

# Company name and address

## DRUG AND ALCOHOL POLICY

### I. STATEMENT OF PURPOSE

COMPANY has vital interests in ensuring a safe, healthy and efficient working environment for our employees and in preventing accidents and injuries resulting from the misuse of alcohol or the use of controlled substances by drivers of commercial motor vehicles. The unlawful or improper presence or use of controlled substances or alcohol in the workplace presents a danger to everyone. For these reasons, as required by the drug and alcohol testing rules of the Federal Motor Carrier Safety Administration ("FMCSA"), 49 CFR Parts 40 and 382, we have established as a condition of employment and continued employment this substance abuse policy.

The objective of this program is to prohibit a covered employee from performing safety-sensitive functions while that employee has engaged in prohibited conduct. Drug and alcohol testing is an integral part of our program. This policy explain the FMCSA's drug and alcohol rules and our company's policies with respect to drivers of commercial motor vehicles who misuse alcohol or use drugs or violate any other prohibitions established under federal or state regulations.

This policy represents management guidelines only and should not be interpreted as a contract of employment. Noncompliance with this policy will result in immediate dismissal. In the case of an applicant, the applicant will be considered ineligible for employment with the company.

It is the company's policy to suspend the driver without pay after the completion of the post- accident drug and alcohol tests, pending the test results. If the test results are negative, the driver will be compensated for all time lost from work, which is directly attributable to the taking of the tests, and awaiting test results. The company also reserves the right to evaluate the conduct of the driver which may have caused or contributed to the accident, to determine if this conduct in and of itself should warrant discipline, up to and including, termination,

This policy was designed to protect an individual's privacy, to ensure the integrity and reliability of testing procedures and to protect the confidentiality of individual test results and medical histories. Any questions regarding the meaning or application of this policy should be directed to the Program Manager who has been designated by our company to answer all driver questions concerning this policy and our procedures.

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Program Manager and DER

Telephone number XXXXXXXXX

The Program Manager has distributed a copy of this policy to each covered employee and will ensure that it is distributed to each person subsequently hired or transferred to a position requiring the performance of safety-sensitive functions as defined by this policy and the FMCSA's drug and alcohol rules in 49 CFR Parts 40 and 382.

## II. SCOPE OF THIS POLICY

Any person who operates a commercial motor vehicle in intrastate or interstate commerce requiring a commercial driver's license (CDL) is required to comply with the FMCSA's drug and alcohol rules and this policy. Accordingly, this policy applies to all drivers of commercial motor vehicles as defined below and their supervisors employed by the company who actually perform, are ready to perform, or are immediately available to perform "safety-sensitive functions" as defined below. Additionally, all individuals who seek employment in a position which requires performance of safety-sensitive functions are covered by this policy and the FMCSA's drug and alcohol rules.

All drivers performing the safety-sensitive functions listed below are subject to alcohol testing and are prohibited from consuming any alcohol (not just alcoholic beverages) whenever they are performing, ready to perform, or immediately available to perform these safety-sensitive functions. Drivers will only be requested to submit to an alcohol test while they are at the worksite.

For example, since our drivers are required to be immediately available to perform safety-sensitive functions at any time during his or her work day, they are subject to alcohol testing the entire workday, even though they may not perform any safety-sensitive functions during their regular workday. Further, any driver who may be required to perform a safety-sensitive function and is on-call for duty while at home will not violate the alcohol rules if he or she has an alcoholic beverage unless he or she reports for duty within four hours of consuming such alcohol. This driver is not subject to alcohol testing until he or she reports for work. If the driver is called to work and has consumed alcohol within four (4) hours he or she would have to decline to report until four (4) hours have passed with no alcohol consumption.

All drivers are subject to the drug prohibitions defined below at any time on or off the worksite. All drivers may be requested to submit to a drug test at any time on or off the worksite while engaged in activities.

## III. DEFINITIONS

"Accident" means an occurrence involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in:

1. A fatality;
2. Bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or
3. One or more motor vehicles incurring disabling damage, as defined in this policy, as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

"Alcohol Use" means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medications), containing alcohol.

"Applicant" means any individual who applies for employment as a driver of a commercial motor vehicle operated by the company.

"Breath Alcohol Technician" or "BAT" means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device.

"Canceled or Invalid Test" is neither a positive nor a negative test. In drug testing, this means a drug test that has been declared invalid by a medical review officer. A specimen that has been rejected for testing by a laboratory is treated the same as a canceled test. In alcohol testing, this means a test deemed to be invalid under the circumstances set forth in 49 CFR §§40.79 and 40.107.

"Certified Laboratory" means a laboratory certified by the U.S. Department of Health and Human Services ("DHHS") which meets the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs, as amended.

"Chain of Custody" in drug testing, means procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. A drug testing custody and control form must be used from the time of collection to receipt by the laboratory and an appropriate chain of custody form(s) account(s) for the specimen or portions of the specimen within the laboratory. Drug test performed under 49 CFR Part 382 must be performed using the Federal Drug Testing Custody and Control Form (CCF).

"Commercial Motor Vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) including a towed unit with a gross vehicle weight of more than 4,536 kilograms (10,000 pounds); or
2. Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of hazardous materials requiring placarding under the Hazardous Materials Transportation Act and Regulations.

"Confirmed Test" in drug testing, means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screening test and uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy. We plan to use gas chromatography/mass spectrometry (GC/MS) or an equally reliable method to ensure reliability and accuracy of the test results. In alcohol testing, a confirmation test means a second test,

following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

"Controlled Substances" and "Drugs" are used interchangeably in this policy and mean marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP) or their metabolites and any other substance included in Schedules I through Y, as defined by the Controlled Substances Act, 21 U.S.C. §812, as they may be revised from time to time. The terms "controlled substances" and "drugs" include legal substances obtained illegally or used in an unauthorized manner, but does not refer to the proper use of controlled substances authorized by law which do not affect job safety or performance.

"Disabling Damage" means damage which precludes the departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. This term does not include damage which can be remedied temporarily at the scene of the accident without special tools or parts; tire disablement without other damage even if no spare tire is available; headlight or taillight damage; and damage to turn signals, horn or windshield wipers which make them inoperative.

"Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease with the company, or who operate a commercial motor vehicle at the direction of or with the consent of the company.

"Evidential Breath Testing Device" ("EBT") means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices ("CPL"), and identified on the CPL as conforming with the model specifications available from the NHTSA's Office of Alcohol and State Programs.

"Licensed Medical Practitioner" means a person who is licensed, certified, or registered, in accordance with applicable federal, state, local or foreign laws and regulations, to prescribe controlled substances and other drugs.

"Medical Review Officer" ("MRO") means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test result, medical history and any other relevant biomedical information.

"Negative Test Result" in drug testing, means a result reviewed by a MRO and determined to have no evidence of prohibited drug use. In alcohol testing, means a confirmation test result of less than 0.02.

"Non-Evidential Alcohol Screening Device" means either a breath or saliva testing device approved the National Highway Traffic Safety Administration ("NHTSA") and placed on NHTSA's Conforming Products List for Non-Evidential Screening Devices which may be used in lieu of EBTs to perform screening tests required by the FMCSA's alcohol rules.

"Performing a Safety-Sensitive Function" means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

"Positive Test Result" in drug testing, means a drug test result reviewed by a MRO and verified to have evidence of prohibited drug use. In alcohol testing, means a confirmation test result of 0.02 or greater.

"Refusal To Submit" (to alcohol or drug tests) means as defined by the company, independently of the FMCSA's rules, that a driver (1) fails to appear for any test (except a pre-employment test) within a reasonable time as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an Owner-operator) to appear for a test when called by a C/TPA (see 49 CFR 10.61(a)); (2) Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the test process commences (see 49 CFR 40.63(c)) a pre-employment test is not deemed to have refused to test; (3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see 49 CFR 40.63(c)) a pre-employment test is not deemed to have refused to test; (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see 49 CFR 40.67(1) and 40.69(g) ; (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see 49 CFR 40. 193(d)(2); (6) Fail or declines to take a second test the employer or collector has directed the driver to take; (7) Fail to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the MRO under 49 CFR 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment; (8) Fail to cooperate with any process (e.g. refuses to empty pockets when so directed by collector, behave in a confrontational way that disrupts the collection process); or (9) Is reported by the MRO as having a verified adulterated or substituted test result.

"Safety-Sensitive Function" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting equipment as required by the FMCSA's rules, 49 CFR §§392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;

- All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of the FMCSA's rules, 49 CFR §393.76);
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

"Screening" or "Initial Test" means for drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs. In alcohol testing, it means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen (an alcohol concentration of 0.02 or greater).

"Screening Test Technician" ("STT") means an individual who instructs and assists an individual in the alcohol screening testing process and operates a non-evidential screening device.

"Substance Abuse Professional" ("SAP") means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or an addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol And Other Drug Abuse). All SAPs must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

"Workplace" means a site for the performance of work to be done in connection with the company's business. This includes, but is not limited to, all structures and surrounding properties at which the company conducts its business, any company vehicles or equipment whether owned, leased, or used, whether or not on company premises, and any other location in which company work or business is performed.

#### **IV. PROHIBITED CONDUCT**

##### **A. Prohibited Conduct Concerning A Driver's Use of Alcohol and Illegal Drugs**

The following conduct is prohibited:

1. Drivers are prohibited from reporting for duty or remaining on duty with an alcohol concentration of 0.04 or greater. A driver found to have for the first time an alcohol concentration of 0.02 or greater, but less than 0.04, cannot perform any safety-sensitive functions for at least 24 hours from the test.

2. Drivers are prohibited from consuming alcohol in any form while performing safety-sensitive functions. This prohibition also applies to drivers who are at work and are immediately available to perform safety-sensitive functions.
3. Drivers are prohibited from performing safety-sensitive functions within four (4) hours after consuming alcohol.

On-call employees who are not at work, but could be called to perform safety-sensitive functions, are subject to the above pre-duty alcohol prohibition. This means an on-call employee must decline a call to work if his or her acceptance would require the employee to perform safety-sensitive functions within four (4) hours after consuming alcohol.

4. Drivers are prohibited from using alcohol for eight (8) hours following an accident, or until the driver takes a post-accident alcohol test, whichever occurs first.
5. Drivers may not refuse to submit to any drug or alcohol test required under the FMCSA's drug and alcohol rules and this policy.
6. Drivers are prohibited from engaging in the unlawful or unauthorized manufacture, distribution, dispensation, sale, purchase, solicitation, transfer, possession or use of controlled substances or alcohol, while on company paid time, on company premises, in company vehicles, or while engaged in company activities. This does not include the authorized distribution, dispensation, sale, purchase, solicitation, transfer, possession or use of alcohol at company-sponsored functions or events.
7. Drivers are prohibited from reporting for duty, or remaining on duty when the driver uses any drugs, except when the use is pursuant to the instructions of a licensed medical practitioner as previously defined, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
8. Drivers are prohibited from performing or continuing to perform a safety-sensitive function if they have tested positive for controlled substances or alcohol.

B. Prohibition on Dispatcher, Supervisor or Manager Permitting A Driver To Work

Any Dispatcher, Supervisor or Manager who has actual knowledge that a driver has engaged or is engaging in conduct prohibited in Section IV (A) above, shall not permit the driver to perform or continue to perform any safety-sensitive function.

### C. Prohibition Against Working While Using Any Medication Which Affect Safety Or Performance

The following conduct is also prohibited:

1. Use of any medication (therapeutic drugs) while engaged in company activities is prohibited to the extent such use may pose a significant risk of substantial harm to the health or safety of the driver and others in the driver's performance of his or her safety-sensitive functions subject to the provisions in subsection 4 of this section.
2. A driver using any medication that contains alcohol or a controlled substance has an obligation to inquire and determine whether the substance the driver is taking poses a significant risk of substantial harm to the health or safety of the employee or others in the performance of the employee's job duties. If the driver is using such a medication, the driver is required to obtain from the driver's licensed medical practitioner a written statement which provides that the medication does not pose a significant risk of substantial harm to health or safety of the driver or others in the performance of the employee's job duties.
3. The licensed medical practitioner's statement must be reported to the driver's immediate supervisor prior to commencing any safety-sensitive functions, without disclosing the identity of the substance or the employee's medical condition. Then the supervisor must report this information to the Program Manager who will contact the company's MRO. The MRO will contact the employee and the employee must provide the MRO with the information on the original medication container. This information may be reviewed by the company's MRO in consultation of the employee's licensed medical practitioner.

Depending upon the results of the review, the Program Manager will consider whether the health or safety risk can be eliminated or sufficiently reduced by a reasonable accommodation, if applicable. A driver may be assigned to non-safety-sensitive duties pending a determination as to whether a significant risk exists or a reasonable accommodation can be made. A driver may not perform his or her safety-sensitive functions unless such a determination or reasonable accommodation has been made.

## V. REQUIRED TESTS

Drivers are subject to the following FMCSA mandatory drug and alcohol tests: post-accident, random, reasonable suspicion, return to duty, and follow-up testing. Applicants for driver positions are required to submit to a pre-employment drug test.

### A. Pre-Employment Drug Testing

All applicants seeking employment in a position which requires the performance of safety-sensitive functions as previously defined, to whom the company has extended a conditional offer of employment are required to submit to a pre-employment drug test and must receive a negative test result as a condition of employment. In addition, any employee who transfers to a position covered by the FMCSA

drug and alcohol rules is required to submit to a pre-employment drug test as a condition of continued employment. Such tests will be conducted prior to the first time the individual performs his or her job duties.

**B. Post-Accident Drug and Alcohol Testing**

As soon as practicable following an accident (as previously defined) involving a commercial motor vehicle, the company shall direct a post-accident drug and alcohol tests of each driver who was performing safety-sensitive functions with respect to the vehicle if the accident: (1) resulted in a fatality; or (2) the driver receives a citation under state or local law for a moving traffic violation arising from the accident and if the accident involved either: (i) bodily injury to a person who as a result of the injury immediately receives immediate medical treatment away from the scene of accident; or (ii) one or more vehicles incur disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

The following chart indicates when a post-accident test is required to be conducted under FMCSA's drug and alcohol rules:

Accident involved:	Citation issued to the driver	Post-Accident Test must be performed
Human fatality	Irrelevant	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

In a post-accident situation, the driver must notify the Program Manager and get information on how to proceed with the required testing. Drivers are obligated to follow the Program Manager's instructions and to submit to post-accident drug and alcohol tests, where possible.

Post-accident alcohol tests are required to be administered within two hours, but not later than eight hours, following the accident. Post-accident drug tests are required to be administered with 32 hours following the accident.

A driver who is subject to post-accident testing must remain readily available for such testing or else will be deemed to have refused to submit to such testing. However, this "readily available" requirement does not require the delay of necessary medical attention for injured people, or prohibit a driver from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The results of post-accident drug or alcohol tests conducted by federal, state, or local law enforcement agents having independent authorization for such tests, are permitted by the FMCSA to be used by the company as the required post-accident tests, provided such tests conform to the applicable federal, state, or local alcohol and controlled substance testing procedures and the company obtains these test

results. The driver must provide the necessary authorization for the company to obtain these results. If either test is not completed by enforcement agents, the DOT test is still required.

It is the company's policy to suspend the driver without pay after the completion of the post-accident drug and alcohol tests, pending the test results. If the test results are negative, the driver will be compensated for all time lost from work which is directly attributable to the taking of the tests. The company also reserves the right to evaluate the conduct of the driver which may have cause contributed to the accident, to determine if this conduct in and of itself should warrant discipline, up to and including, termination.

c. Random Drug and Alcohol Testing

As required by the FMCSA's drug and alcohol rules, each year the company will administer a number of random alcohol and drug tests. The minimum annual random alcohol test rate is 10% of the average number of driver positions. The minimum annual random drug test rate is 50% of the average number of driver positions. These rates may be increased or decreased as required by the FMCSA's drug and alcohol rules.

The random tests will be unannounced and the dates for administering the tests will be spread reasonably throughout the calendar year. The company will select drivers for random tests at least bi-monthly. Further, the company shall select drivers for testing by using a random number table or a computer-based random number generator that is matched with the drivers' social security numbers, or will use some other scientifically valid method which ensures that each driver has an equal chance of being tested each time selections are made.

A driver will be subject to random alcohol tests only just before, during, or just after the driver performs safety-sensitive functions. A driver may be subject to random drug tests at any time.

Each driver who is notified of selection for random drug or alcohol testing must proceed to the test site immediately. However, if the driver is performing a safety-sensitive function other than driving a commercial motor vehicle at the time of notification, he or she must cease performing the safety-sensitive function and proceed to the test site as soon as possible, but not longer than two hours from the time of notification. The dates of random testing, locations and names of those to be tested are kept in the strictest confidence by the Program Manager and the specimen collector.

D. Reasonable Suspicion Drug or Alcohol Testing

The company has determined, independently of the FMCSA's rules, that a driver must submit to a reasonable suspicion drug or alcohol test when a manager or supervisor has reasonable suspicion to believe that the driver has violated the drug or alcohol prohibitions contained in this policy. A reasonable suspicion determination must be based on specific, contemporaneous, articulable observations, including but not limited to, the driver's appearance, behavior, speech or body odors. For drug testing, the observations may include indications of the chronic and withdrawal effects of drugs.

A reasonable suspicion determination for an alcohol test must be based on observations that are made during, just before, or just after the driver performs safety-sensitive functions. But in no case will an alcohol test be performed after eight (8) hours from the reasonable suspicion determination. A reasonable suspicion determination for a drug test may be made at any time the driver is at work.

All supervisors or managers who will make a reasonable suspicion determination have received training on alcohol misuse and controlled substances use in accordance with the FMCSA's rules. The supervisor or manager who makes a reasonable suspicion determination will not conduct the drug or alcohol test. Documentation of the observations leading to a reasonable suspicion test must be prepared and signed by the supervisor or manager who made the observations. The company shall immediately transport or ensure transportation of the driver to and from the collection site for the collection of saliva, breath, or urine samples.

If a reasonable-suspicion alcohol test cannot be administered, no driver who is under the influence of or impaired by alcohol, as shown by behavioral, speech or performance indicators of alcohol misuse, should report for duty or remain on duty requiring the performance of safety-sensitive functions, until a test can be administered and the result is below 0.02 or until 24 hours have elapsed from the reasonable suspicion determination. Further, the company will not permit any driver who is under the influence of or impaired by alcohol as shown by behavioral, speech, or performance indicators of alcohol misuse, to report for duty or remain on duty requiring the performance of a safety-sensitive function until a test can be administered and the result is below 0.02 or until 24 hours have elapsed from the reasonable suspicion determination.

It is the company's policy, independent of the FMCSA's rules, to suspend without pay the driver after the completion of the reasonable suspicion drug or alcohol tests, pending the test results. If the test results are negative, the driver will be compensated for all time lost from work which is directly attributable to the request to take the tests and until his pay is reinstated. The company also reserves the right to evaluate the conduct of the driver which warranted the reasonable suspicion drug or alcohol tests to determine if the conduct in and of itself should warrant discipline, up to and including termination, but a negative test result may be used by the employee in responding to any investigation.

#### E. Return-To-Duty Drug or Alcohol Testing

The FMCSA's drug and alcohol rules provide that before a driver returns to duty requiring the performance of a safety-sensitive function, after engaging in conduct prohibited by the FMCSA's drug and alcohol rules, the driver must complete an evaluation and treatment program then submit to a return-to-duty drug or alcohol test and must receive negative results. ***Since our company has a ZERO tolerance policy we will not be involved in any of these tests.***

#### F. Follow-Up Drug or Alcohol Testing

The FMCSA's drug and alcohol rules require unannounced follow-up drug or alcohol tests after a driver has been evaluated by a substance abuse professional ("SAP") who has determined that the level of assistance the driver requires resolving the alcohol misuse or drug use problems. These test start after

the return to duty test and will require a minimum of six (6) tests in the first year. *Since our company has a ZERO tolerance policy we will not be involved in any of these tests.*

## **VI. SELF-IDENTIFICATION OF SUBSTANCE ABUSE PROBLEM**

It is the company's policy to refer a driver who voluntarily self-identifies as having a drug or alcohol problem and requests assistance for such a problem before being selected for a drug or alcohol test required by this policy, to the company's Human Resources Director for referral to a substance abuse professional for an evaluation and an appropriate counseling, treatment or rehabilitation program. The cost of counseling, treatment or rehabilitation is the employee's responsibility. (For further details, see the company's policies regarding leaves of absence and benefit entitlement). Upon return to duty, such driver will be required to submit to additional random drug or alcohol tests and must receive a negative result. Such driver also will be required to submit to follow-up drug or alcohol tests. The number and frequency of such follow-up testing shall be performed are determined by the company after consultation with a substance abuse professional and may consist of more than six tests in the 12 months following the driver's return to duty. Thereafter, additional tests will not exceed one test per year for the next 48 months. Such follow-up testing will be required in addition to all other tests required by this policy. A driver who is participating in a counseling, treatment or rehabilitation program is unable to perform safety-sensitive functions while in such program. During this period the company will attempt to reassign such driver to another available position which does not require the performance of safety-sensitive functions and for which the driver is qualified. The driver will receive the rate of pay for the position to which he or she has been reassigned.

## **VII. DRUG AND ALCOHOL TESTING PROCEDURES**

As required by the FMCSA's rules, the company's drug and alcohol testing procedures comply with the Federal Procedures For Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, as amended. (A copy may be obtained from the Program Manager). These procedures ensure the integrity, confidentiality and reliability of the testing processes, safeguard the validity of the test results and ensure that these results are attributed to the correct driver. Further, these procedures minimize the impact upon the privacy and dignity of persons undergoing such tests to every extent feasible. The company will utilize an outside agent to conduct any required drug or alcohol tests.

### **A. Drug Testing Procedures**

The drugs specifically being tested for include: marijuana, opiates, amphetamines, cocaine, and phencyclidine (PCP) and their metabolites. The company's agent has established a chain of custody procedure for both drug sample collection and testing that will verify the identity of each sample and test result. All drug tests conducted pursuant to this policy shall be performed by laboratories which are certified by the Department of Health and Human Services ("DHHS").

1. Confirmation and review of drug test results

- a) All positive drug test results will be confirmed by gas chromatography and mass spectrometry (GC/MS). All confirmed positive drug tests results will be reviewed by a medical review officer ("MRO") to determine whether there is any legitimate explanation for the positive test result. This review may include a medical interview, review of the applicant's or driver's medical history, or review of any other relevant biomedical factors and all medical records made available by the tested individual.
- b) Individuals testing positive will be given the opportunity to discuss with the MRO any legitimate explanation for the positive test result. If the MRO determines that there is a legitimate medical explanation for the confirmed positive test result, the MRO will report the test result to the Program Manager or a designated representative as negative. If the MRO determines that there is no legitimate explanation for the confirmed positive test result, the result will be verified by the MRO.
- c) The MRO may verify a test as positive without having communicated directly with the tested individual in certain circumstances set forth in 49 CFR Part 40 and may even reopen the verification in certain circumstances contained in 49 CFR Part 40.

2. Right to have split specimen analyzed

All applicants and drivers have the right to request, within 72 hours of being notified by the MRO of a verified positive test result, that the split specimen be analyzed in a different DHHS certified laboratory, selected by the company, for the presence of the drug(s) for which a positive result was obtained. If the split specimen fails to reconfirm the presence of the drug(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the Program Manager or a designated representative and the tested individual. However, if the split specimen reconfirms the presence of the drug(s) or drug metabolite(s), the MRO will notify the Program Manager or a designated representative and the tested individual of the test results.

3. Inability to provide adequate amount of urine specimen

The applicant or driver must provide at least 45 milliliters of urine for a drug test. If the tested individual is unable to provide such a quantity of urine, then the tested individual will be instructed to drink a set amount of fluids and after a set period of time, again attempt to provide a complete specimen. If an applicant refuses to drink the fluids as directed, or to provide a new urine specimen, this will constitute a refusal to submit to a test and the applicant will be considered ineligible for employment with the company. If a driver refuses to drink the fluids as directed or to provide a new urine specimen, this will constitute a refusal to submit to testing and the driver will be discharged. If a driver has not provided a sufficient specimen within a certain time period after the first unsuccessful attempt to

provide the specimen, the company will direct the driver to obtain as soon as possible, a medical evaluation from a physician selected by the company. If the physician determines that there is no legitimate medical explanation for the driver's failure to provide an adequate amount of urine, this will constitute a refusal to submit to a test and the driver will be discharged.

#### 4. Altered or substituted urine specimens

- a) Procedures for collecting urine specimens allow an individual privacy unless there is a reason to believe that a particular individual has altered or attempted to alter or substitute the specimen as defined in the Federal Procedures For Transportation Workplace Drug Testing Programs, 49 CFR Part 40. In such cases, a specimen may be obtained under the direct observation of a same gender collection site person in accordance with such procedures.

#### 5. Alcohol Testing Procedures

Alcohol screening tests will be performed by a screening test technician ("STT") using a non-evidential screening device, or by a breath alcohol technician ("BAT") using an evidential breath testing device ("EST"). The company's agent has a quality assurance plan for each non-evidential alcohol screening device and EST it uses. In addition, the company's agent ensures that the STTs are proficient in the operation of non-evidential screening devices and that the BATs are proficient in the operation of EBTs. Further, the company uses non-evidential alcohol screening devices that are on the National Highway Traffic Safety Administration's ("NHTSA") Confirming Products List ("CPL") for non-evidential screening devices and EBTs which are on NHTSA's CPL for evidential breath measurement devices.

- a) Confirmation of alcohol test results -  
If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed using an EST. The confirmation test will be conducted within 30 minutes from the end of the screening test. The confirmation test result is the final result upon which any discipline or other action under the company's policy shall be based.
- b) Inability to provide adequate amount of sample for alcohol testing -  
If a driver fails to provide or claims that he or she is unable to provide a sufficient amount of breath sample to permit a valid breath test because of a medical condition, the company will require the driver to be evaluated by a physician selected by the company. If the physician determines that the driver's alleged medical condition could not preclude the driver from providing an adequate amount of breath sample, this will constitute a refusal to test and the driver will be discharged.

If the driver is unable to provide sufficient saliva to complete a test on a saliva screening device, the STT shall conduct a new test, using a new device. If the driver refuses to complete

this new test, this will constitute a refusal to submit to a test and the driver will be discharged. If the new test is completed, but there is an insufficient amount of saliva to activate the device, the driver shall immediately take an alcohol test using an EBT. If the driver refuses to submit to the test using an EBT, the driver will be discharged.

## **VIII. CONSEQUENCES FOR REFUSAL TO SUBMIT TO TESTS AND POLICY VIOLATIONS**

The company has determined, independently of the FMCSA's rules, the following consequences for applicants and drivers found to have violated this policy.

### **A. Removal from Safety-Sensitive Functions**

If a driver has violated this policy in any way, the driver will be immediately removed from his or her safety-sensitive functions and the driver shall not perform, nor be permitted to perform a safety-sensitive function.

### **B. Refusal to Submit**

If a driver refuses to complete the drug or alcohol testing forms, to provide a specimen or an adequate amount of specimen, engaged in conduct that clearly obstructs the testing process including the adulteration or substitution of a urine specimen or attempts to substitute or adulterate a specimen, fails to notify the Program Manager that he or she was in an accident or is not readily available for testing after an accident (except as necessary to obtain assistance or medical care), fails to report directly to the collection site after notification, or to delay the collection site after notification, or to delay the collection, testing or verification process, the driver will be deemed to have refused to submit to a test and will be discharged. Further, if an applicant refuses to submit to a drug test, to provide a specimen, or an adequate amount of specimen, to complete the drug testing forms, engages in conduct that clearly obstructs the testing process including the adulteration or substitution of a urine specimen or attempts to substitute or adulterate a specimen, fails to report directly to the collection site after notification or to delay the collection, testing or verification process, the applicant will be deemed to have refused to submit to a test and will be ineligible for employment with the company.

### **C. Positive Test Results**

#### **1. Drivers**

##### **a) Temporary suspension**

Any driver who is required to submit to a reasonable suspicion or post-accident drug or alcohol test pursuant to this policy will be temporarily suspended without pay until the company receives the verified test results and, if requested, the split specimen test results. If the test results or the requested split specimen test results are negative, the driver will be reinstated with back pay.

b) Confirmed positive drug or alcohol test results of 0.04 or greater

Any driver who receives a confirmed positive drug or alcohol test result of 0.04 or greater for the first time will be discharged.

c) Positive alcohol test results of 0.02 or greater but less than 0.04

If a driver receives a confirmed alcohol test result of 0.02 or greater, but less than 0.04, for the first time, the driver will be suspended without pay for 24 hours from the test. If a driver receives another confirmed positive alcohol test result the driver will be discharged.

## 2. Applicants

Any applicant who receives a verified positive drug test result will be ineligible for employment with the company.

### D. Other Policy Violations

If a driver has violated this policy in any way, other than for violations set forth in Section VIII Band C above, the driver will be subject to discipline, up to and including, immediate termination. Any applicant who violates this policy will be ineligible for employment with the company.

### E. Fitness for Duty Review or Evaluation

Whenever a driver submits to a reasonable suspicion test and receives a positive result for the legal and authorized use of a controlled substance, the company will require such driver to submit to a fitness-for-duty review or evaluation. Such review may include a review of the driver's medical records or a medical examination. The purpose of such review or examination is to determine whether the driver poses a significant risk of substantial harm to the health or safety of the driver or others.

In such case, the driver will be required to provide the necessary authorization for obtaining the medical records and for the examination. Depending upon the results of the review or examination, the company will consider whether the safety or health risk can be eliminated or sufficiently reduced by a reasonable accommodation, if applicable.

### F. Required Referral, Evaluation and Treatment

The company will advise each driver who has engaged in any prohibited conduct under this policy of the available resources for evaluating and resolving the problems resulting from drug use and alcohol misuse. The company's Human Resource Director specifically will advise the driver of the names, addresses, and telephone numbers of SAPs and counseling and treatment programs.

The FMCSA's rules require each driver who has engaged in conduct prohibited by the FMCSA rules §§382.201-382.215 to be evaluated by a SAP who shall determine what assistance the driver needs in resolving alcohol misuse and drug use problems and to complete any treatment recommended by the SAP.

## **IX. NOTIFICATION OF TEST RESULTS**

The company will notify an applicant of the results of a pre-employment drug test, provided the applicant requests such results within 60 days of being notified of the disposition of the employment application. Drivers will be provided with a copy of their drug or alcohol test results.

### TESTING EXPENSES AND COMPENSATION FOR TESTS

The company will pay for all employee drug or alcohol tests required by this policy, including confirmation tests. Any test taken at the tested individual's request will be at his or her own expense, including the analysis of the split specimen for drug testing, unless the individual receives a negative result. In such case, the company shall reimburse the individual for the cost of the split specimen test.

All time spent providing saliva, breath or urine sample, including travel time to and from the collection site in order to comply with random, post-accident, reasonable suspicion, return-to-duty and follow-up testing from rehabilitation shall be considered as work time and the driver will receive his or her regular compensation if applicable for such time.

### RECORDKEEPING, ACCESS TO RECORDS AND CONFIDENTIALITY OF TEST RESULTS

The company will maintain records of its alcohol misuse and drug use prevention programs as required by the FII WA's regulations. These records will be maintained in a secure location with controlled access.

The laboratory may disclose drug test results only to the MRO. The MRO, STT and BAT may disclose test results only to the individual tested, designated company representatives, a treatment program, or a court of law or administrative tribunal to the extent required by law. Beyond that, results shall not be released to any person without the individual's written consent.

## **X. PRIOR ALCOHOL AND DRUG TEST INFORMATION REQUIRED**

Any applicant seeking employment with the company as a driver must complete the requisite consent forms authorizing his or her former employers for the preceding three (3) years from the date of application to release certain information required under the FMCSA's drug and alcohol rules. Specifically, the FMCSA's drug and alcohol rules require that the company obtain the following information:

1. Alcohol test results of 0.04 or greater,

2. Verified positive drug test results, and
3. Refusals to be drug or alcohol tested.

This information will be obtained in a confidential manner. The company will maintain a written confidential record with respect to each former employer contacted. The information from a previous employer may contain any alcohol and drug information the previous employer obtained from other previous employers within the previous three years. Additionally, the driver may provide the information directly to the company. In such cases, the company will verify that the information is true and accurate.

The FMCSA's rules require that, if feasible, the above information must be obtained and reviewed by the company prior to the first time a driver performs safety-sensitive functions for the company. If not feasible, the information must be obtained and reviewed as soon as possible, but no later than 14 calendar days after the first time a driver performs safety-sensitive functions for the company. The company will make a good faith effort to obtain the above information. If after 14 days, the information is not available; the company will use or continue to use the driver. If the driver stops performing safety-sensitive functions before the expiration of the 14 day period, or before the company has obtained the above information, the company must still make a good faith effort to obtain the information.

In addition, if the company learns from the driver's previous employers that the driver had an alcohol test result of 0.04 or greater, a verified positive drug test, or refused to be tested, the driver either will be ineligible for employment with the company, or if hired, the driver will be discharged, unless the company obtains evidence that the driver has complied with the referral and rehabilitation requirements set forth in Section 386.6045 of the FMCSA's drug and alcohol rules.

## **XI. INSPECTIONS**

The following is a summary of the company's policy concerning inspections:

### **A. Inspections of company Property**

To control shortages, theft and to locate missing items, inspections of work areas and personal areas other than personal lockers may be conducted at any time. Similarly, the company may conduct unannounced random inspections for drugs and alcohol on company facilities and property such as, but not limited to, company vehicles, desks, file cabinets, company-issued employee lockers in which the company retains a copy of the key or the combination, etc. Drivers are expected to cooperate in the conduct of such inspections. Inspections of company facilities and property may be conducted at any time and need not be based on reasonable suspicion. Inspection of employee personal lockers may be made only upon reasonable individualized suspicion.

### **B. Inspection of Driver Property**

In addition to routine inspections conducted in accordance with loss prevention policies and practices, inspections of drivers and their personal property such as, but not limited to, vehicles, clothing, packages, purses, brief cases, lunch boxes, or other containers brought on to company premises may be conducted when there is reasonable suspicion to believe that the driver may have or has violated the drug or alcohol prohibitions contained in this policy.

## **XII. COMPLIANCE WITH POLICY AS CONDITION OF EMPLOYMENT**

All applicants and drivers are advised that full compliance with this substance abuse policy shall be a condition of employment and continued employment. See Section VIII for the consequences for refusal to submit to tests and other policy violations. Additionally, applicants are required to consent to drug testing pursuant to this policy as a condition of employment

All drivers are required to consent to drug or alcohol testing or inspections pursuant to this policy as a condition of continued employment. Consent to drug or alcohol testing or searches include an individual's obligation to fully cooperate. Upon request, such person must promptly complete any required forms and promptly provide a sample for testing. A refusal to sign the consent and acknowledgement forms will result in the employee's termination and in such cases; the applicant will be ineligible for employment with the company.

## **XIII. MISCELLANEOUS AND RECEIPT OF POLICY**

1. Any employee who violates the company's substance abuse policy will be subject to discipline in accordance with this Policy.
2. All future amendments or modifications that are approved and issued by the Department of Transportation ("DOT") or the Department of Health and Human Services ("DHHS") or any additional state or local laws concerning drug or alcohol testing will be adopted by the parties. The company will notify the Union by regular mail and certified mail return-receipt requested of any amendments or modifications to the testing procedures, 49 CFR Part 40, and 382 or the issuance of any additional state or local laws concerning drug or alcohol testing which will become effective upon the date prescribed by the DOT or DHHS or the state or local statute provided the company has given the Union notice of such amendments or modifications of the federal testing procedures or any additional state or local laws.

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(Owner or President)

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(Program Manager/DER)

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Driver Name (print)

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Date Received

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Driver Signature