

!!EMPLOYER'S LETTERHEAD!!

DRUG-FREE WORKPLACE

SUBSTANCE USE POLICY AND PROCEDURES

EFFECTIVE DATE: _____

1. GENERAL POLICY

Practical experience and research has proven that even small quantities of narcotics, abused and nonabused prescription drugs or alcohol may impair judgment and reflexes. Even when not readily apparent, this impairment can have serious results, particularly for employees operating vehicles or potentially dangerous equipment. Drug-using employees are a threat to coworkers and themselves, and may make costly errors. For these reasons, (Employer's Name) has adopted a policy that all employees must report to work without any detectable presence of alcohol and/or any detectable drug metabolite, unless used as prescribed by a physician. This policy will be enforced to provide a safe workplace for all employees. Employees should understand that a positive drug or alcohol test is not a necessary prerequisite to disciplinary action, if this policy or any other work rule has been violated.

2. DEFINITIONS:

A. *Alcohol* is ethyl alcohol or spirits of wine, from whatever source or by whatever process produced.

B. *Breath Alcohol Concentration (BrAC)* is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.

C. *Confirmation Test or Confirmed Test* is a second analytical procedure used to identify the presence of a specific drug or metabolite or alcohol in a specimen. The confirmation test shall be different in scientific principle than that of the initial test procedure. The confirmation method

shall be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

D. *Drugs* as used in this policy include illegal use of controlled substances, drugs which are not legally obtainable, or the improper use of prescriptions. Unless otherwise stated, this term refers to amphetamines, cannabinoids, phencyclidine (PCP), methadone, opiates, cocaine, methaqualone, barbiturates, benzodiazepines, propoxyphene, or a metabolite of any of these substances.

E. *Evidential Breath Testing Device (EBT)* is used for alcohol testing which has been approved by the National Highway Traffic Safety Administration (NHTSA) and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

F. *Medical Review Officer (MRO)* is a licensed physician (medical doctor or doctor of osteopathy), certified by either the American College of Occupational and Environmental Medicine or The American Association of Medical Review Officers, responsible for receiving laboratory results generated by an employer's drug testing program. The MRO shall have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history, and other relevant biomedical information.

G. *Prescription Medication (Prescription Drug)* is a drug or medication lawfully prescribed by a physician for an individual and taken by that individual in accordance with the prescription.

H. *Safety Sensitive Functions* usually include positions that involve any of the following: national security; health or safety; functions that require a high degree of trust and confidence; operation of company vehicles, machinery, or equipment (the mishandling of which may place fellow employees or the general public at risk of serious injury, or the nature of which would create a

security risk in the workplace); or the handling of hazardous material.

NOTE: If the employer does not have any job classifications that would meet this definition, do not include any references to safety sensitive functions in the drug and alcohol policy.

I. *Substance* is drugs or alcohol.

J. *Substance Test or Test* is any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence of a drug or alcohol.

3. DRUG USE/DISTRIBUTION/POSSESSION:

All employees are prohibited from possessing, distributing, manufacturing, or having a detectable presence of any drug substance, abused prescription drugs or any other mind altering or intoxicating substances in their system while at work or on duty.

4. ALCOHOL USE/POSSESSION:

All employees are prohibited from possessing, drinking, or having a detectable presence of alcohol in their body while at work or on duty. Evidential breath testing devices (EBTs) on the National Traffic Highway Safety Administration Conforming Products List will normally be used to determine BrAC. When using EBTs the Department of Transportation (DOT) 49 Code of Federal Regulation (CFR) Part 40 procedures shall be followed in administering and documenting the BrAC test.

5. OFF-DUTY CONDUCT:

Off-duty use of drugs, alcohol or any other prohibited substances which results in impaired work performance, which may include absenteeism, tardiness, poor work performance, damage to the employer's reputation, or inferior quality of work, is prohibited.

6. PRESCRIPTION MEDICATIONS:

The proper use of medication that is legally prescribed by a physician is not prohibited. Employees performing duties in (list safety sensitive functions) shall notify their supervisor, whenever a prescription medication is taken.

7. SUBSTANCE USE TESTING PROGRAM:

A. Conditions for which testing shall be conducted.

I. Pre-Employment Testing shall be required of all applicants (may limit applicants to select justified job classifications) that receive an offer of employment. Prior to testing, the applicant shall be afforded the opportunity to voluntarily sign a Substance Use Testing Consent Form. If the applicant refuses to sign the previously named consent form, consideration for employment shall be withdrawn. If an applicant tests positive for the use of drugs or alcohol, consideration for employment shall be withdrawn. The applicant has five days to contest or explain a confirmed positive test after written notification of such result from the employer. It is the current use of alcohol and drugs, not the past history, that prevents the applicant from being accepted for employment.

NOTE MAY ADD: The applicant that tested positive may, after a period of at least six months, seek employment with Employer's Name, but the applicant must present themselves free of substance as evidenced by Employer's Name Pre-Employment Testing.

II. Reasonable Suspicion Testing shall be required when it is believed that an employee is using or has used drugs or alcohol in violation of (Employer's Name) policy. Testing shall be based upon specific objectives and articulable facts and reasonable inferences as identified on the "Reasonable Suspicion Report Form." Such facts and inferences may be based upon, but not limited to, the following: Direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance use. Abnormal

conduct or erratic behavior while at work or a significant deterioration in work performance. A report of substance use provided by a reliable and credible source. Evidence that an individual has tampered with any substance use test during his or her employment with the current employer. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the premises of the employer or while operating the employer's vehicle, machinery, or equipment. Causing or contributing to a workplace accident. The supervisor requesting testing shall complete, explain in detail the circumstances and evidence warranting testing, and sign the "Reasonable Suspicion Report Form" at the time testing is requested, if feasible, but within 24 hours of testing in any event. The supervisor should have the corroboration of another supervisor, when possible, before the employee is requested to be tested. In the absence of another supervisor, another employee may be requested to witness the observation and the "Reasonable Suspicion Report Form." If use is suspected, the employee will be transported to the collection site for testing. Under no circumstance shall the employee be permitted to drive if the employee appears to be impaired, disoriented, or confused.

III. Routine Fitness-For-Duty Testing shall be a part of all scheduled medical examinations for employees in (list the job classification that require routine scheduled medical examination, if none then skip this type of test.)

IV. Post-accident Testing shall be conducted when an employee causes or contributes to any accident resulting in injury requiring more than simple first-aid treatment, damage to company property in excess of (specified dollar amount) of damage, or when the employee causes or contributes to a lost time accident. For alcohol testing, the employee shall be tested within eight-hours of the accident. Drug testing shall be conducted within 32 hours of the accident.

V. Post Rehabilitation Testing shall be conducted at least once a year during a two-year period after an employee returns to work upon the completion of rehabilitation related to substance use. If an employee voluntarily requests rehabilitation, Post Rehabilitation Testing may not be required, but any employee who receives rehabilitation as the result of a required employer substance use test shall be subject to Post Rehabilitation Testing.

NOTE: The employer must decide if the employee will be terminated, or retained with rehabilitation offered. The employer may offer a second chance for employees testing positive. If so, then the employer needs to describe the conditions when a second chance will be afforded the employee and the employee's responsibilities. The employer should give thought to the possibility of a long-term employee testing positive and the potential cost of replacement.

VI. Random Testing is optional at the employer's discretion.

If the employer opts, then testing should be conducted on a monthly/ quarterly (choose one) basis. All employees regardless of position should be subject to random testing. The employer should pre-select a percentage of the total work force that will be tested over the course of a year. This percentage should be stated in the employer's policy and the number of employees selected for testing should equal that percentage at the end of the year.

B. Specimen Collection and Analysis

Specimens shall be collected in a manner that will afford the individual privacy, yet be reasonably calculated to prevent substitution or adulteration of the specimen. The donor will be given the opportunity, after specimen collection, to record any information considered relevant to the test, current or recently used prescription or nonprescription medication or other medical condition, on the back of the donor's copy of the chain of custody control form.

The employee/applicant shall observe the collector prepare the chain of custody control

form and the specimen for shipment. The employee/applicant shall initial and/or sign the appropriate labels and control form for transporting the specimen as verification of the collector preparation of the control form and specimen.

The (Identify the laboratory by name and address) will analyze all specimens. All initial tests having a positive result shall be confirmed. The laboratory will forward the results of all tests to (state the MRO's name), (Employer's Name) medical review officer (MRO).

The MRO will attempt to contact the donor within 72-hours of notification to ascertain if there is a medical reason for a positive result. If the MRO cannot contact the donor within 72-hours, the test will be reported to the employer as positive.

The employee/applicant may request another analysis of the original specimen at his or her own expense. If a medical reason caused a positive test result and would not affect the employee's ability to perform his or her duties, the MRO will report the test to the employer as a negative.

C. Sanctions.

An employee who voluntarily admits to a drug or alcohol problem prior to being requested to submit to a substance use test may not be terminated for requesting help.

The employee has five days to contest or explain a confirmed positive test after written notification of such result from the employer.

Any employee testing positive may be disciplined.....

NOTE: It is the employer's decision as to what action is necessary, i.e., termination, suspension without pay, rehabilitation, etc. You are encouraged to recognize that the employee may or may not be a valued one, but your actions should be basically consistent and legally sound regardless. If termination is the choice, so state. If suspension is the first option, then state

the length and any testing requirements prior to return to work. Suspension could be used for the first or second violation, but the length of suspension should be varied accordingly. Also, you should require the employee to sign a statement advising him of the conditions of the suspension and what actions would be taken for further violations of your policy. Rehabilitation may be offered initially or for a subsequent violation to an employee. Again, detail the conditions of the rehabilitation and the requirements that will be placed on the employee before return to the workplace will be permitted. You may also consider a "Last Chance Agreement" with the employee.

To assist us in providing a safe and healthy workplace, a resource file of information on various means of employee assistance in the community, including but not limited to drug and alcohol abuse programs, is maintained in (insert the location). This information will be distributed to employees for their confidential use.

Any employee who refuses to submit to testing or who refuses to cooperate shall be

NOTE: As in the above paragraph the employer needs to choose an appropriate course of action.

According to Code of Alabama, 1975 Section 25-5-51: 1. No compensation shall be allowed for an injury due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs, if the intoxication or impairment caused or contributed to the accident.

2. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test.

NOTE: Under the provisions of Code of Alabama, 1975 Section 25-4-78, an employee may be denied unemployment benefits if the employee is terminated for violating the employer's

policy. If this statement is added to the employer's policy, the policy will need to be reworded to satisfy the requirements of the above stated Section which mandates the use of DOT 49 CFR Part 40.

8. EDUCATION AND TRAINING

A. All employees shall semiannually receive one hour of education which will include at a minimum the following subjects:

- I. An explanation of the disease model of addiction;
- II. The effects and dangers of commonly abused substances in the workplace; and
- III. (Employer's Name) policy and procedures regarding substance use.

B. Supervisors shall receive an additional two hours of annual training which will include at a minimum the following subjects:

- I. How to recognize signs of employee substance abuse;
- II. How to document and corroborate signs of employee substance abuse; and
- III. How to refer substance abusing employees to the proper treatment providers.

9. CONFIDENTIALITY OF INFORMATION

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received through (Employer's Name) substance use testing program shall be held as confidential communications by the (Employer's Name), MROs, laboratories, drug and alcohol rehabilitation programs, employee assistance programs, and their respective agents. These communications may be used or received in evidence, obtained in discovery, or disclosed in any civil or administrative proceeding. However, information on test results shall not be released or used in any criminal proceeding against the employee or applicant. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed

voluntarily by the individual that was tested, unless the release is compelled by an agency of the state or a court of competent jurisdiction or unless deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding.

!!COMPANY LETTERHEAD!!

POLICY STATEMENT

Effective (DATE)

!!Employer's Name!! recognizes that our employees are our greatest asset. Our goal is to provide the best possible product and service to our customers. Our employees are the key to achieving this goal. It is important that every employee of the Company understand the dangers of substance use and be aware of state and/or federal requirements concerning substance use.

The

Company's policy and procedures are not a contract of employment. The Company reserves the right to depart from this policy and procedures where management deems it is appropriate, and all employees are at will employees. Except where specifically prohibited by law, the guidelines contained within the policy and procedures may be changed by management at any time. Employees covered by the Company's policy and procedures will be informed of any changes.

POLICY OBJECTIVES

1. To create and maintain a safe, drug-free working environment for all employees.
2. To encourage any employee with a dependence on or addiction to alcohol or other drug to seek help in overcoming the problem.
3. To reduce problems of absenteeism, tardiness, carelessness, and/or other unsatisfactory matters related to job performance.
4. To reduce the likelihood of incidents of accidental personal injury and/or damage to customers, visitors, or property.
5. To comply with contractual obligations of customers and to meet the guidelines found in Code

of Alabama, 1975, '25-4-78 (ADD THIS SECTION IF DESIRING TO TAKE ADVANTAGE OF THE UNEMPLOYMENT COMPENSATION DIVISION'S PROGRAM), '25-5-51, and "25-5-330 through 340. (If applicable add to this list 49 C.F.R. Part 40 and/or the Federal Drug-Free Workplace Act.)

6. To minimize the likelihood that Company property will be used for illicit alcohol and/or drug activities.

7. To protect the reputation of the Company and its employees within the community.

Substance use can be a serious threat to the Company, its employees and customers. Though the percentage of substance abusing employees may be relatively small, practical experience and research indicate that appropriate precautions by the Company are necessary. It is the belief of the Company that the benefits derived from these policy objectives will outweigh the potential inconvenience to employees. The Company earnestly solicits the understanding and cooperation of all its employees in the implementation and enforcement of this policy.

NOTE: If your company is subject to the requirement of the Drug-Free Workplace Act of 1988 (your company has a grant or contract with the federal government) add the following statement: As a condition of employment, employees must abide by the terms of Employer's Name Substance Use Policy and must notify Employer's Name in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

The Company requires that all employees report to work without any detectable presence of alcohol or a drug metabolite in their body systems. Employees shall not report for work or remain on duty requiring (list specific safety related job tasks or other tasks that the employer deems necessary; NOTE: This position should pass the legal criteria for safety sensitive

functions) except when the use is pursuant to the instructions of a physician who has advised the employee that the substance will not adversely affect the employee's ability to perform the job tasks in a safe manner.

No employee shall use alcohol while on duty. (NOTE: If the employer has functions that meet the legal criteria of safety sensitive, the employer may add the following: No employee shall perform any job-related duties within (Number) hours after using alcohol.) The Company prohibits employees from using, possessing, manufacturing, distributing or making arrangements to distribute drugs or alcohol while at work or on Company property.

Outside conduct of a substance use-related nature which affects an employee's work, the Company's relationship with any customer, or reflects negatively on the Company is prohibited.

NOTE: If the employer has functions that meet the legal criteria for safety sensitive functions, add this paragraph. Employees in the (list job classifications that meet safety sensitive definition) must inform their supervisor when they are legitimately taking medication which may affect their ability to perform their assigned job tasks or that may place the employee in violation of the Company's policy and procedures.

The Company requires that all employees submit, at any time an employee is on duty or at any time an employee may be called to be on duty, to drug and/or alcohol testing to determine the presence of prohibited substances. Employees may be required to submit to the following types of testing, as defined in (Employer's Name) Substance Use Policy: Routine-Fitness for Duty if required, Reasonable Suspicion, Post Accident, Post Rehabilitation (Follow-up) and Random. An employee's refusal to submit to a requested specific substance use test or failure to cooperate with such testing shall constitute an act of insubordination and may subject the employee to disciplinary action up to and including termination.

All job applicants will be requested to submit to alcohol and/or drug testing as a condition of employment. NOTE: May restrict applicant testing to select job classifications that should be justified based upon reasonable classification of positions. If so, then word to require only those classifications to submit to testing.

To assist us in providing a safe and healthy workplace, a resource file of information on various means of employee assistance in this community, including but not limited to drug and alcohol use programs, is maintained in (insert the location). This information will be distributed to employees for their confidential use.

PRE-EMPLOYMENT DRUG TESTING AGREEMENT

I, _____, hereby consent to submit to an urinalysis and/or other tests as shall be determined by (employer's name) in the selection process of applicants for employment for the purpose of determining substance use.

I agree that (employer's name) may collect these specimens for the tests and forward them to (testing laboratory designated by the company) for analysis.

I further agree to, and hereby authorize, the release of the results of said tests to (employer's name) designated Medical Review Officer (MRO), and from the MRO to the employer. Positive results may be reported to the employer by the MRO.

I understand that the current use of drugs and/or alcohol shall prohibit me from being employed by (employer's name).

I further agree to hold harmless this company and its agents (Name of Laboratory and Medical Review Officer) from any liability arising in whole or in part from the collection of specimens, testing, and use of the results from said tests in connection with the company's consideration of my application for employment.

I further agree that a reproduced copy of this pre-employment consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced by anyone to sign this document.

APPLICANT'S PRINTED NAME: _____

APPLICANT'S SOCIAL SECURITY NUMBER: _____

APPLICANT'S SIGNATURE: _____

DATE: _____

WITNESS' PRINTED NAME: _____

WITNESS' SIGNATURE: _____

DATE: _____

REASONABLE SUSPICION REPORT FORM

NAME OF EMPLOYEE: _____

NAME OF SUPERVISOR: _____

DATE: _____ TIME: _____ OFFICE: _____

NAME OF WITNESS(ES) AND TITLE(S): _____

Disorientation _____ Extremely Nervous _____

Thick, Slurred Speech _____ Unusually Talkative _____

Glassy-Eyed _____ Profuse Sweating _____

Poor Motor Coordination _____ Uncoordinated Gait _____

Sleepiness & Drowsiness _____ Belligerence _____

Jerky Movement of Eyes _____ Staggering Gait _____

Blank Stare Appearance _____ Mood Changes _____

Dilated Pupils _____ Odor of Glue, Paint Solvent _____

Flushed Face, Head, or Poor Perception of Time &

Neck _____ Distance _____

Redness Around Nasal Use of Sunglasses at

Area _____ Inappropriate Times _____

Tremor of Fingers & Unable to Perform Usual

Hands _____ Routine Tasks _____

Unusual Body Position _____ Odor of Burnt Rope _____

Muscle Rigidity _____ Inability to Remember _____

Hearing and/or Seeing

Other, Explain Below _____

Things _____

Describe in detail the events which led to this report and explain your observations checked above. You may write on the back of this form.

!!EMPLOYER'S LETTERHEAD!!

CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION

I _____,
(EMPLOYEE/APPLICANT'S PRINTED NAME) (SOCIAL SECURITY #) voluntarily give my
consent for release of

(PRINT THE INFORMATION TO BE RELEASED)

received through (Employer's Name) Substance Use Testing Program to

(PRINTED NAME AND COMPANY/AGENCY OF PERSON TO RECEIVE THE DATA)

for the purpose of _____

(PRINT PURPOSE OF THE DISCLOSURE)

This consent is valid from _____ to _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

I understand that copies of this original form shall have the same force and effect as the original.

(SIGNATURE OF EMPLOYEE/APPLICANT) (DATE SIGNED)

(PRINTED NAME OF WITNESS) (WITNESS' TITLE)

(SIGNATURE OF WITNESS) (DATE SIGNED)

!!EMPLOYERS LETTERHEAD!!

EMPLOYER'S NAME

SUBSTANCE USE TESTING

CONSENT FORM

I hereby certify that I have reviewed a written copy of (Employer's Name) Drug-Free Workplace Policy which was (is) effective DATE. I have been given the opportunity to ask questions regarding this policy. I understand that violation of this policy is cause for disciplinary action, up to and including termination, or disqualification of employment.

I hereby give my voluntary consent for specimen(s) to be collected from me and submitted for drug and/or alcohol testing as a condition of my initial or continued employment. I understand that I will not be forced to submit to any alcohol or drug test, but my refusal to do so shall result in termination of employment or consideration for employment. I further consent to the release of said test results to the (employer's name) and the said employer's Medical Review Officer. I understand that these results will be held in strict confidence.

I understand that (employer's name) has the right to conduct searches and inspections of any employee's personal effects, clothing, work area, and vehicle for the purpose of determining if such employee or other person is in possession, uses, transports, or conceals any prohibited items and/or substances. Searches, inspections, and substance use testing as may be required from time to time without prior announcement shall be conducted with concern for the personal privacy of each employee.

I understand that consent and cooperation in these procedures is a condition of employment, and that refusal to consent may result in termination or disqualification from employment.

I authorize the release of any test results to the company's workers' compensation insurer(s), the Alabama Unemployment Compensation Division, or any other government agency investigating my employment or termination.

I understand that copies of this original shall have the same force and effect as the original.

I understand that this agreement in no way limits my rights or (employer's name) to terminate employment at any time for any reason.

PRINT NAME SOCIAL SECURITY NUMBER

EMPLOYEE'S (APPLICANT) SIGNATURE DATE

WITNESS' PRINTED NAME TITLE

WITNESS' SIGNATURE DATE