SAMPLE

NOTE: This is a sample policy, which needs to be reviewed by company management and/or legal counsel. There are blanks contained within this policy which must be filled in. This, or any other policy adopted by the company, should be printed in a format, which is specifically identifiable as the company's. This note should be removed prior to printing and the policy should be printed on company letterhead.

ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY

STATEMENT OF POLICY:

The safety and well being of our drivers, employees and the general public requires that our drivers perform their duties free from the effects of alcohol and/or drugs. A drug-free workplace is especially important to the transportation industry. A driver who uses or abuses alcohol and/or drugs is a hazard to this company, the general public, other employees and him/herself.

In order to ensure safe transportation and provide for an efficient and drug-free workplace while complying with the Federal Motor Carrier Safety Regulations, **NAME OF MOTOR CARRIER'S NAME** has adopted this policy.

PROGRAM ADMINISTRATOR:

Mr./Mrs._____has been designated by this company as the Alcohol/Drug Testing Program Administrator. In this function Mr./Mrs._____ will be responsible to answer any questions from the drivers, administrators or the public in general.

The Program Administrator will handle information on all tests of covered drivers confidentially. The Program Administrator may provide such information as necessary to the supervisor to enable him/her to take proper disciplinary action as warranted. The Program Administrator may also release test information to this company's Substance Abuse Professional to use to evaluate and recommend appropriate follow-up.

DRIVERS SUBJECT TO TESTING:

All drivers who must have a commercial driver's license to perform their duties, which are considered as safety-sensitive, will be subject to the alcohol and/or drug testing as outlined in this policy and required by Title 49 Code of Federal Regulations Part 382.

DRIVER COMPLIANCE WITH REGULATION:

All drivers subject to alcohol and drug testing must be in compliance with the regulations and this policy at all times while in a working status for this company. This will include all time spent driving a commercial vehicle as well as time spent performing safety-sensitive functions or just before or just after performing safety-sensitive functions.

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:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

2. All time inspecting equipment as required by Part 392.7 and 392.8 of 49 C.F.R., and otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

3. All time spent at the driving controls of a commercial motor vehicle in operation;

4. All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth (a berth conforming to the requirements of Part 393.76 of 49 C.F.R.);

5. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

SUBSTANCES TESTED FOR:

The following substances will be tested for to determine their presence:

1. Alcohol
2. Marijuana
3. Cocaine
4. Amphetamines
5. Phencyclidine (PCP)
6. Opiates
7. MDMA (Ecstasy)
8. 6 Mono-Acetyl Morphine (Heroin)

PROHIBITED CONDUCT:

During the time that drivers are performing safety-sensitive functions, they shall not:

1. Report to and/or remain on duty with an alcohol concentration of 0.04 or greater;

2. Possess any alcohol;

3. Use any alcohol;

4. Use any alcohol within four hours of going on duty;

5. Use any alcohol for eight hours after an accident which will require the driver to be tested for alcohol or until tested;

6. Refuse to submit to a required alcohol and/or controlled substances test;

7. Report to or remain on duty when using any controlled substance, except when under a physician's orders **AND** the physician has informed the driver that the use will not effect the safe operations of a commercial vehicle;

8. Report to or remain on duty if he/she has tested positive for controlled substance.

TESTS REQUIRED:

All drivers who are required to be tested for alcohol and/or controlled substance use or mis-use will be tested under the following circumstances:

1. **Pre-employment or pre-use.** All applicants for jobs requiring a commercial driver's license and/or current employees transferring to a job which requires a commercial driver's license will be required to be tested for the use of controlled substances.

2. **Random.** All drivers are subject to random testing for alcohol and controlled substance at rates determined by the Federal Motor Carrier Safety Administrator. These random tests will be unannounced and will be spread throughout the calendar year. Except as provided in paragraphs (c) through (e) of Part 382.305, the minimum alcohol testing shall be ten (10) percent of the average number of driver positions. Except as provided in paragraphs (f) through (h) of Part 382.305, the minimum average percentage rate for random controlled substance testing shall be fifty (50) percent of the average number of driver positions. If the company has entered into a consortium pool the 10 and 50 percent levels will apply to the entire pool of drivers in the consortium.

3. **Post-accident.** Drivers will be alcohol and controlled substance tested in **all** accidents involving a fatality. If the accident is one where one or more vehicles were towed from the scene of the accident, or involves somebody being injured to the degree that the injury must be treated immediately away from the scene of the accident, the driver must also be post accident tested if the commercial vehicle driver receives a summons for a "moving traffic violation" as a result of the accident.

4. **Reasonable suspicion.** All drivers that exhibit signs and/or symptoms of alcohol and/or controlled substance use or mis-use, which are observed by a trained company supervisor, while performing safety sensitive functions or just before or just after performing safety sensitive functions will be required to submit to an alcohol and/or controlled substance test.

5. **Return to duty.** A driver, who previously tested positive for alcohol and/or controlled substance, must submit to a return to duty alcohol and/or controlled substance test. The results of the test must be obtained by the motor carrier and be negative before the driver may be allowed to perform a safety sensitive function.

6. **Follow-up**. A driver who previously tested positive and has returned to duty must submit to at least six (6) alcohol and/or controlled substance tests during the first 12 months after returning to work. Follow-up tests will

be unannounced and may continue for up to sixty (60) months after returning to work. Any follow-up tests will be at the direction of the Substance Abuse Professional.

TESTING PROCEDURES:

This company has contracted with **MMTA and FIRST ADVANTAGE** as our drug and alcohol program provider and Certified Third Party Administrator. The collection site will be chosen by the Program Administrator.

Once a driver has been directed to submit to an alcohol and/or controlled substance test, he/she will proceed immediately to the testing area directed by the program administrator named in this policy. Drivers must comply with the lawful requests of the technician doing the alcohol and/or controlled substance test.

The selected driver will be required to provide a urine specimen for controlled substance testing and/or a breath or saliva sample for analysis of alcohol concentration.

The driver will be required to provide photo identification prior to testing. Privacy will be ensured at the facility by means of voiding in a private enclosure. A split sample will be procured and both samples will be sent to the lab.

Proper chain of custody procedures will be followed to ensure that the specimen submitted is indeed the specimen that belongs to the selected driver. The specimen will be sealed to prevent tampering during transport to the laboratory. Federal certified laboratories will be utilized for testing (drugs) and two separate methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to the medical review office (MRO).

The MRO is a licensed physician that reviews all test results prior to reporting to the company. Should the specimen test positive, the MRO will contact the driver to discuss the test findings and afford the driver an opportunity to discuss his/her test results and any factors that could have attributed to the positive test. Should the driver question the test findings, the driver can request that the split sample be forwarded to another certified laboratory for re-analysis.

All test results are treated confidentially and no results will be released to outside parties without the drivers express consent or when required by law, rule or regulation or expressly authorized.

All testing for alcohol use or mis-use will be conducted only by devices which have been approved by the National Highway Traffic Administration and conducted by trained Breath Alcohol Technicians (BATs) or trained Screening Test Technicians.

REQUIREMENT THAT DRIVERS MUST SUBMIT TO TESTS:

All drivers who are required by Federal Motor Carrier Safety Regulations and this policy to be subjected to alcohol and/or controlled substances testing must fulfill that requirement when so directed by the Alcohol/Drug Testing Program Administrator or a trained supervisor. Failure to comply with the regulations or this policy will be grounds for disciplinary action up to and including dismissal.

REFUSAL TO TEST:

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under §382.303, a random alcohol or controlled substances test required under §382.305, a reasonable suspicion alcohol or controlled substances test required under §382.307, or a follow-up alcohol or controlled substances test required under §382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

Refuse to submit (to an alcohol or controlled substances test) means 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 §40.61(a) of this title);

(2) Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see §40.63(c) of this title) for a pre- employment test is not deemed to have refused to test;

(3) Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. An employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c) of this title) for 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 §§40.67(l) and 40.69(g) of this title);

(5) Fails 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 §40.193(d)(2) of this title);

(6) Fails 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 DER under §40.193(d) of this title. 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) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the 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.

DISCIPLINARY ACTION:

Any driver who violates either the Federal Motor Carrier Safety Regulations or this policy may be subject to disciplinary action up to and including dismissal.

Any driver who has tested positive for either drugs or alcohol, has performed a prohibited act, or has refused to submit to a drug or alcohol test, will be removed from the safety sensitive position immediately and directed to a substance abuse professional. The substance abuse professional will:

- provide a comprehensive face-to-face assessment and clinical evaluation of the driver; and
- recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to a DOT safety sensitive function

Drivers who are found to have an alcohol concentration of 0.02 or greater, but less than 0.04, will be taken out-of-duty for a minimum of 24 hours. It is this company's policy that such time out-of-duty will be **without** pay.

INFORMATION:

This company will provide each driver subject to the Federal Motor Carrier Safety Regulations a copy of this policy. In addition, this company will provide printed material which describes the effects of alcohol and/or controlled substance use or abuse on the individual's health, work and personal life, as well as information on the signs and symptoms of an alcohol or controlled substances problem.

ACKNOWLEDGEMENT:

I certify that I have received a copy of _____**(INSERT NAME OF MOTOR CARRIER)'s** policy, and written material concerning the effects of alcohol and controlled substance on an individual's work and personal life, signs and symptoms of a drug or alcohol problem including a co-workers, and the methods to deal with a substance abuse problem.

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Driver's Signature