



**ALCOHOL AND DRUG-FREE WORKPLACE
AND TESTING POLICY**

**NOTE:
PLEASE SIGN THE ENCLOSED PAGE 2 AND RETURN TO THE OFFICE
CONFIRMING THAT YOU RECEIVED THE C.L. LINFOOT DRUG AND ALCOHOL
TESTING POLICY.**

**Notice of:
Alcohol and Drug-Free Workplace and Testing Policy**

The undersigned hereby acknowledges receipt of a copy of C.L. Linfoot Co.'s Alcohol and Drug-Free Workplace and Testing Policy (04/19/2011).

Employee Name (print)

Employee's Signature

Date

OFFICE COPY TO BE RETURNED TO OFFICE



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A. PURPOSE AND POLICY

The purpose of this Alcohol and Drug-Free Workplace and Testing Policy is to assure a safe work environment and worker fitness for duty and to protect our employees and the public from risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal Regulations governing workplace anti-drug programs in the motor carriers industry. The Federal Motor Carriers Safety Administration (FMCSA) of the U. S. Department of Transportation has enacted 49 CFR Part 382 "Prevention of Prohibited Drug Use and Alcohol Misuse in Motor Carrier Operations" mandating urine drug testing and alcohol testing and alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (DOT) has also set standards in 49 CFR Part 40 "Procedures for Transportation Workplace Drug and Alcohol Testing Program" for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988", which requires the establishment of drug-free workplace policies and the reporting of certain drug-free offenses to the FMCSA. This policy incorporates those requirements for safety-sensitive employees and others when so noted. This policy is also intended to comply, if applicable, with the State of Minnesota's Drug and Alcohol Testing in the Workplace statutes as applicable to Minnesota employees except where preempted by federal law.

It is the policy of C.L. Linfoot Co. to prohibit employees from using, possessing, transferring, selling, or being under the influence of alcohol, illegal drugs, or other substances that impair safe job performance when reporting for work, while at work, while operating the Company's vehicles or machinery, or while on work premises. This policy applies to all employees of C.L. Linfoot Co. and all persons conditionally offered employment with C.L. Linfoot Co. (the "Company").

Program Manager. The Company will assign a Program Manager who will be responsible for overseeing and applying this Alcohol and Drug-Free Workplace and Testing Policy.

Information Concerning the Effects of Alcohol and Controlled Substances. Any employee that has questions or concerns regarding this policy or the effects of alcohol and controlled substances on an individual's health, work and personal life may seek clarification and further information from the Company's Program Manager for the Alcohol and Drug-Free Workplace and Testing Policy, who can be found at 4805 DeMers Avenue, Grand Forks, North Dakota 58208, or call (701) 775-3961.

Educational materials, including a copy of this policy, and information concerning the effects of alcohol and controlled substances use on an individual's health, work and personal life, signs and symptoms of alcohol or controlled substances problem and available methods for intervening when an alcohol or controlled substances problem is suspected, will be provided to an employee.

B. ALCOHOL AND DRUG-FREE WORKPLACE POLICY

1. Application:

This Alcohol and Drug-Free Workplace Policy applies to all Company employees or persons conditionally offered employment, except Drivers of Commercial Motor Vehicles who are also governed by the Department of Transportation ("DOT") Drug and Alcohol Policy in Section C of this policy that follows.

2. Prohibited Conduct:

a. Prohibited Manufacture, Trafficking, Possession and Use of Prohibited Substances.

To insure a safe and productive work environment, the Company strictly prohibits the use, sale, transfer, manufacture, distribution or possession, by an employee while on duty or while they employee is on or in any Company premises, work sites, or Company-owned vehicles, machinery or equipment, of the following “**Prohibited Substances**”: (1) Alcohol; (2) Illegal Drug(s) and/or Drug Paraphernalia; or (3) except as otherwise provided for herein, drugs, whether prescription drugs or over the counter drugs, known or advertised as possibly affecting judgment or coordination, or which may adversely affect the ability to perform work in a safe and productive manner except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the Driver that the substance will not adversely affect the Driver’s ability to safely perform safety sensitive job activities.

The term “**work site**” shall include any motor vehicle or equipment owned by or being used by the Company, any office, building terminal, yard or other property owned or operated by the Company or any other location at which the employee is to perform work or at which the Company’s business is conducted. The term “**possess**” (actual and/or constructive) means to have in, or on the possession of, or in the control of the employee, the employee’s motor vehicle or equipment, personal effects or areas entrusted to the control of the employee. Possession does not include the handling or transporting of any alcohol or drug which is manifested and transported as a shipment. The term “**sell**” or “**transfer**” means to deliver to any other person for consideration, for free, or for any other reason. Any violation of this policy will result in summary discipline which may include discharge.

b. Testing Positive for Illegal Drug Prohibited. No applicant for employment who has been conditionally offered employment and no employee shall not report for duty, remain on duty, or perform any safety-sensitive functions if the applicant/employee tests positive for or has an adulterated or substituted test specimen for an Illegal Drug.

c. Intoxication or Under the Influence of a Prohibited Substance. No employee shall report for duty or be found on duty intoxicated or impaired by Prohibited Substance. Employees found to be intoxicated or impaired by a Prohibited Substance or who fails to pass a drug or alcohol test shall be removed from duty and subject to disciplinary action, up to and including termination. Any employee who is reasonably suspected of being intoxicated, impaired, or under the influence of a Prohibited Substance or not fit for duty shall be suspended from job duties pending an investigation and verification of condition.

d. Alcohol Use or Possession and/or Testing Positive to Alcohol Prohibited. No applicant for employment who has been conditionally offered employment and no employee should report to duty or remain on duty when: his/her ability to perform assigned functions is adversely affected or impaired by alcohol or when his/her blood alcohol concentration is 0.02 or greater. No employee shall use or be in possession of alcohol while on duty or while performing safety-sensitive functions. No employee shall have used alcohol within four hours of reporting for duty. No employee shall use alcohol during the hours they are on call to perform safety-sensitive functioning. Employees may be subject to urine, blood, or breath tests just prior to, while performing, or just after completing work. Violation of these provisions is prohibited and is cause for removal from a safety-sensitive position, and will subject the employee to other disciplinary action up to and including termination, and/or referral to a Substance Abuse Provider for evaluation.

4. Prohibited Substances.

The term **Prohibited Substances** includes:

a. Illegal Drugs and Drug paraphernalia. An Illegal Drug and Drug Paraphernalia, means any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. § 812), and as further defined by 21 CFR 1300.11 through 1300.15 and any paraphernalia for the use of an Illegal Drug, except if the substance was prescribed to the employee by a doctor's prescription, the use of the substance in the manner prescribed, and only if the doctor has advised the employee that the substance will not adversely affect the employee to safely perform his/her job duties. The prohibited substances include, but are not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, or their metabolites, and as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Prohibited use includes misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

b. Legally Prescribed Drugs and Over-the-Counter Medications. The appropriate use of legally prescribed drugs and nonprescription medications is not prohibited. However, if the employee is using any legally prescribed substance or over-the-counter substance, which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected, the employee shall not report for duty under the influence of such substance unless: (i) the employee's treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of the employee's duties, including safely operating any necessary equipment or vehicles; and (ii) the substance is used at the dosage prescribed or authorized.

A legally prescribed substance means that individual has a prescription or other written approval from a licensed physician for the use of the substance in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and period of authorization. The misuse of legal drugs while performing Company business is prohibited.

c. Alcohol. This Company tests for alcohol and takes action on the findings regardless of whether it was ingested as a beverage alcohol or in medicinal or other preparations. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an Evidential Breath Testing device. The inability to provide a sufficient sample for the purpose of collection or breathe testing without a valid written medical explanation will be considered a test refusal. Alcohol testing can be performed just prior to, while performing or just after performing safety sensitive duties.

Alcohol impairs the ability to perform his/her job in a safe manner as it impairs vision, distance perception, muscular coordination, memory and judgment. Over a period of time, alcohol can damage the liver and heart and cause permanent brain damage affecting the performance of the job, health and personal life. Misuse or abuse of drugs and/or alcohol can lead to the loss of your job, family and friends.

5. Prohibited Off-Duty Misuse of Drugs. Because the off-duty misuse of drugs can affect on-the-job performance, the Company has adopted the following restrictions on the off-duty use of Illegal Drugs:

a. No employee shall report to work if the employee will test positive for use of an Illegal Drug;

b. No employee shall report to work having taken within 24 hours prior to commencement of work any prescription drug known or advertised as possibly affecting judgment or coordination, or which may adversely affect the ability to perform work in a safe and productive manner unless the prescribing licensed medical practitioner has advised the employee that the drug or substance will not affect the employees ability to safely perform his/her duties.

c. No employee shall report to work while impaired by the use of over-the-counter-drugs. The term "**impairment**" includes being under the influence of a drug so that an employee's motor senses

(sight, hearing, balance, reflex or reaction) are adversely affected or may be presumed to be so affected such that the employee cannot safely perform his/her job duties. Medical advice should be sought, as appropriate, before performing work-related duties.

6. Prohibited Off-Duty Misuse of Alcohol. Because alcohol is a legal substance, but its use can affect on-the-job performance, the Company has adopted the following restrictions on the off-duty use of alcohol:

a. No employee shall report for duty or remain on duty while having an alcohol concentration of (BAC) of 0.02 percent or greater as indicated by a alcohol breath test or blood alcohol test as is appropriate;

b. No employee shall report for duty or remain on duty within four (4) hours after using alcohol;

c. No employee shall report for duty or remain on duty while under the influence of alcohol such that he/she is impaired in their ability to safely perform their duties;

d. No employee required to take a post-accident alcohol test under this policy shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first; and

e. Unlawful use of alcohol off duty and off Company premises or work sites is not acceptable and is prohibited because it can affect on-the-job performance.

7. Reporting Criminal Drug Convictions and Alcohol Driving Offense

Any employee convicted of violating any criminal drug statute or convicted of any alcohol driving offense must inform the Company immediately (within 5-days of the conviction) of any conviction (including pleas of guilty, *nolo contendere*, no contest pleas and deferral of imposition). Failure to inform the Company subjects the employee to disciplinary action, up to and including termination for the first offense.

On a federal contracting project the Company by law will notify the federal contracting officer within 10 days of receiving such notice of a conviction from an employee or otherwise receiving notice of such a conviction or plea of guilty of a violation on a work site.

The Company reserves the right to offer employees convicted of violating a criminal drug or alcohol statute an approved rehabilitation or drug abuse assistance program at the employee's expense as an alternative to other discipline. If such a program is offered, and accepted by the employee, then the employee must satisfactorily participate in the program as a condition of continued employment.

Any conviction or failure to inform the Company of such conviction shall result in disciplinary action, up to and including termination.

8. Discipline

- a. An applicant for employment will not be hired in the case where an initial positive test for an Illegal Drug has been confirmed on a confirmatory test.

- b. **Confirmatory Test necessary before discipline.** The Company will not discharge, discipline, discriminate against, request, or require rehabilitation of an Employee solely on the basis of a positive test result from an initial screening test for Prohibited Substances that has not been verified by a confirmatory test.

Need for Further Testing. If the initial result on the drug and alcohol screening is positive, the sample will automatically be subject to a confirmatory test. If the confirmatory result is negative, the Medical Review Officer (MRO) may indicate the necessity for additional testing at his/her discretion.

- c. **First Violation.** The Company will not discharge an Employee solely for a positive test result on a confirmatory test which is the first such result for the employee on an Illegal Drug or alcohol test requested by the Company, unless the following conditions have been met:

- 1) The Company affords the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either an evaluation conducted by an approved licensed drug or alcohol counselor or an approved rehabilitation program, whichever is more appropriate, as determined by the Company after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency; and

- 2) The employee either refuses to participate in the counseling or rehabilitation program or the employee fails to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.

- d. **Medical Review Officer (MRO) Interview.** An employee may be interviewed by the designated Medical Review Officer (MRO). The employee must be available by telephone (home phone, cell phone, etc.) for 48 hours after a non-negative test to enable the MRO to complete this interview in a timely fashion. If the employee is not available when contact is attempted by the MRO, per the standard, the test will be considered non-negative and further action will occur as described in this policy.

- e. **Second or more violations.** In the case where a positive test result on a confirmatory test is the second or more such result for the employee, the employee shall be subject to discipline, up to and including immediate discharge pursuant to the provisions of this policy

- e. **Counseling or Rehabilitation Program.** Employees attending a counseling or rehabilitation program will be required to inform the Company of the type of program to which they have been referred. If the counseling or rehabilitation program permits immediate return to work, the employee will be returned to work on the next regularly scheduled shift.

If the employee is referred to a treatment program, then the employee must agree to fully attend and participate in the treatment program and provide the Company with documentation from the treatment provider regarding the expected length of treatment.

The employee will be returned to work only after the treatment provider provides documentation of the employee's ability to return. If the employee is released to return to work before completion of the treatment program, the employee will be asked to provide weekly documentation from the treatment provider regarding continued participation in the treatment program. If the employee fails or refuses to provide such documentation, Company will not

return the employee to work prior to completion of the treatment program. In all cases, the employee must present evidence of satisfactory completion of the treatment program in order to maintain employment.

The employee must sign the "Conditions for Continued Employment" document which will indicate any need for further treatment and follow-up after the confirmed positive test result. Employees will also be required to submit to random, follow up, and return to duty testing as long as they are employed with the Company. The cost of this testing will be assumed by the employee for two (2) years. After two years, the Company will assume the cost of random, follow up, or return to duty testing.

- f. **Temporary Suspension.** Notwithstanding the above provisions, the Company may temporarily suspend a tested employee, with or without pay or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the company believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay will be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
- g. The company may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information revealed to the company, unless the employee was under an affirmative duty to provide the information before, upon, or after hire.
- h. An employee will be given access to information in the employee's personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.
- i. **Right to Refuse Testing.** An employee or applicant has a right to refuse to submit to a test. However, an applicant who refuses to submit to a test will not be hired and/or an employee who refuses to submit to testing shall be subject to discipline up to and including termination.

9. **Appeal Rights and Right to Explain Positive Test Result.**

Any applicant or employee who tests positive on a confirmatory test will have three (3) working days following the day on which the employee is notified of the positive confirmatory test result to submit information to explain the test result. In addition, an applicant or employee who tests positive on a confirmatory test will have five (5) working days following the day on which he or she is notified of the confirmatory test result to advise in writing of his or her desire to request a confirmatory retest of the original sample at the individual's own expense.

10. **Drug and Alcohol Testing Policies**

The Company has also adopted in section D of these policies a Drug and Alcohol Testing Policy. The current testing policies provide for Pre-employment Testing for controlled substances; Reasonable Suspicion Testing for alcohol and Illegal Drugs; Post-Accident Testing for alcohol and Illegal Drugs; Random Testing for alcohol and Illegal Drugs; Treatment Program/Return-to-Duty Testing; and Follow-up Testing for alcohol and Illegal Drugs; and those policies are available for inspection during regular business hours by its employees or job applicants at the Company offices located at 4805 DeMers Avenue, Grand Forks, North Dakota.

11. Inspections and Searches

The Company may conduct unannounced general inspections and searches for Prohibited Substances:

1. An employee's person and an employee's property when located on Company "Premises" or in Company's vehicles or equipment wherever located; and
2. Company property.

Employees are expected to cooperate in such searches.

This policy covers Company employees and their belongings and property, including the employee's automobile, when located on Company "Premises", which shall include property owned or leased by the Company, including surrounding grounds and parking lots, and all Company work sites. This search policy also covers the employee's work area, work equipment or vehicle, desk, locker, tool box, clothing, bags, pocketbooks, etc.

The Company may search an employee or an employee's property for any of the following reasons:

1. For investigatory and non-investigatory, work-related purposes;
2. As part of a random unannounced search; and
3. Where there are reasonable grounds to believe that the search will turn up evidence that an employee(s) is/are guilty of work-related misconduct.

An employee's consent to a search agreed to under this policy is required as a condition of an employment, and an employee's refusal to consent to a search may result in disciplinary action up to and including termination, even for a first refusal.

In conducting any inspection or search, the Company may utilize alcohol or drug detecting canines. A positive alert from an alcohol or drug detecting canine shall be interrupted as reasonable grounds to believe that the search will turn up evidence that an employee is guilty of work-related misconduct. A positive alert from an alcohol or drug detecting canine shall also provide reasonable suspicion grounds to conduct Reasonable Suspicion Testing under the Company's Substance Abuse Policy.

Contraband, such as drugs, alcohol, firearms, explosives, and so on will be subject to seizure during an inspection or search. An employee who is found to possess contraband on Company Premises, in or upon a Company vehicle or piece of equipment, or while on Company business will be subject to discipline up to and including termination.

The Company may turn over to law enforcement officials any contraband found in a search.

12. Questions: All questions regarding these policies should be directed to Company's Program Manager for the Alcohol and Drug-Free Workplace and Testing Policy, 4805 DeMers Avenue, Grand Forks, North Dakota 58208, or call (701) 775-3961.

C. DOT DRUG AND ALCOHOL POLICY:

1. Purpose:

The Company's DOT Drug and Alcohol Policy implements the requirements of the United States Department of Transportation ("DOT") and the Federal Motor Carrier Safety Administration ("FMCSA") regulations, specifically 49 C.F.R. Parts 40, 382, 199 and 392 as amended.

The DOT requires an employer to conduct drug and alcohol tests of drivers of commercial motor vehicles and permit. It is the intention of this policy to comply fully with all federal law and regulations. The Company reserves the right to apply all amended or revised requirements of these laws and regulations immediately without giving prior notice to the affected employees and/or the union unless DOT laws and regulations require otherwise.

The use of alcohol and/or Illegal Drugs have been demonstrated to impair essential job functions like coordination, judgment, concentration, and vision, to reduce operational efficiency and productivity, and to be a critical factor in workplace accidents. Because of these employment related issues, federal laws and regulations authorize and may require testing of employees in safety sensitive positions for use of alcohol and Illegal Drugs.

Drivers of commercial vehicles are required to read and to abide by this policy as a condition of employment.

2. Definitions:

a. "Driver" means any Company employee 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.

b. "Safety-sensitive function" has the meaning defined by federal regulations, including the Federal Motor Carrier Safety Regulations, and 49 C.F.R. § 382.107, which includes 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.

c. "Controlled Substances" has the meaning defined by federal regulations, including the Federal Motor Carrier Safety Regulations, and 49 C.F.R. §§ 40.85 and 382.107, which includes the following five classes of drugs: (i) Marijuana metabolites; (ii) Cocaine metabolites; (iii) Amphetamines; (iv) Opiate metabolites; and (v) Phencyclidine.

d. "Alcohol" has the meaning defined by federal regulations, including the Federal Motor Carrier Safety Regulations, and 49 C.F.R. § 382.107, which includes the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

e. "Reasonable Suspicion" is the observance of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the Driver. The observations may include indications of the chronic and withdrawal effects of Controlled Substances or Alcohol.

- i. The required observations for Alcohol and/or Controlled Substances reasonable suspicion testing shall be made by a supervisor or a company official trained to make observations of the symptoms of Alcohol and/or Controlled Substances abuse, impairment or intoxication. The person who makes the determination that reasonable suspicion exists to conduct an Alcohol and/or Controlled Substances test shall not conduct the test of the Driver.
- ii. Alcohol testing is authorized by this section only if the required observations are made during, just preceding, or just after the period of the work day that the Driver is required to be in compliance.

f. “Commercial Motor Vehicle” (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- i. Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- ii. Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- iii. Is designed to transport 16 or more passengers, including the driver; or
- iv. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 C.F.R. part 172, subpart F.)

3. Application:

This policy applies to Company employees who are Drivers of Commercial Motor Vehicles and applicants for employment as a Driver of Commercial Motor Vehicles.

Drivers must comply with this policy between the time periods of four (4) hours before the Driver reports for duty, when the Driver begins to work or is required to be in readiness to work, and until the time Driver is relieved from work and all responsibility for performing work.

4. Prohibitions:

A Driver is expected to be in compliance at all times with all DOT laws and regulations and the Company’s DOT Drug and Alcohol Policy. This Policy prohibits the following conduct:

- a. A Driver shall not report for duty, remain on duty, or perform any safety-sensitive function while having an alcohol concentration of 0.04 or higher;
- b. A Driver who is found to have an alcohol concentrations of .02 or greater but less than 0.04 shall not perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle, and the Driver will not be permitted to perform or continue to perform safety sensitive functions, until the start of the Driver’s next regularly scheduled duty period, not less than 24 hours following administration of the test;
- c. A Driver shall not use alcohol while performing safety-sensitive functions;
- d. A Driver shall not be in possession of, transfer or receive alcohol and/or Controlled Substances while on duty, while on the Company’s or a customer’s premises, or while operating or being transported in a commercial motor vehicle or any other vehicle used in the service of the Company.
- e. A Driver shall not use Alcohol within four hours prior to reporting for duty or performing a safety-sensitive function.
- f. A Driver shall not use alcohol within eight (8) hours after a fatal accident, an accident involving bodily injury, an accident for which the employee receives a citation for a moving violation, an accident incurring disabling damage to a motor vehicle, or before undergoing a post-accident Alcohol and Controlled Substances tests, whichever occurs first.
- g. A Driver shall not report for duty, remain on duty, or perform any safety-sensitive functions when the Driver uses any Controlled Substance, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the Driver that the substance will not adversely affect the Driver’s ability to safely operate a commercial motor vehicle. A Driver must inform the Company prior to any test being performed or any therapeutic drug use.

- h. A Driver shall not report for duty, remain on duty, or perform any safety-sensitive function if the Driver tests positive or has an adulterated or substituted test specimen for control substances.
- i. A Driver shall not test positive for Controlled Substances after a fatal accident, an accident involving bodily injury, an accident for which the employee receives a citation for a moving violation, and/or an accident incurring disabling damage to a motor vehicle, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the Driver that the substance will not adversely affect the Driver's ability to safely operate a commercial motor vehicle..
- j. A Driver shall not refuse to submit to a post-accident Alcohol or Controlled Substances test, a random Alcohol or Controlled Substances test, a reasonable suspicion Alcohol or Controlled Substances test, or a follow-up Alcohol or Controlled Substances test.
- k. An applicant for a position of Driver shall not test positive or submit an adulterated or substituted test specimen for Controlled Substances.

5. Tests Required:

Drivers and applicants for Driver positions must submit to the following Alcohol and Controlled Substances testing pursuant to D.O.T. guidelines, which include the following testing:

- a. **Pre-employment Test:** All offers by the Company to hire an applicant for a Driver position or to transfer an employee to a Driver position must be tested for Controlled Substances before the first time a safety-sensitive function is performed. Job offers to applicants for a Driver will be conditioned on meeting this requirement. Applicants may be tested for alcohol.
- b. **Reasonable Suspicion Testing:** All Drivers may be subject to testing when a supervisor has a reasonable suspicion, based on direct observation of behavior, that the Driver has violated any of the prohibitions or requirements of this policy.
- c. **Random Testing:** All Drivers will be subject to random, unannounced Alcohol and/or Controlled Substances testing.
- d. **Post-Accident Testing:** As soon as possible after a Driver is involved in any work-related vehicular or any other accident involving personal injury requiring medical attention or property damage, a moving violation or safety rule violation, the Company will arrange for the administration of Alcohol and Controlled Substances tests of the Driver involved in the accident. Drivers subject to post-accident testing must remain readily available after the accident for testing or they will be deemed to have refused to submit to testing. Drivers must also refrain from Alcohol and Controlled Substances use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.
- e. **Treatment Program/Return-to-duty Testing:** Once a Driver has engaged in conduct prohibited by this policy they are subject to Alcohol and/or Controlled Substances testing before returning to work. The result must be a negative Controlled Substances test result and/or an Alcohol test with an alcohol concentration of less than 0.02.
- f. **Follow-up Testing:** A Driver who returns to duty after complying with the recommendations of a substance abuse professional and after providing a negative result on a return-to-duty test, is subject to unannounced follow-up Alcohol and/or Controlled Substances testing.

6. Refusal to Test:

Any Driver who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination (pollute by

contact or mixture), adulteration (adding improper ingredients), or substitution shall be removed from duty immediately, and their employment terminated. Refusal can include an inability to provide the amount required for a sample of urine (at least 45 milliliters) within three hours after consuming up to 40 ounces of water under observed conditions (Shy Bladder Rule); the inability to provide a sufficient sample for the purpose of urine or breath testing without a valid written medical explanation or refusing to undergo a medical examination when required; a verbal declaration of refusal, obstructive behavior, physical absence or lateness in arriving at the test site; leaving the test site prior to test completion; failure to permit observed collection; refusing to take a second test when required; the refusal to properly fill out the chain of custody forms for either Alcohol and/or Controlled Substances; or leaving the scene of an accident without proper authority.

7. Procedures for Testing:

Separate Testing. All DOT tests must be completely separate from non-DOT tests in all respects. All DOT tests will take priority and will be conducted and completed before a non-DOT test is begun. No one will be permitted to change or disregard the results of DOT tests based on the results of non-DOT tests.

All testing procedures, including those set forth below in Section D, the Drug and Alcohol Testing Policy will be conducted in compliance with applicable federal and state laws and regulations, including specimen collection, laboratory testing, and communication of results. Laboratories utilized by the Company shall be federally and/or state certified and shall otherwise comply with applicable federal and state regulations and standards.

Random, reasonable suspicion and follow-up tests for Alcohol and/or Controlled Substances shall only be conducted just before, just after, or while the employee is performing safety-sensitive functions.

All Drivers may be subject to urine testing for Controlled Substances and Alcohol and/or Breath Alcohol testing. Testing shall be conducted in a manner protect the Driver and the integrity of the testing processes; safeguard the validity of the test results; and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions as required by 49 C.F.R. § 382.303(d).

The Company will use techniques, equipment, and laboratory facilities which have been approved by the DOT and US Depart. of Health and Human Services. All testing will be conducted consistent with the procedures set forth in 49 C.F.R. Part 40 as amended. Alcohol breath tests, if used, will be performed by a Breath Alcohol Technician as required by federal regulations with an Evidential Breath Testing Device.

The testing laboratories and personnel that the Company uses to perform Alcohol and/or Controlled Substances tests will maintain the confidentiality of testing records and results as required by federal and state laws, except that the Employer's Medical Review Office ("MRO") and the Company and insurance company personnel and agents with a need to know such information in the performance of their duties will have access to such records and results. Disclosure may also be made as otherwise permitted or required by law.

The Company will notify Drivers and applicants of positive test results and their right to explain a positive test.

8. Consequences of Engaging In Prohibited Conduct:

A Driver or an applicant for a Driver position, who is found to have violated The Company's DOT Drug and Alcohol Policy, shall be subject to the following discipline or consequences:

- a. The applicant will not be hired if they test positive for Controlled Substances, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the Driver that the substance will not adversely affect the Driver's ability to safely operate a commercial motor vehicle;
- b. A Driver will be taken off duty immediately without pay if they test positive for Controlled Substances except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the Driver that the substance will not adversely affect the Driver's ability to safely operate a commercial motor vehicle;
- c. A Driver whose Alcohol test is 0.02 or greater, but is no more than 0.039, will be removed from performing safety-sensitive functions and taken off duty without pay for 24 hours; and shall not perform any safety-sensitive function until a return-to-duty test indicates an Alcohol test level of less than 0.02. A Driver may also be subject to additional disciplinary action up to and including termination if the Driver has previously had a low or high level positive Alcohol test result, the Driver had a previous drug/alcohol or policy violation(s), the test represents a failure to adhere to a rehabilitation program, or the Driver has committed other independent policy violation(s);
- d. A Driver whose Alcohol test is 0.04 or greater or who tests positive for Control Substances will be removed immediately from all driving, safety-sensitive function and any other work duties without pay; and subject to Company's right to terminate the Driver, the Driver will not be permitted to operate a company vehicle for one year; and, the Driver will be referred to a DOT-qualified substance abuse professional selected by the Company for evaluation at the Driver's cost. The Driver will not be returned to duty and shall not perform any safety-sensitive function until the substance abuse professional determines that any necessary rehabilitation program has been successfully completed;
- e. The Driver will bear the costs of referral, treatment or rehabilitation under this policy, unless such services are routinely (and without additional cost to the Company) covered by existing insurance programs.
- f. If a Driver refuses to submit to any testing for Alcohol or Controlled Substances this refusal will be treated in the same manner as a violation of this policy and Driver will not be permitted to remain on duty and is subject to immediate termination;
- g. A Driver will not be paid for any period of time that he/she is removed from duty as a consequence of a violation of this policy;
- h. An applicant for a Driver position who refuses to submit to or who tests positive for Controlled Substances will not be hired;
- i. If a Driver's supervisor reasonably suspects a Driver of Controlled Substances or Alcohol use, the Driver shall be removed immediately for any safety-sensitive function until a reasonable suspicion test is performed; and,
- j. In addition to the prohibited activities in this Policy, a Driver who has violated any DOT drug and alcohol rules will be subject to discipline, up to and including termination.

9. Questions: All questions regarding Company's DOT Drug and Alcohol Policy and/or DOT rules should be directed to Scott MacDonald, Program Manager for the Alcohol and Drug-Free Workplace and Testing Policy, 4805 DeMers Avenue, Grand Forks, North Dakota 58208, or call (701) 775-3961.

10. Information Concerning the Effects of Alcohol and Controlled Substances. Any employee that has questions or concerns regarding this policy or the effects of alcohol and controlled substances on their individual health, work and personal life may seek clarification and further information from the

Company's Program Manager for the Alcohol and Drug-Free Workplace and Testing Policy, 4805 DeMers Avenue, Grand Forks, North Dakota 58208, or call (701) 775-3961.

D. DRUG AND ALCOHOL TESTING POLICY

1. Covered Employees/Application of Testing Policy: This policy applies to:

- a. DOT Applicants and Employees.** All DOT Drivers and applicants if a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position, which includes all employees who operate a commercial motor vehicle and who are required to have a commercial drivers license to perform the assigned duties of their position; and
- b. Applicants and Employees Governed by Federal Regulations.** All applicants and employees subject to drug and alcohol testing pursuant to federal regulations or requirements necessary to operate federally regulated facilities or federal contracts where drug and alcohol testing is conducted for security, safety, or protection of sensitive or proprietary data; and
- c. Other Applicants and Employees.** All other Company employees and job applicants if a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position.

Safety-sensitive positions. A "safety-sensitive position" under this policy shall mean a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person. Employees and applicants subject to the testing requirements include all employees who the company has determined are in a safety-sensitive position or who oversee employees who are in a safety-sensitive position. A safety-sensitive position includes all positions that perform safety-sensitive functions as set forth by DOT and FMCSA regulations. A DOT safety-sensitive function is any duty related to the safe operation of this company's commercial vehicles, including the operation, dispatch, and maintenance of a commercial vehicle, and any other employee who holds a Commercial Drivers License. Employees are considered to be performing safety-sensitive functions any period in which the individual is actually performing, ready to perform or immediately available to perform such functions.

The following are considered DOT Safety-Sensitive functions or positions with this Company:

- ◆ Dispatcher or controller of the movement of commercial vehicles;
- ◆ Drivers and contract drivers and their supervisors who operate a commercial motor vehicle and are required to have a commercial drivers license to perform the assigned duties of their position;

Off-Site Periods. These policies, including this testing policy also applies to off-site lunch periods or breaks when a DOT/Safety-Sensitive employee is scheduled to return to work. All covered employees may be required as provided herein to submit to drug and alcohol testing as a condition of employment.

2. No Duty to Test

The Company does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in this policy, except for employees who operate a

commercial motor vehicle, who are required to have a commercial drivers license to perform the assigned duties of their position, and who are required to be tested pursuant to federal regulations.

3. Categories of Testing

a. Pre-Employment Testing

1) All job applicants if a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position will undergo pre-employment urine or blood drug testing and may be tested for alcohol. Employees may be hired on a “contingency of negative results.” This will allow an employee to begin training upon hire; however they are prohibited from performing any safety-sensitive duties. A supervisor will closely monitor the employee to ensure duties do not include safety-sensitive activities. Receipt by the Company of a negative test result is required prior to performance of safety sensitive duties. Receipt of a positive test result will result in the termination of the employee. Failure to test or test refusal (once the collection has commenced, the donor must complete it) will result in termination. A canceled test will require a retest be taken. A negative test result must be received by the Company to ensure employment. Any applicant that is tested, but is not assigned safety-sensitive duties within a 90-day timeframe will have to be retested prior to first performing safety-sensitive duties.

2) If a job applicant has received a job offer which is contingent on the applicant passing drug and alcohol testing, the company may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the event the job offer is subsequently withdrawn, the company shall notify the job applicant of the reason for its action.

3) Applicants must sign a release of information allowing the Company to obtain information from former DOT or federally regulated employers that had employed the individual within the previous two years. Information that will be requested from previous employers will include, Alcohol test results >0.04, verified positive drug tests, test refusals including adulterated or substitution, or other violations of DOT regulations or other federal regulations; if appropriate documentation of successful completion of return-to-duty process is unavailable from employer, the company will seek out information from employee/applicant. In turn, the Company will follow release of information regulations set forth by the Department of Transportation (“DOT”).

Employees who have not performed DOT safety-sensitive duties for 90 consecutive days, regardless of the reason, and have not been in the employers’ random testing pool during the 90-day period, must have a pre-employment test prior to returning to duties. The Company must receive a negative test result before safety-sensitive duties are resumed.

Individuals in the organization transferring from a non-safety sensitive position to a DOT safety-sensitive position will need to be pre-employment tested before they can begin their new duties.

b. Reasonable Suspicion Testing

All DOT Safety-Sensitive Employees will and all other employees may be subject to testing when there are reasons to believe that drug or alcohol use is adversely affecting the employee’s job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the long or short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to the following:

- ◆ Adequate documentation of unsatisfactory work performance or on-the-job behavior.

- ◆ Physical signs and symptoms consistent with prohibited substance use.
- ◆ Evidence of sale, manufacture, distribution, dispensing, possession, or use of controlled substance, drugs, alcohol, drug paraphernalia or other Prohibited Substances.
- ◆ Occurrence of serious or potentially serious accidents that may have been caused by human error.
- ◆ A work related accident or operating or helping to operate machinery, equipment, or vehicles involved in a work related accident.
- ◆ Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Reasonable suspicion determinations will be made by one supervisor who is trained (see employee training on page) to detect the signs and symptoms of drug and alcohol use and who reasonably conclude that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or alcohol misuse.

An employee is reasonably suspected of prohibited drug use or alcohol misuse when a trained company official:

- ◆ Can substantiate specific behaviors that may indicate drug use or alcohol misuse.
- ◆ Can identify specific and contemporaneous job performance problems that may indicate prohibited drug use or alcohol misuse may be occurring.

Company officials must evaluate on the following; Specific, contemporaneous, and articulable observations concerning appearance, behavior, speech or body odors of employee.

Employees must report immediately to collection site for reasonable suspicion determination (employees will be transported by a company official).

c. **Post-Accident Testing:**

Fatality Accident: (MANDATORY TESTING) All surviving DOT safety-sensitive employees will and other employees may be required to undergo urine, blood and/or breath testing for Prohibited Substances if they are involved in an accident with a Company vehicle or Company equipment that results in a fatality. This includes all employees that are on-duty in or on the vehicle or equipment and any other whose performance could have contributed to the accident.

Non-Fatality Accident: A post-accident drug and alcohol test will be conducted of DOT safety-sensitive employees and post-accident drug and alcohol test may be conducted of other Company employees if an accident results in injuries requiring immediate transportation away from the scene to a medical treatment facility including a citation, or one or more vehicles incurs disabling damage that requires towing from the scene of the accident including a citation. All covered employees operating the Company vehicle will be tested, unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision.

Following an accident, the employee will be tested as soon as possible (within a reasonable time period). Alcohol testing will be performed prior to drug testing. If the alcohol testing is not administered within two hours following the accident, documentation will be prepared stating why the test was not promptly administered. Alcohol testing must not exceed 8 hours post-accident and drug testing must not exceed 32 hours post-accident. If required testing is not performed, documentation will be made as to the decision. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee who leaves the scene of an accident without appropriate explanation prior to submission to drug and alcohol testing will be

considered to have refused the test and their employment terminated by the authority of the Company. Employees tested under this provision will include not only the operations personnel, but also any other covered employee whose performance could have contributed to the accident.

In the event that the employee cannot participate in the FMCAS Collection process, following an accident, the employer may accept the results of a test performed by Federal, State or local officials. Employers will document why DOT testing was not performed within the time period.

All employees must remain readily available for post-accident testing while the employee assists in resolution of the accident or receives medical attention following the accident. An employee who does not remain readily available for testing constitutes a test refusal, which is treated as a positive test.

d. Random Testing

All DOT safety-sensitive employees and all other employees employed in safety-sensitive positions may be subject to random, unannounced drug and/or alcohol testing.

A minimum number of alcohol tests, equal to 10 percent of the number of employees that are covered under our random testing pool, will be performed each year. Employees will be selected using a scientifically valid method of selection by a computer-based number generator. The consortium or management cannot manipulate selection of the number of random tests. Personnel selected will be alcohol tested just prior to, just after, and while performing a safety-sensitive function.

A minimum number of controlled-substances tests, equal to 50 percent of the number of employees that are covered under our random testing pool, will be performed each year. Random tests will be performed at any time, while on duty, regardless of the duties being performed at the time of testing. Personnel will be selected using a scientifically valid method of selection by a computer-based number generator. The consortium or management cannot manipulate selection of the number of random tests.

Personnel may be potentially tested at any time, even if there is a recent test.

e. Treatment Program/Return-to-Duty Testing.

Return-to-Duty Testing may be required of a DOT Driver employee, an employee mandated by the Federal Regulations to submit to return-to-Duty testing, and North Dakota employees if they have tested for a Prohibited Substance. If the employee has tested positive for drugs or alcohol, before the employee can be considered for reinstatement, the employee must, in addition to other requirements, provide a negative Return-to-Duty drug and/or alcohol test. If a Substance Abuse Professional (SAP) order that an employee be required to submit to testing for either or both alcohol and drugs, then the employee must also submit to return-to-duty testing. The result of the test must be a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02.

SAP Referral and Evaluation. Any employee who tests positive under this program must be referred to a Substance Abuse Professional (SAP). Before an employee can return to duty the employee must successfully complete the SAP evaluation, to determine if rehabilitation, counseling or other treatment is needed by the employee; and the employee must successfully comply with the SAP's evaluation recommendations on referral and/or education/treatment process and must pass a Return-to-Duty Drug and Alcohol Test.

The Company reserves the right to withhold a final decision regarding reinstatement of an employee until after a negative result for a Return-to-Duty test has been received and the Company reserves the discretion to not reinstate an employee even if the employee provides a negative test.

The Company may require the cost of Return-to-Duty tests be borne by the employee.

f. Follow-up Testing.

If an employee has tested positive for a Prohibited Substance, a DOT Driver employee, an employee mandated by the Federal Regulations to submit to follow-up Testing, and an employee required to submit to follow up testing by a SAP may be required to submit to follow-up drug and/or alcohol testing. Such employees may be subject to unannounced follow-up alcohol and/or drug testing. Follow-up testing may be scheduled for a period of up to sixty (60) months and will include no fewer than six (6) tests to be conducted in the first twelve (12) months after the employee's Return-to-Duty date. The cost of follow-up testing is to be borne by the employee.

Employees with a follow-up test result indicating an alcohol concentration of 0.02 or greater shall be subject to disciplinary action including termination. Employees with a follow-up test result indicating a positive drug result shall be subject to termination from employment.

4. How Tests Are Conducted

a. Authorized Laboratory/Personnel. Testing is conducted by a laboratory or certified personnel authorized for that purpose under applicable federal and state law. All testing will be based upon urine sample, saliva alcohol testing, blood sample, and/or breath alcohol as deemed appropriate by the testing laboratory/personnel.

b. Transportation to Testing Site. Any employee who is requested or required to undergo a drug and/or alcohol test will be escorted by a Manager or Supervisor, or appointed individual, to the location where the sample for testing is to be collected.

c. Employee Notification Form. An applicant or employee who is to be tested for drugs and/or alcohol will be given a copy of this drug and alcohol testing policy and an opportunity to read it before testing occurs.

d. Timing for Random Testing. An employee requested to undergo a random drug or alcohol screen will present to the testing site within one hour of the request.

e. Observation of Specimen Collection. To protect the integrity of the testing process, collection site staff may directly observe the collection of the urine sample.

d. Medical Review Consultation. A Medical Review Officer (MRO) will review the test results, if indicated.

e. Testing Procedures. All testing procedures will be conducted in compliance with applicable federal and state laws and regulations, including specimen collection, laboratory testing, and communication of results. Laboratories utilized by the Company shall be federally and/or state certified and shall otherwise comply with applicable federal and state regulations and standards.

1) This Company is dedicated to assuring fair and equitable application of this policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an

unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

2) Random, reasonable suspicion and follow-up tests for Alcohol and/or Controlled Substances shall only be conducted just before, just after, or while the employee is performing safety-sensitive functions.

3) Testing shall be conducted in a manner to protect the individual being tested and the integrity of the testing processes; to safeguard the validity of the test results; and to ensure that those results are attributed to the correct person, including post-accident information, procedures and instructions as required by 49 C.F.R. § 382.303(d).

The Company will use techniques, equipment, and laboratory facilities which have been approved by the DOT and US Depart. of Health and Human Services. All testing will be conducted consistent with the procedures set forth in 49 C.F.R. Part 40 as amended. Alcohol breath tests, if used, will be performed by a Breath Alcohol Technician as required by federal regulations with an Evidential Breath Testing Device.

The testing laboratories and personnel that the Company uses to perform Alcohol and/or Controlled Substances tests will maintain the confidentiality of testing records and results as required by federal and state laws, except that the Employer's Medical Review Office ("MRO") and the Company and insurance company personnel and agents with a need to know such information in the performance of their duties will have access to such records and results. Disclosure may also be made as otherwise permitted or required by law.

4) Each person to be tested will complete, sign and date a Pre-Testing Acknowledgment form supplied by the Company.

5) Results of testing will be reported to each employee and job applicant in writing within three (3) working days of the receipt of the results by the Company. The Company shall inform in writing an employee or job applicant who has undergone drug or alcohol testing of (1) a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test and (2) the right to request and receive from the employer a copy of the test result report on any drug or alcohol test.

6) In the case of a positive test on a confirmatory test, the Company shall advise the employee or job applicant that: they may submit additional information for the purpose of explaining such test results; they may request a confirmatory retest at his or her own expense; and the Company may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is taking or has recently taken and another information relevant to the reliability of, or explanation for, a positive test result.

7) A request for a confirmatory retest by an employee or job applicant must be made within five (5) working days from the date of the notice of test results and the request must be in writing and submitted to the Program Manager. If the confirmatory retest fails to confirm the initial positive results, no adverse action will be taken against the employee or job applicant.

5. Random Testing Notification and Testing Procedures

The testing laboratory will notify only the Company's Program Manager or the Company drug and alcohol testing coordinator of the random selection list for the testing quarter. The Company

Program Manager will then notify the appropriate supervisors. The date and time of testing will be spread out throughout the testing quarter. Testing will start in January and there is no period during which testing is halted. Testing will be conducted on all days and hours in which the company is in operation. All Random Tests will be unannounced. When the employee has been notified, he or she will then proceed to the testing site immediately for sample collection. The employee must have picture ID with them to present at the collection site. The employee must follow all instruction given to them at the collection site. All forms used in the collection of urine and breath will be the Federal Department of Transportation Forms.

After a successful drug collection or negative alcohol test has been completed, the employee may return to his or her duties.

6. Testing Requirements

Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination (pollute by contact or mixture), adulteration (adding improper ingredients), or substitution shall be removed from duty immediately, and their employment terminated.

Refusal to comply shall include an inability to provide the amount required for a sample of urine (at least 45 milliliters) within three hours after consuming up to 40 ounces of water under observed conditions (Shy Bladder Rule); the inability to provide a sufficient sample for the purpose of urine or breath testing without a valid written medical explanation or refusing to undergo a medical examination when required; a verbal declaration of refusal, obstructive behavior, physical absence or lateness in arriving at the test site; leaving the test site prior to test completion; failure to permit observed collection; refusing to take a second test when required; the refusal to properly fill out the chain of custody forms for either drug or alcohol testing; or leaving the scene of an accident without proper authority.

Cancelled Tests: Cannot be used by employer as positive or negative results and cannot be used to retest unless specified by the MRO. These tests do not count towards employers random rate count.

7. Treatment Requirements

All employees are encouraged to make use of alcohol and substance abuse resources. Any such treatment for alcohol and substance abuse will be at the employee's expense.

8. Prohibited Substances being tested for.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. A Split Test procedure will be used on all drug tests. An initial drug screen will be conducted on the specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass (CG/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40 as amended. These minimum cutoff limits are: Marijuana – s50/c15; Cocaine – s300/c150; Amphetamines – s1000/c500; Opiates – s2000/c2000; Phencyclidine – s25/c25. (Expressed in nanograms per milliliter (ng/ml), the screen (designated “s”) and the confirmation (designated “c”).

Under the following circumstances observed collections will be required: the temperature of the urine specimen is out of range, the collection personnel observe an attempt to adulterate a sample, or previous samples have shown dilution. If observed collection is required, individual of the same gender as the donor must make observations.

Following is a list of possible test results:

- ◆ Negative – no action
- ◆ Negative/diluted – retest
- ◆ Positive – rule violation
- ◆ Positive/diluted – rule violation
- ◆ Test refusal – rule violation
- ◆ Insufficient volume – (medical explanation) – cancelled
- ◆ Insufficient volume – (no medical explanation) – test refusal violation/rule violation
- ◆ Insufficient volume – (disability and medical explanation for pre-employment, return to duty, and follow up test) – negative
- ◆ Fatal flaw/rejected for testing – cancelled
- ◆ Fatal flaw/rejected for testing pre-employment and return to duty – cancelled and retest
- ◆ Invalid results – (medical explanation) – cancelled
- ◆ Invalid results – (no medical explanation) – cancelled and retest under direct observation
- ◆ Primary adulterated/substituted, split fails to reconfirm adulteration of substitution – cancelled
- ◆ Primary positive/adulterated/substituted and split unavailable or invalid – cancelled and retest under direct observation
- ◆ Primary positive, split fails to confirm but is adulterated – test primary for adulteration

A trained Breath Alcohol Technician (BAT) may conduct tests for alcohol concentration utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBTD) operated. If the screen test indicates an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the results of the screen test. An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will result in removal from his/her position without pay for no less than 24 hours by the authority of the Company and the employee shall be subject to discipline, up to and including discharge. Before reinstatement, the employee would be subject to Return-to-Duty Test after 24 hours and the employee will not be allowed to do assigned duties unless the retest alcohol concentration is below 0.02.

An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and is in violation of this policy.

Any employee that has a confirmed drug or alcohol test will be immediately removed from his/her safety-sensitive position and informed of educational and rehabilitation programs that are available. A positive drug and/or alcohol test will result in disciplinary action to include termination and referred to a Substance Abuse Provider at the employee's expense.

The Company affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. Procedures are in place to ensure the test results are attributed to the correct employee.

9. Definition of Positive Controlled-Substance Test

A Medical Review Officer (MRO) determines a positive test reading after a controlled substance has been detected in a certified lab and all legitimate explanations have been eliminated.

10. Testing Vendor Responsibilities for Controlled Substance Testing

If a test is positive, it will be reviewed by the physician serving as the testing vendor's Medical Review Officer (MRO). The MRO will follow specific procedures that are required by the federal guidelines. These procedures are intended to make sure that the test result is a true positive. The MRO will call the employee who has tested positive, discuss what might have caused the test to be positive, and make a final decision of the test result before notifying the Company.

Upon request of the employee, the split specimen may be tested at a different DHHS-certified laboratory.

Certified lab. If the split specimen tests negative, then the MRO will give a negative test result. If the results are positive, the MRO will again talk to the employee and make a final decision of the test result before notifying the Company. If the analysis of the split specimen fails to confirm the presence of drug(s) detected in the primary specimen, or if the split specimen is not able to be analyzed or if the results of the split sample are not adequate scientifically, the MRO may issue the original test to be cancelled.

11. Employee Requested Testing

Any employee who questions the results of a required may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. The employee pays all costs for such testing unless the second test invalidates the original tests. The method of collecting, storing, and testing the split sample will be consistent with procedures set forth in 49 CFR Part 40 as amended. The employee's request for retest must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documental facts that were beyond the control of the employee. Any employee has an unqualified right to review his/her drug and alcohol testing record, provide information to dispute the results, and have access to any pertinent records such as equipment calibration records and records of laboratory certifications.

12. Employment Assessment

Any employee who tests positive for the presence of Illegal Drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40 as amended, will be referred to a Substance Abuse Professional (SAP) for possible evaluation. A Substance Abuse Professional is a licensed psychologist, social worker, employee assistance professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-drug related disorders.

The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

An assessment by a SAP does not shield an employee from disciplinary actions, guarantee employment or reinstatement with the Company.

13. Self-Referral to Employee Assistance Program

All employees who feel they have a problem with the use of alcohol or controlled substance may refer themselves for evaluation and any needed rehabilitation through the Employee Assistance Program.

No employee will be subject to disciplinary action for self-referral. However, repeated work absences due to repeated self-referral could result in a determination of unsatisfactory attendance and work performance. All expenses shall be the responsibility of the employee.

14. Documentation

a. Confidentiality:

Except as required by law or expressly authorized or required herein all documentation, information and test results gathered under this policy will be kept confidential. Except as otherwise provided herein the persons that will have access to these files are the company's Program Manager or in his/her absence an affected employee's supervisors, the testing facility, approved laboratories, the employee, the Medical Review Officer, the FMCA Inspector and any other officials, state or federal, who by law are entitled to access to or review of such documentation. No other person(s) will have access to these files without written consent from the person involved or as defined by law.

All drug-alcohol related documentation will be maintained in a secure area with the company's Program Manager controlling access to these files.

b. Privacy Limitations. A laboratory may only disclose to the company test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample test.

c. Exceptions to Privacy and Confidentiality Disclosure Limitations. Notwithstanding paragraph 1 and 2, the Company is permitted or required to make disclosures of health information or test results without an employee's authorization in the following situations:

- (1) A covered employee is entitled, upon written request, to obtain copies of any health information or to direct disclosure to another individual of the same, including any records pertaining to his or her alcohol or controlled substances tests. The company will promptly provide the records requested by the covered employee. Access to employee records shall not be contingent upon payment for records other than those specifically requested;
- (2) Health information and test results can be used and disclosed by the Company to employees of the Company who are supervisors of or are in a position of authority over the employee covered by health information and to the company's agents, attorneys and contractors as a part of the company's hiring or employment of, continuing the employment of, termination of or the taking of any other personnel action by the Company based in part, or not, on such health information;
- (3) We may use or disclose health information or test results to the extent that the use or disclosure is otherwise required by state or federal law.
- (4) The Company must permit access to all facilities, records, documentation and test results in complying with the requirements of federal law, including requirements of the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the company or any of its employees;
- (5) Information, documentation and test results will be available to a subsequent employer of an employee as is expressly authorized or required by law;
- (6) Information, documentation, and test results may be used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing or other applicable state, federal or local law administrative or a

judicial proceeding, provided that the information is relevant to the hearing or proceeding and is used in response to a subpoena or other lawful process or request not accompanied by a court order;

- (7) Information, documentation and test results may be disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and
- (8) Health information or test results may be disclosed to comply with workers' compensation, OSHA, or job service laws and other similar programs; and
- (9) Information, documentation, and test results may be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

d. Negative Test Documentation: The Program Manager will retain all documentation for one year for all negative test results:

- (1) Alcohol tests results of less than .02%.
- (2) Verified negative drug tests.

e. Positive Test Documentation: The Program Manager will retain all documentation for five years for all positive test results, including the following:

- (1) Alcohol tests results of .02% or greater.
- (2) Drug tests results with verified positives.
- (3) Calibration documentation of the evidentiary breathe testing device.
- (4) SAP evaluations and referrals of employees for alcohol misuse.
- (5) Employee compliance with recommendations of the SAP for drug use and alcohol misuse.
- (6) SAP evaluations and referrals of employees for drug use.
- (7) MIS reports
- (8) Refusals to test.
- (9) Quarterly Annual Statistical Reports from certified lab.

f. Other records: The Program Manager will retain all of the following documentation for two years:

- (1) Collection process for alcohol except calibration of Evidentiary Breath Testing devices.
- (2) Collection process for drug testing.
- (3) Alcohol education and training records.
- (4) Drug education and training records.

15. Drug And Alcohol Testing Fees

The Company will pay for tests that are required by the testing program, except that the Company reserves the right to require the employee to pay the costs of testing for Treatment Program/Return-to-Work and Follow-up Testing. The employee will pay any test requested by the employee, unless the second test result proves the invalidity of the rest required by the Company. All drug and alcohol evaluations and rehabilitation programs will be the expense of the employee.

16. Drug and Alcohol Training

All DOT safety-sensitive employees will and other Company employees may receive a minimum of sixty (60) minutes training on the effects and consequences of prohibited drug use on the personal health, safety, and the work environment as well as on the signs and symptoms that may indicate prohibited drug and alcohol use.

All supervisors that directly oversee any employee in a safety-sensitive or non-safety-sensitive position will receive two (2) hours of reasonable suspicion training, one (1) hour on drugs and one (1) hour on alcohol. The purpose is to identify possible use through their speech, behavioral, performance and how to approach the employee with their findings for possible substance or alcohol abuse.

17. Testing Agency

The Company contracts with an authorized laboratory to do random selection of employees for drug and alcohol testing. The Company will use a NHTSA certified lab for the drug and alcohol sample testing and the certified Medical Review Officer (MRO) for review of the drug-testing sample. The laboratory will also submit blind samples to the certified lab for quality control verification tests. Three blind samples must be submitted per every 100 tests analyzed through the lab. The lab must furnish quarterly reports of the test completed. The MRO must have the appropriate medical training and knowledge of substance abuse disorders and be certified as such.

The Company will use local Collection Sites for drug sample collection and local BAT's of its choosing.

The Program Manager will monitor the testing agency to ensure that all federal and the Company requirements are being met.

SUMMARY OF REQUIRED ACTIONS

CONTROLLED-SUBSTANCE TESTS

<u>RESULTS</u>	<u>EMPLOYEE STATUS</u>	<u>REQUIRED ACTION</u>
Positive	Applicant	Not Hired
Positive	Employee or Probationary Employee	Referred to SAP, taken out of service, disqualified from operating company vehicle and machinery, and subject to termination; must be re-tested before returning to work.

ALCOHOL TESTS

.02 to .039	Applicant	Not Hired
.02 to .039	Employee or Probationary Employee	Taken out of service for 24 hrs without pay. Must be re-tested before returning to work; subject to termination.
.04 plus	Employee or Probationary Employee	Taken out of service and referred to SAP and disqualified from operating company vehicle and machinery, and/or subject to termination.

SUMMARY OF PROHIBITED CONDUCT AND REQUIRED ACTION

<u>PROHIBITED CONDUCT</u>	<u>EMPLOYEE STATUS</u>	<u>REQUIRED ACTION</u>
Refused to be tested	Applicant	Not Hired
Refused to be tested	Employee	Terminated – referred to SAP
Reporting to duty fewer than 4 hours after using alcohol	Employee or Probationary Employee	Taken off duty; referred to SAP; subject to termination.

Possessing or consuming alcohol, i.e. beverage as defined in Title V of the N.D. Century Code on the job	Employee or Probationary Employee	Taken off duty; referred to SAP and subject to termination.
Possessing or using a controlled substance	Employee or probationary employee	Taken off duty; referred to SAP and subject to termination without a doctor's prescription.
Performing a safety-sensitive function while using a prescription containing a controlled substance when a physician has not instructed that the substance does not adversely affect the ability to operate a vehicle safely	Employee or Probationary Employee	Taken off duty; referred to SAP. Subject to Company discipline, up to and including termination
Possessing or consuming cough syrup, mouthwash, or any substance containing alcohol while performing duties	Employee or Probationary Employee	Taken off duty; referred to SAP. Subject to Company discipline, up to and including termination.

Violation of the rules, regulations and operating procedures can result in disciplinary action, which may include termination.

The foregoing policy and procedures are not intended to be all inclusive of the required discipline and proper standards of conduct.

The Company shall when it deems appropriate, establish additional rules, regulations and operating procedures.

DRUG AND ALCOHOL PROGRAM PERSONNEL

APPROVED LABORATORIES

Definitions

BAT	Breath Alcohol Technician
CDL	Commercial Driver's License
CMV	Commercial Motor Vehicle
DOT	Department of Transportation
EBTD	Evidential Breath Testing Device
MRO	Medical Review Officer
STT	Screening Test Technician
DHHS	Department of Health and Human Services

Alcohol

Intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration

Alcohol in a volume of breath (shown as grams of alcohol /210 liters of breath) as indicated by an evidential breath test.

Alcohol Use

Consumption of any beverage, mixture, or preparation, including medication, containing alcohol.

Breath Alcohol Technician

An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing (EBTD) device.

Confirmation Test

In alcohol testing: a second test, following a screening test with the results of 0.02 or greater, that provides quantitative data of alcohol concentration. *In controlled substance:* A second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle from that of the screening test.

Controlled Substance

In regulation, the term “drug” and “controlled substances” are interchangeable and have the same meaning.

Evidential Breath Testing Device

A device used for alcohol breath testing that has been approved by the National Highway Safety Administration.

Medical Review Officer

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by and 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, medical history and other relevant biomedical information.

Screening Test

In alcohol testing: a procedure to determine if a driver has prohibited concentration of alcohol in his or her system. *In controlled substance testing:* a screen to eliminate “negative” urine specimens from further consideration

Substance Abuse

Refers to patterns of use that result in health consequences or impairment in social, psychological and occupational functioning.

Substance Abuse Professional (SAP)

A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

Any questions regarding this policy or other aspects of the Alcohol and Drug-Free Workplace and Testing Policy should be directed to the Program Manager of the Alcohol and Drug-Free Workplace and Testing Policy at CL Linfoot Co. at (701) 775-3961.

ESTABLISHED DATE: Updated 06/20/2016

Approved by: Dan Mulroy
President of C.L. Linfoot Co.

NOTICE OF THE RESULTS OF DRUG AND ALCOHOL TEST

DATE: _____

TO: _____

FROM: _____

On _____, 20____, you submitted to a test for the presence of drugs and alcohol, at the request of C.L. Linfoot Co. The results of that test, which was performed in accordance with the Company’s Drug and Alcohol Test Policy (the “Policy”), were as follows:

Positive / Negative

You have the right to receive from the Human Resources Department of C.L. Linfoot Co. a copy of the test results report from the laboratory which performed the test. In addition, if the results were positive, you now have the following rights under Minnesota law.

1. Within three (3) working days from the date of this Notice, you may submit to C.L. Linfoot Co., any additional information which you consider relevant to explain the positive result, including, for example, a list of over-the-counter or prescription medications which you are currently taking or have taken recently. This information must be submitted in writing to the Director of Human Resources.
2. Within five (5) working days form the date of this notice, you may submit to C.L. Linfoot Co. a request for a confirmatory retest of the original sample, at your own expense. This request must be submitted in writing to the Director of Human Resources. If the confirmatory retest fails to confirm the initial positive results, no adverse action will be taken against you by C.L. Linfoot Co. on the basis of the positive results.
3. The only adverse Personnel actions which may be taken against you by C.L. Linfoot Co. are as set forth in _____ of the Policy.