POL – 2 NACE Antitrust Policy Statement

The name of this corporation is NACE INTERNATIONAL (hereinafter referred to as "NACE" or "the Association"). NACE is a worldwide technical organization of scientists, engineers, and other parties interested in the development and dissemination of knowledge in the study of corrosion and its prevention.

NACE is not intended to, and will not, play any role in the competitive decisions of its members or their employers, or in any way restrict competition in any industry. Through its technical committees, educational courses, seminars, technical conferences, and other activities, NACE brings together representatives of competitors from many industries. Although the subject matter of NACE activities is normally technical in nature, and although the purpose of these activities is principally educational and there is no intent to restrain competition in any manner, nevertheless, the Board of Directors recognizes the possibility that the Association and its activities could be seen by some as an opportunity to engage in anticompetitive conduct. For this reason, the Board has taken the opportunity, through this statement of policy, to make clear its unequivocal support for the policy of competition served by the antitrust laws and its uncompromising intent to comply strictly in all respects with these laws.

In addition to the Association's firm commitment to the principle of competition served by the antitrust laws, the penalties that may be imposed upon both the Association and its members involved in any violation of the antitrust laws are so severe that good business judgment demands that every effort be made to avoid any such violation. Certain violations of the Sherman Act, some of which are described below, are felony crimes for which individuals may be imprisoned for up to three years or fined up to $350,000, or both, and corporations can be fined up to $10 million for each offense. In addition, treble damages and/or injunctive relief claimed by private parties (including class actions) for antitrust violations are extremely expensive to litigate and can result in judgments of a magnitude that could destroy the Association.

The most important United States antitrust law applicable to the Association is Section 1 of the federal Sherman Act, which makes illegal "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade among the several States, or with foreign nations . The focus of this law is to prohibit joint activity or an agreement among businesses that restrains trade and the free operation of markets. For purposes of violating this law, the agreement reached between businesses need not be formal or even written, and may include informal, unwritten and even unspoken agreements or understandings. In addition, these agreements can be established by circumstantial, as opposed to direct, evidence, such as a pattern of conduct or mere presence at a meeting at which illegal agreements or understandings were made.

Another important law is Section 5 of the Federal Trade Commission Act, which prohibits "unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce." Unlike Section 1 of the Sherman Act (discussed above) which requires two or more businesses acting in concert, this law can be applied to a company acting alone. Members should bear in mind that neither this policy nor the Association's General Rules of Antitrust Compliance (I-3 of this manual) constitute a comprehensive legal analysis of all applicable antitrust laws; other laws, including state antitrust laws and the laws of foreign nations, may provide additional obligations and penalties that are not set forth in this statement of policy.

The following are some examples of antitrust violations that may occur between competitors. This list is not exhaustive, and is not intended to be exhaustive, but is merely illustrative of some of the types of conduct that raise serious antitrust issues.

1. **Price Fixing**. Agreements among competitors on the price at which they will sell their products or services are called "price-fixing." Price-fixing may exist even if there is no agreement on a specific price to be charged, and even if there is no written document formalizing the agreement. Any agreement between or among competitors with the purpose of increasing or affecting the price of a product or service will violate the antitrust laws. The term "price" as used in this policy statement is to be interpreted in its broadest possible sense, to include, for example, current or projected prices, price changes or differentials, markups, discounts, allowances, terms and conditions of sale (including credit terms and warranty provisions), and other information that may comprise an element of the price of a product or service (i.e., profits, margins, costs).

2. **Bid-Rigging**. The objective of bid-rigging is to reduce or eliminate price competition, or to assure that, over time, each competing bidder receives a certain share of total business awarded through sealed bids. A bid-rigging violation occurs, for example, when Company A allows a competitor, Company B, to win a bid by submitting an artificially inflated bid, pursuant to an understanding that will similarly allow Company A to win a subsequent bid. Likewise, an agreement between Company A and Company B not to bid on a particular piece of business also constitutes bid-rigging.

3. **Market and Customer Allocation**. Agreements between or among competitors to divide customers by class or by geographic location are strictly illegal. For example, an agreement between competitors whereby Company A agrees not to pursue manufacturers of plastics materials if Company B agrees not to pursue manufacturers of paper materials is unlawful. Similarly, an agreement between competitors in different regions of the United States not to enter into each other's geographic territories is strictly prohibited, as are any discussions concerning plans to expand into or withdraw from certain geographic or product markets.

4. **Group Boycotts**. A group boycott is a collective refusal to deal among competitors, pursuant to which two or more competitors agree that neither of them will do business with a particular supplier or customer, or that they will do business only with certain suppliers or customers, or only on certain terms.

5. **Standard Setting**. Product or service standards development refers to the process of identifying and agreeing upon a specific set of criteria to which a particular type of product or service should conform. Such standards are often developed in the context of trade association meetings and are generally procompetitive. In some limited cases, however, standards development may create antitrust risks where, for example, they preclude certain entities from competing in the sale of a product or service, or where such standards cannot be supported by any legitimate business justification.

6. **Information Exchanges**. The collection or exchange of information concerning matters such as prices charged for services rendered, business plans, marketing plans, new product development, costs and profits, that is not already publicly available and which is competitively sensitive, can raise antitrust concerns in some cases, i.e., where the information exchange suggests an agreement to restrain trade. A few relevant factors include whether the information is being collected by NACE or a third party and will be disseminated in such a way that the sources of the data remain anonymous; whether the information is historical data or

projections of future prices and/or costs; and whether the providers of the information constitute a significant share of the market.

Because it is the policy of NACE to conduct its business in accordance with the highest standards of ethics and fair-play, this policy statement and the General Rules of Antitrust Compliance in many instances exceed the minimum requirements of the antitrust laws in order to deter conduct that may violate the spirit of those laws. It shall be the responsibility of NACE staff and of every member of NACE to be guided by NACE's policy of strict compliance with the antitrust laws in all NACE activities. It shall be the special responsibility of committee chair, Association officers, and officers of areas, and sections to ensure that this policy is known and adhered to in the course of activities pursued under their leadership.

Of course, this policy statement is necessarily general and cannot purport to anticipate every legal issue or fact pattern that may emerge. It is very important, therefore, that members and NACE staff consult with counsel whenever questions arise, however remote, as to the specific application of this policy statement and the antitrust laws in general. To assist NACE members, as well as NACE staff, including all of its officers, directors, committee chair, and area, and section officers, in recognizing situations that may raise the appearance of potential antitrust problems, the Board will as a matter of policy furnish to each of such entities and persons the General Rules of Antitrust Compliance. The Association will also make available general legal advice when questions arise as to the manner in which the antitrust laws may apply to the activities of NACE or any committee or section thereof.