow a formal agenda. Minutes of all such meetings shall be maintained, accurately reflecting the subjects discussed and action taken at such meetings.

11. During the course of the activities of or sponsored by the Alliance, Alliance Participants should refrain from disclosing information to any other Alliance Participant that is not reasonably related to the legitimate purposes of such activities.

12. The Alliance and each Alliance Participant, in connection with the activities of the Alliance, shall use their best reasonable efforts to comply in all respects with the Antitrust Laws.

13. These Guidelines are intended to promote compliance with the Antitrust Laws, not to create duties or obligations beyond what the Antitrust Laws actually require. In the event of inconsistency between these Guidelines and the Antitrust Laws, the Antitrust Laws shall control.

14. These Guidelines shall be promulgated to all Alliance Participants and all Alliance Participants shall abide by these Guidelines.

Duly adopted by the Board of Directors of the Alliance on August 13, 2008.

EMerge Alliance

By: \_\_\_\_\_  
Its: Secretary