

## **ADDENDUM II**

[Insert Employer Name]  
**SUBSTANCE ABUSE PLAN FOR  
COMMERCIAL MOTOR VEHICLE DRIVERS**

**(FOR USE WITH DRIVERS BASED IN THE STATE OF ALASKA)**

### **1.0 STATEMENT OF PURPOSE AND SCOPE OF PLAN**

- 1.1 [Insert Employer Name], hereinafter referred to as “Participating Employer” has vital interests in ensuring a safe, healthy and efficient working environment for our employees and in preventing accidents and injuries resulting from the misuse of alcohol or the use of controlled substances by drivers of commercial motor vehicles. The unlawful or improper presence or use of controlled substances or alcohol in the workplace presents a danger to everyone. For these reasons, and as required by the drug and alcohol testing regulations of the Federal Motor Carrier Safety Administration (“FMCSA”), the Participating Employer has established this substance abuse plan, which will be administrated through its participation with the Alaska Construction Industry Substance Abuse Program (AKCISAP), aka the AK Clean Card Program. Drug and alcohol testing is an integral part of our program. Compliance with this plan is required as a condition of employment and also as a condition of continued employment.
- 1.2 Any Program Participant (as defined in Section 2.12 of this plan addendum) who operates a “commercial motor vehicle” (as defined in Section 2.7 of this plan addendum) for or on behalf of the Participating Employer who is required to have a commercial driver's license (“CDL”) in order to operate that vehicle is required to comply with the FMCSA's drug and alcohol rules and the provisions of this plan (“CMV driver position”). This plan also applies to supervisors of CMV drivers who actually drive or may be required to drive a commercial motor vehicle. Applicants who seek employment as a CMV driver are not covered by this plan or by the FMCSA's drug and alcohol rules until they have successfully passed the required Program Entry drug tests.
- 1.3 This plan explains the FMCSA's drug and alcohol regulations and the Participating Employer's own policies with respect to drivers of commercial motor vehicles who use controlled substances or misuse alcohol. Provisions of this plan which are imposed under the Participating Employer’s independent authority are specifically noted by underline.
- 1.4 This plan represents management policy only and should not be interpreted as a contract of employment. Noncompliance with this plan will result in disciplinary action, up to and including immediate termination.

- 1.5 Consistent with its fair employment policy, the Participating Employer maintains a policy of non-discrimination and will endeavor to make reasonable accommodations to assist recovering addicts or alcoholics and those having a medical history reflecting treatment for substance abuse conditions. Participants are encouraged to seek assistance before drug and alcohol use renders them unable to perform their essential job functions or jeopardizes the health and safety of themselves or others.
- 1.6 This plan was designed to protect an individual's privacy, to ensure the integrity and reliability of testing procedures and to protect the confidentiality of individual test results and medical histories. Any questions regarding the meaning or application of this plan should be directed to the Participating Employer's primary Designated Employer Representative:
- [Insert Name]
- [Insert Title]
- [Insert Telephone Number]
- 1.7 The Designated Employer Representative has distributed a copy of this plan to each DOT-regulated Program Participant covered by this plan and will ensure that it is distributed to each Participant subsequently hired or transferred to a CMV driver position.

## 2.0 DEFINITIONS

- 2.1 **"Adulterated Specimen"** means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- 2.2 **"Alcohol"** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- 2.3 **"Alcohol Screening Device"** means a breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.
- 2.4 **"Alcohol Use"** means the drinking or swallowing of any beverage, liquid, mixture, or preparation (including any medication) containing alcohol.
- 2.5 **"Breath Alcohol Technician" or "BAT"** means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.
- 2.6 **"Chain of Custody"** in drug testing, means the procedures used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).
- 2.7 **"Commercial Motor Vehicle"** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
- a. has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) including a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
  - b. has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
  - c. is designed to transport 16 or more passengers, including the driver; or
  - d. is of any size and is used for the transportation of hazardous materials requiring placarding under the federal Hazardous Materials Regulations.
- 2.8 **"Confirmation Test"** in drug testing, means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite. In alcohol testing, a confirmation test means a subsequent test, using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.
- 2.9 **"Controlled Substances" and "Drugs"** are used interchangeably in this plan and mean marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP) or their metabolites. The terms "controlled substances" and "drugs" include legal

substances obtained illegally or used in an unauthorized manner, but do not refer to the proper use of controlled substances authorized by law which do not affect job safety or performance.

- 2.10 **"Dilute Specimen"** means a specimen with creatinine and specific gravity values that are lower than expected for human urine.
- 2.11 **"Disabling Damage"** means damage which precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. This term **does not include** damage which can be remedied temporarily at the scene of the accident without special tools or parts; tire disablement without other damage even if no spare tire is available; headlight or taillight damage; or damage to turn signals, horn or windshield wipers which make them inoperative.
- 2.12 **"Program Participant"** means any person who operates a commercial motor vehicle that has become a participant in AKCISAP by passing a Program Entry drug test, has become employed by a Participating Employer. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors. The use of the term "employee" to refer to drivers subject to this plan, including Program Participants who drive and perform other safety-sensitive functions for or on behalf of the Participating Employer.
- 2.13 **"Evidential Breath Testing Device" ("EBT")** means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for Evidential Breath Measurement Devices, and identified on the CPL as conforming with the model specifications available from the NHTSA's Traffic Safety Program.
- 2.14 **"Licensed Medical Practitioner"** means a person who is licensed, certified, and/or registered, in accordance with applicable federal, state, local or foreign laws and regulations, to prescribe controlled substances and other drugs.
- 2.15 **"Medical Review Officer" ("MRO")** means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
- 2.16 **"Performing A Safety-Sensitive Function"** means any period in which a Program Participant is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- 2.17 **"Positive Drug Test Result"** generally means a result reviewed by an MRO and determined to demonstrate evidence of prohibited drug use. See "Verified Test."

- 2.18 **"Safety-Sensitive Function"** means all time from the time a Program Participant 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:
- a. All time at the Participating Employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the Program Participant has been relieved from duty by the Participating Employer;
  - b. All time inspecting equipment as required by the FMCSA's regulations 49 CFR §§392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
  - c. All time spent at the driving controls of a commercial motor vehicle in operation;
  - d. All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of the FMCSA's regulation 49 CFR §393.76);
  - e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
  - f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- 2.19 **"Screening" or "Initial Test"** means for drug testing, a test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs. In alcohol testing, means an analytic procedure to determine whether a Program Participant may have a prohibited concentration of alcohol in a breath or saliva specimen.
- 2.20 **"Screening Test Technician" ("STT")** means an individual who instructs and assists an individual in the alcohol testing process and operates an alcohol screening device.
- 2.21 **"Substance Abuse Professional" ("SAP")** means a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.
- 2.22 **"Verified Test"** means a drug test result or validity testing result from a certified laboratory that has undergone review and final determination by the MRO.

### **3.0 PROHIBITED CONDUCT**

#### **3.1 Prohibited Conduct Concerning Program Participant's Use of Drugs and Alcohol:**

- a. Program Participants are prohibited from reporting for duty, or remaining on duty when using any drugs, except when the use is pursuant to the instructions of a licensed medical practitioner (as defined in Section 2.14 of this plan addendum) who has advised the Program Participant that the substance will not adversely affect the Program Participant's ability to safely operate a commercial motor vehicle.
- b. Program Participants are prohibited from reporting for duty or remaining on duty with an alcohol concentration of 0.04 or greater. Program Participants found to have an alcohol concentration of 0.02 or greater, but less than 0.04, are prohibited from performing any safety-sensitive functions for at least 24 hours from the test.
- c. Program Participants are prohibited from using alcohol in any form (including medications containing alcohol) while performing safety-sensitive functions (refer to Section 2.18 of this plan addendum for the definition of performing safety-sensitive functions).
- d. Program Participants are prohibited from performing safety-sensitive functions within four (4) hours after using alcohol. On-call Program Participating employees who are not at work, but could be called to drive or perform other safety-sensitive functions, are subject to this pre-duty alcohol prohibition. This means a Program Participant who is on-call must decline a call to work if his or her acceptance would require the employee to drive or perform other safety-sensitive functions within four (4) hours after consuming alcohol. An on-call Program Participant who is required to decline work because of his/her violation of the four-hour rule is subject to discipline up to and including termination.
- e. Program Participants are prohibited from using alcohol for eight (8) hours following an accident, or until the driver takes a post-accident alcohol test, whichever occurs first.
- f. Program Participants may not refuse to submit to any drug or alcohol test required under the FMCSA's drug and alcohol rules and/or this plan.
- g. Program Participants are prohibited from performing or continuing to perform a safety-sensitive function if they have tested positive for controlled substances or alcohol.
- h. Program Participants may not refuse to submit to any inspection required under Section 11.0 of this plan.

- i. Program Participants are prohibited from engaging in the unlawful or unauthorized manufacture, distribution, dispensation, sale, purchase, solicitation, transfer, possession, use or transport of controlled substances or alcohol, while on Participating Employer's paid time, on Participating Employer's premises, in Participating Employer's vehicles, or while engaged in Participating Employer activities. This prohibition does not include the authorized distribution, dispensation, sale, purchase, solicitation, transfer, possession, use or transport of alcoholic beverages in connection with Participating Employer -sponsored functions or events.
  - j. Program Participants are prohibited from failing to stay in contact with the Participating Employer or its medical review officer while awaiting the results of a drug test.
- 3.2 **Consumption of Food or Food-Products Containing Hemp:** The consumption of food and food-products containing hemp (*e.g.*, "Seedy Sweeties" and hemp oil) may cause a Program Participant to test positive. A test result that is positive as a result of a Program Participant's consumption of food or food-products containing hemp will be reported as a positive test and subject the Program Participants to discipline, up to and including termination. (Refer to Section 7.3 of this plan addendum)
- 3.3 **Prohibition On Supervisor Or Manager Permitting A Program Participant To Work:** Any supervisor or manager who has actual knowledge that a Program Participant has engaged or is engaging in conduct prohibited above, shall not permit him/her to perform or continue to perform any safety-sensitive function.
- 3.4 **Prohibition Against Working While Using Any Medication Which Affect Safety Or Performance:**
- 3.41 Except as otherwise provided in this section, use of any medication (therapeutic drugs) while engaged in Participating Employer's activities is prohibited to the extent such use may affect his/her ability to perform his/her job duties safely.
  - 3.42 A Program Participant using any medication that contains alcohol or a controlled substance has an obligation to inquire and determine whether the substance he/she is taking may affect his/her ability to perform his/her job duties safely.
  - 3.43 If the Program Participant is or will be using any such medication, he/she is required to obtain from his/her licensed medical practitioner a written statement which provides that the medication will not interfere with his/her ability to safely and efficiently perform his/her job duties or provides any work restrictions.

- 3.44 Any such information must be reported to the Program Participant 's immediate supervisor prior to commencing any safety-sensitive functions, without disclosing the identity of the substance. Program Participants using such medications must have the medication in its original container which identifies the medication dosage and other pertinent information which may be reviewed by the Participating Employer's MRO.
- 3.45 A Program Participant may continue to work, if the Participating Employer's MRO and the licensed medical practitioner have determined that the medication will not adversely affect the Program Participant 's ability to safely and efficiently perform his/her safety-sensitive functions or determined that a reasonable accommodation can be made. A Program Participant may not be permitted to perform his or her safety-sensitive functions unless such a determination or reasonable accommodation has been made.

#### **4.0 REQUIRED TESTS AND PAST TEST RESULTS INFORMATION**

As required by the FMCSA's regulations, the Participating Employer will conduct drug and alcohol tests under the conditions and circumstances described below.

##### **4.1 Pre-Employment and Program Entry Drug Testing and Past Test Results Information:**

- 4.11 All applicants who have received a conditional offer of employment in a CMV driver position who are not AK Clean Card Program Participants currently in program compliance, and all existing employees whose transfer to a CMV position has been conditionally approved, are required to submit to a Program Entry drug test and must receive a negative test result as a condition of employment. Such tests will be conducted prior to the time the applicant is hired or transferred.
- 4.12 In addition to an AK Clean Card Program Entry drug test, FMCSA's regulations require the Participating Employer to obtain information concerning an applicant's past drug and alcohol tests from all of the motor carriers for which the applicant worked during the two years preceding the date of the application. As a condition of employment with the Participating Employer, applicants for CMV driver positions are required to complete and sign the Participating Employer's "Applicant's Authorization to Obtain Past Drug and Alcohol Test Results" form, which authorizes the applicant's former motor carrier employers during the preceding two years (from the date of application) to release to the Participating Employer information concerning the applicant's: (i) alcohol test results of 0.04 or greater; (ii) verified positive drug test results; (iii) refusals to be drug or alcohol tested (including verified adulterated or substituted drug test results); and (iv) other violations of DOT drug and alcohol testing regulations. This information will be obtained in a

confidential manner. The Participating Employer will maintain a written confidential record with respect to each former employer contacted. The information from a previous employer may contain any alcohol and drug information the previous employer obtained from other previous employers after January 1, 1995.

- 4.13 If the Participating Employer learns from the applicant's previous employers that he/she violated a DOT drug and alcohol regulation, he/she either will be ineligible for employment with the Participating Employer, or if hired, his/her employment will be terminated, unless the Participating Employer obtains evidence that he/she has successfully completed DOT's return-to-duty requirements.
- 4.14 Exclusions are to be determined by WorkSafe, Inc. as the AK Clean Card Third Party Administrator (TPA), based on the following criteria:
- The driver-applicant has participated in a controlled substances testing program that meets the requirements of 49 CFR part 382 and part 40 (or another DOT agency's controlled substances testing program) within the previous 30 days, and
  - While participating in that program, the driver-applicant either was tested for controlled substances within the past 6 months or participated in a random testing program for the previous 12 months, and
  - The employer verifies that no prior employer of the driver-applicant has records of a violation of Part 382, subpart B or the controlled substance prohibited conduct rules of another DOT agency within the previous 6 months (§382.301(c)).

#### 4.2 **Post-Accident Drug and Alcohol Testing:**

- 4.21 A Program Participant who is performing safety-sensitive functions (as defined in Section 2.18 of this plan addendum) involving a commercial motor vehicle is required to submit to a post-accident drug and/or alcohol test as soon as practicable following the accident, under the following circumstances described in subparagraphs a. and b. below:
- a. A Program Participant who is involved in an accident which results in a death to another human being must always submit to a drug and alcohol test.
  - b. A Program Participant who is involved in a non-fatal accident must submit to a post-accident drug and alcohol test if he/she was given a citation for a moving traffic violation arising from the accident **and** the accident results in either: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of accident; or (ii) one or more of

the vehicles involved in the accident incurs disabling damage (as defined in Section 2.11 of this plan addendum), requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

- 4.22 In the event of an accident, the Program Participant must notify the Designated Employer Representative as soon as possible to obtain information on how to proceed with the required testing. Program Participants are obligated to follow the Designated Employer Representative's instructions and to submit to post-accident drug and alcohol tests, as directed.
- 4.23 When required, both alcohol and drug testing must be performed as soon as possible after the accident, but no later than 8 and 32 hours respectively. If alcohol testing is not completed within 2 hours, the Participating Employer will document the reasons for this failure. If alcohol testing is not completed within 8 hours, the Participating Employer will cease efforts to conduct the test and document the reasons for this failure.
- 4.24 A Program Participant who is subject to post-accident testing must remain readily available for such testing or else will be deemed to have refused to submit to such testing. However, this "readily available" requirement does not require the delay of necessary medical attention for injured people, or prohibit a driver from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
- 4.24 A Program Participant who is required to submit to a post-accident test will be suspended after completion of the drug and/or alcohol tests. If the test results are negative, the driver will be compensated for all time lost from work which is directly attributable to the taking of the tests. The Participating Employer also reserves the right to evaluate the conduct of the Program Participant which may have caused or contributed to the accident, to determine if this conduct in and of itself should warrant discipline, up to and including termination.

**4.3 Random Drug and Alcohol Testing:**

- 4.31 AK Clean Card will administer random alcohol and drug tests. Random *drug* tests may be conducted at any time. Random *alcohol* tests will only be conducted while a Program Participant is performing safety-sensitive functions, just before the driver performs safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.
- 4.32 The minimum number of random *drug tests* AK Clean Card will conduct is equal to 50 percent of the average number of Program Participant

positions. The minimum number of random *alcohol tests* AK Clean Card will conduct is equal to 10 percent of the average number of Program Participant positions. These rates may be increased or decreased as required by the FMCSA's drug and alcohol regulations.

- 4.33 AK Clean Card shall select Program Participant for testing using a random number table or a computer-based random number generator that is matched with the Program Participant' social security numbers, or other comparable identification numbers which will ensure that each Program Participant has an equal chance of being tested each time selections are made.
- 4.34 All random tests will be unannounced and the dates for administering the tests will be spread reasonably throughout the calendar year. The dates of random testing, locations and names of those to be tested are kept in the strictest confidence by the Designated Employer Representative.
- 4.35 Each Program Participant who is notified of selection for random drug or alcohol testing must proceed to the test site immediately. If the Program Participant is performing a safety-sensitive function (other than driving a commercial motor vehicle) at the time of notification, he/she must cease performing the safety-sensitive function and proceed to the test site as soon as possible. Failure to appear for any test within a reasonable time of being directed to do so will be considered as a refusal to test.

#### 4.4 **Reasonable Suspicion Drug and/or Alcohol Testing:**

- 4.41 A Program Participant must submit to a reasonable suspicion drug and/or alcohol test whenever a manager or supervisor has reasonable suspicion to believe that the Program Participant has violated the drug or alcohol prohibitions contained in this policy. Reasonable suspicion drug tests may be conducted at any time. Reasonable suspicion alcohol tests may be conducted only while the Program Participant is performing safety-sensitive functions, just before he/she performs safety-sensitive functions, or just after he/she has ceased performing safety-sensitive functions.
- 4.42 Reasonable suspicion determinations will be based on specific, contemporaneous, articulable observations concerning the Program Participant, including but not limited to, his/her appearance, behavior, speech, or body odors. For drug testing, the observations may also include indications of the chronic and withdrawal effects of drugs.
- 4.43 Documentation of the observations leading to a reasonable suspicion test will be prepared and signed by the supervisor or manager who made the observations. All supervisors or managers who will make a reasonable suspicion determination have received training on alcohol misuse and controlled substances use in accordance with the FMCSA's regulations.

The supervisor or manager who makes a reasonable suspicion determination will not conduct the drug or alcohol test.

- 4.44 A Program Participant who is directed to take a reasonable suspicion drug and/or alcohol testing must submit to the test as directed. The Participating Employer shall transport or ensure transport of the Program Participant both to and from the collection site.
- 4.45 In the event an alcohol test has not been conducted as required by FMCSA but the Participating Employer has reason to believe a Program Participant is under the influence of or impaired by alcohol (as shown by his/her behavior, speech or performance), the Program Participant is prohibited from reporting for duty or remaining on duty requiring the performance of any safety-sensitive functions until an alcohol test can be administered and the result is below 0.02 or 24 hours have elapsed since the reasonable suspicion determination, whichever first occurs.
- 4.46 A Program Participant who is requested to submit to a reasonable suspicion drug and/or alcohol test will be suspended after the completion of the tests. If the test results are negative, the Program Participant will be compensated for all time lost from work which is directly attributable to the request to take the tests. The Participating Employer also reserves the right to evaluate the conduct of the Program Participant which warranted the reasonable suspicion drug or alcohol tests to determine if the conduct in and of itself should warrant discipline, up to and including termination.

**4.5 Return-To-Duty Drug or Alcohol Testing:**

- 4.51 FMCSA's regulations prohibit Program Participants who have engaged in conduct prohibited by the FMCSA's drug and alcohol regulations from performing safety-sensitive functions until they have fulfilled the DOT's requirements for return to duty, including:
  - a. Initial evaluation by a Substance Abuse Professional to determine the level of assistance needed to address the Program Participant's drug and/or alcohol problems;
  - b. Initiation of the education and/or treatment plan prescribed by the SAP; and
  - c. Follow-up evaluation by the SAP to determine whether the Program Participant has successfully complied with the prescribed education and/or treatment plan.
- 4.52 Program Participant who have fulfilled the above requirements for return to duty must also submit to a return-to-duty drug and/or alcohol test and receive negative results prior to returning to safety-sensitive duties.

4.53 Program Participants who engage in conduct prohibited by FMCSA's regulations or this plan will not be permitted to return to duty until they comply with the Participating Employer's terms and conditions.

4.6 **Follow-Up Drug and/or Alcohol Testing:**

4.61 Program Participant who have fulfilled the DOT's requirements for return to duty are required to submit to unannounced follow-up drug and/or alcohol tests after returning to duty, as directed by the SAP's follow-up evaluation report.

4.62 A minimum of six follow-up drug and/or alcohol tests must be conducted during the first twelve months following the Program Participant's return to duty. Testing may continue for up to 60 months.

4.63 Under the Participating Employer's independent authority, Program Participants who engage in conduct prohibited by FMCSA's regulations or this plan will not be permitted to return to duty until they execute the Participating Employer's "Agreement for Evaluation and Conditions for Continued Employment" and comply with its terms and conditions, which include submitting to any follow-up tests which may be directed by a substance abuse professional and receiving negative test results.

**5.0 SELF-IDENTIFICATION OF SUBSTANCE ABUSE PROBLEM**

5.1 A Program Participant who voluntarily self-identifies himself or herself as having a drug or alcohol problem and requests assistance for such a problem will be referred to the AK Clean Card's EAP for referral to a substance abuse professional for an evaluation and, if recommended, an appropriate counseling, treatment or rehabilitation program. The cost of the counseling, treatment or rehabilitation is the Program Participant's responsibility. (See the Participating Employer's policies regarding leaves of absences and benefit entitlement for further details).

5.2 **This request must be made before the Program Participant is directed or otherwise required to submit to a drug or alcohol test required by DOT or this plan. Under these circumstances, the Participating Employer will take no adverse action against the employee.**

5.3 If the substance abuse professional determines that the Program Participant is able to perform non-safety-sensitive functions while participating in such program, the Participating Employer will attempt to reassign the Program Participant to another available position which does not require the performance of safety-sensitive functions and for which the driver is also qualified. The Program Participant will receive the rate of pay for the position to which he or she has been reassigned.

5.4 Before the Program Participant will be permitted to return to his/her driving duties or perform other safety-sensitive functions, the he/she will be required to

submit to drug and/or alcohol tests and must receive negative results. In accordance with applicable state or local law, the Program Participant may also be required to submit to follow-up drug and/or alcohol tests. Return-to-duty and follow-up tests performed under this section of the plan will be conducted in accordance with applicable state or local law, if any. Where there is no applicable state or local law, or where such laws do not provide specific detailed procedures governing such testing, the Participating Employer will follow the Federal Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, as amended.

## **6.0 DRUG AND ALCOHOL TESTING PROCEDURES**

As required by the FMCSA's rules, AK Clean Card's drug and alcohol testing procedures comply with the Federal Procedures For Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, as amended. (A copy may be obtained from the Program Participant's Designated Employer Representative). These procedures ensure the integrity, confidentiality and reliability of the testing processes, safeguard the validity of the test results and ensure that these results are attributed to the correct Program Participant. Further, these procedures minimize the impact upon the privacy and dignity of persons undergoing such tests to every extent feasible.

### **6.1 Drug Testing Procedures:**

- 6.11 **Drugs being tested for:** The drugs specifically being tested for include: marijuana, opiates, amphetamines, cocaine, and phencyclidine (PCP) and their metabolites.
- 6.12 **Custody and control form and laboratory:** For purposes of conducting drug tests, AK Clean Card has established a procedure for the collection and analysis of urine specimens, using the Federal Drug Testing Custody and Control Form ("CCF"), that will verify the identity of each specimen and test result. All drug tests conducted pursuant to this policy shall be performed by laboratories which are certified by the Department of Health and Human Services ("DHHS").

6.13 **Confirmation and review of drug test results:**

- a. All positive drug test results will be confirmed by gas chromatography and mass spectrometry (GC/MS). All confirmed positive drug test results will be reviewed by a medical review officer ("MRO") to determine whether there is any legitimate medical explanation for the confirmed positive, adulterated, substituted or invalid test result. This review may include a medical interview, review of the Program Participant's medical history, or review of any other relevant biomedical factors and all medical records made available by the tested individuals.
- b. Individuals testing positive will be given the opportunity to discuss with the MRO any legitimate explanation for the positive test result. If, after speaking with the Program Participant, the MRO determines that there is a legitimate medical explanation for the confirmed positive test result, the MRO will report the test result as "negative" to CleanWorkForce and the Participating Employer's Designated Employer Representative or his/her alternate. If the MRO determines that there is no legitimate explanation for the confirmed positive test result, the result will be verified as a positive test result by the MRO.
- c. Under the circumstances set forth in 49 CFR Part 40, the MRO is permitted to verify a test result as positive without having first communicated directly with the Program Participant. In the event that serious illness, injury or other unavoidable circumstances prevented the Program Participant from being contacted by the MRO or a designed Company representative, however, the MRO may reopen the verification process to permit the Program Participant to provide information concerning a legitimate explanation for the positive test. (Refer to Section 3.1(J) of this plan addendum concerning the Program Participant's duty to remain in contact with the Participating Employer and MRO.)

6.14 **Right to have split specimen analyzed:** All Program Participants have the right to request, within 72 hours of being notified by the MRO of a verified positive test result, that the split specimen be analyzed in a different DHHS-certified laboratory, selected by the Program Participant, for the presence of the drug(s) for which a positive result was obtained or for reconfirmation of an adulterated, substituted or invalid test result. Unless the result is negative, the cost of the second test will be borne by the Program Participant.

- a. If the split specimen reconfirms the presence of the drug(s) or drug metabolite(s) or the adulteration, substitution or invalid finding,

the MRO will notify the Designated Employer Representative or his/her alternate and the tested individual of the test results.

- b. If the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the Designated Employer Representative or his/her alternate and the tested individual. When this occurs, another specimen must be collected immediately under direct observation.
- c. If the split specimen fails to reconfirm the presence of the drug(s) found in the primary specimen or the adulteration, substitution or invalid finding, the MRO shall cancel the test and report the cancellation and the reasons for it to the Designated Employer Representative or his/her alternate, the tested individual, and the DOT's Office of Drug and Alcohol Program Compliance.

6.15 **Inability to provide adequate amount of urine specimen:** Applicants and Program Participants must provide at least 45 milliliters of urine for a drug test. If the tested individual is unable to provide such a quantity of urine, then he/she will be instructed to drink up to 40 oz of fluids and after a period of time, again attempt to provide a complete specimen. If an applicant refuses to provide a new urine specimen, this will constitute a refusal to submit to a test and the applicant will be ineligible for employment with the Participating Employer. If a Program Participant refuses to provide a new urine specimen, this will constitute a refusal to submit to testing and his/her employment will be terminated. If a Program Participant has not provided a sufficient specimen within 3 hours after the first unsuccessful attempt to provide the specimen, the Participating Employer will direct him/her to obtain, as soon as possible, a medical evaluation from a physician selected by the Participating Employer. If the physician determines that there is no legitimate medical explanation for the Program Participant's failure to provide an adequate amount of urine, this will constitute a refusal to submit to a test and the Program Participant's employment will be terminated.

6.16 **Dilute urine specimens:** The Participating Employer will require prompt re-collection in the case of negative dilute results for pre-employment and reasonable suspicion tests, as permitted under 49 CFR 40.197.

- 6.17 **Altered or substituted urine specimens:** Procedures for collecting urine specimens allow individual privacy unless there is a reason to believe that a particular individual has altered or attempted to alter or substitute the specimen as defined in the Federal Procedures for Transportation Workplace Drug Testing Programs, 49 CFR Part 40. In such cases, a specimen may be obtained under the direct observation of a same gender collection site person in accordance with such procedures.
- 6.18 **Out of temperature specimen:** When a specimen is not within the normal temperature range of 90 to 100 degrees Fahrenheit, the donor will provide a second specimen, following procedures outlined in the Federal Procedures for Transportation Workplace Drug Testing Programs, 49 CFR Part 40, as long as he/she remains in view of collection personnel and does not leave the facility prior to providing a second specimen. If the donor refuses to provide a second specimen, or provides a second specimen which is not within the normal temperature range, it is considered a refusal to test and shall be treated as a positive test result.

## 6.2 **Alcohol Testing Procedures:**

- 6.21 **How test will be performed:** Alcohol screening tests will be performed by a breath alcohol technician ("BAT") using an evidential breath testing device ("EBT"), or if entirely unavailable, by a screening test technician ("STT") using a non-evidential screening device. AK Clean Card has a quality assurance plan for each non-evidential alcohol screening device and EBT it uses. In addition, AK Clean Card ensures that the STTs are proficient in the operation of non-evidential screening devices and that the BATs are proficient in the operation of EBTs. Further, AK Clean Card uses non-evidential alcohol screening devices that are on the National Highway Traffic Safety Administration's ("NHTSA") Conforming Products List ("CPL") for non-evidential screening devices and EBTs which are on NHTSA's CPL for evidential breath measurement devices.
- 6.22 **Confirmation of alcohol test results:** If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed using an EBT. The confirmation test will be conducted within 30 minutes from the end of the screening test. The confirmation test result is the final result upon which any discipline or other action taken under the Participating Employer's policy shall be based.
- 6.23 **Inability to provide adequate amount of sample for alcohol testing:**
- a. If a Program Participant fails to provide or claims that he/she is unable to provide a sufficient amount of breath sample to permit a valid breath test because of a medical condition, the Participating Employer will require the Program Participant to be evaluated by a

physician selected by the Participating Employer. If the physician determines that the Program Participant's alleged medical condition is not likely to have precluded him/her from providing an adequate amount of breath sample, this will constitute a refusal to test and his/her employment will be terminated.

- b. If the Program Participant is unable to provide sufficient saliva to complete a test on a saliva screening device, the STT shall conduct a new test, using a new device. If the Program Participant refuses to complete the new test, this will constitute a refusal to submit to a test and his/her employment will be terminated. If the new test is completed, but there is an insufficient amount of saliva to activate the device, the Program Participant shall immediately take an alcohol test using an EBT. If the Program Participant refuses to submit to the test using an EBT, his/her employment will be terminated.

## 7.0 CONSEQUENCES FOR PLAN VIOLATIONS

The consequences discussed below apply to Program Participants who are found to have violated this plan. Regardless of the discipline imposed, however, FMCSA's regulations require Program Participants who engage in any prohibited conduct under this plan to be advised of available resources for evaluating and resolving problems associated with drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. This information will be provided through AK Clean Card.

- 7.1 **Automatic Removal From Safety-Sensitive Functions:** FMCSA's regulations require Program Participants who violate this plan in any way to be immediately removed from their safety-sensitive functions. Such Program Participants are prohibited from performing, or being permitted to perform, a safety-sensitive function.

- 7.2 **Refusal To Submit:**

- 7.21 The employment of any Program Participant who refuses to submit to a test will be terminated.
- 7.22 For purposes of this policy, the following conduct will be considered as a refusal to submit to a test:
  - (i) Failure to appear for any test within a reasonable time after being directed to do so by the Participating Employer.
  - (ii) Failure to remain at the testing site until the testing process is complete.

- (iii) Failure to provide a urine specimen for any drug test required by DOT agency regulations.
- (iv) Failure to permit the observation or monitoring of the provision of a specimen, when required to do so by DOT regulations.
- (v) Failure 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.
- (vi) Failure to take a second test the Participating Employer or collector has directed the Program Participant to take.
- (vii) Failure to undergo a medical examination or evaluation when directed to do so by the MRO as part of the verification process, or when directed by the Participating Employer.
- (viii) Failure to cooperate with any part of the testing process.
- (ix) Having a verified adulterated or substituted test result as reported by the MRO.

### 7.3 Positive Test Results:

#### 7.31 Drivers:

- a. **Temporary suspension:** Any Program Participant who is required to submit to a reasonable suspicion or post-accident drug or alcohol test pursuant to this policy will be temporarily suspended. If the verified test results or split specimen test results are negative, the Program Participant will receive backpay for the period of suspension.
- b. **Verified positive drug test and alcohol test results of 0.04 or greater:** Any Program Participant who receives a verified positive drug test or an alcohol test result of 0.04 or greater for the first time will be suspended without pay and may be subject to further discipline, up to and including termination. However, the Program Participants's employment will not be terminated unless:
  - (1) The Participating Employer has first given the Program Participant an opportunity to contact the EAP to begin the SAP process as defined in 49 CFR Part 40, which provides the Program Participant with the opportunity to participate in (at his/her own expense or pursuant to coverage under an employee benefit plan), a drug or alcohol evaluation, counseling, treatment or rehabilitation program, whichever is determined to be more appropriate by the substance

abuse professional who evaluates the Program Participant;  
**and**

- (2) The Program Participant: (i) refuses or fails to be evaluated by a substance abuse professional, (ii) refuses to participate in the counseling, treatment or rehabilitation program recommended by the substance abuse professional, (iii) fails to successfully complete the program, as evidenced by the Program Participant's withdrawal from the program before its completion or (iv) violates the drug/alcohol prohibitions of this plan during the two-year period after return to duty.
- (3) A Program Participant's employment will be terminated if he/she: (i) refuses or fails to be evaluated by a substance abuse professional, (ii) fails to fully cooperate and complete the recommended counseling, treatment or rehabilitation program, or (iii) violates the drug/alcohol prohibitions of this plan during the two-year period after return to duty.

- c. **Positive alcohol test results of 0.02 or greater but less than 0.04:** A Program Participant who receives a confirmed alcohol test result of 0.02 or greater, but less than 0.04, **for the first time**, will be suspended without pay for 24 hours. The employment of a Program Participant who receives a confirmed positive alcohol test result of 0.02 or greater **for a second time** will be terminated.
- d. **Fitness-for-duty evaluation in the event of Program Participant's legal and authorized use of a controlled substance:** Whenever a Program Participant submits to a reasonable suspicion test and receives a positive result for the legal and authorized use of a controlled substance, he/she will be required to submit to a fitness-for-duty evaluation, which may include a review of his/her medical records and a medical examination. Under such circumstances, the Program Participant will be required to provide the Participating Employer with the necessary authorization to obtain his/her medical records and agreement to submit to the medical examination. The purpose of the evaluation is to determine whether the Program Participant can satisfactorily perform his/her essential job functions or poses a direct threat to the health or safety of himself/herself or others. Depending on the results of the evaluation, the Participating Employer will consider whether the safety or health risk can be eliminated or substantially reduced by a reasonable accommodation, if applicable.

- 7.4 **Other Plan Violations:** Program Participants who commit plan violations other than those addressed in Sections 7.2 and 7.3 above will be subject to discipline, up to and including, immediate termination of employment.
- 7.5 **Potential Forfeiture of Workers' Compensation and/or Unemployment Compensation Benefits:** A Program Participant's violation of FMCSA's regulations and/or the requirements of this plan constitute gross and willful misconduct. In addition to the discipline and other consequences imposed by FMCSA and the Company under this plan, such misconduct may also result in the denial of unemployment compensation under the applicable state law. In addition, Program Participant who are injured as a result of a violation of FMCSA's regulations and/or the Company's safety rules (including but not limited to the conduct prohibited under this plan) may also forfeit workers' compensation benefits under the applicable state law.

## **8.0 NOTIFICATION OF TEST RESULTS**

Program Participants will be advised of drug test results which are verified positive, adulterated, or substituted, and the drug or drug(s) for which a positive result was verified. Program Participants will be notified of the results of their alcohol tests immediately after the administration of the screening test and, if necessary, the confirmatory test.

## **9.0 TESTING EXPENSES AND COMPENSATION FOR TESTS**

- 9.1 AK Clean Card will pay for all drug and alcohol tests required to be taken by Program Participants or applicants under this plan, including confirmation tests. Except where prohibited by state or local law, any test taken at a Program Participant's request, including split specimen tests, will be at their own expense, unless the result of the test is negative.
- 9.2 All time spent by a Program Participant providing a urine, saliva, or breath specimen required under this plan, including travel time to and from the collection site, will be considered as on-duty time. The Program Participant will receive his or her regular compensation, including overtime if applicable, for such time.

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

- 10.1 The Participating Employer will maintain records of its alcohol misuse and drug use prevention programs as required by the FMCSA's regulations. These records will be maintained in a secure location with controlled access and will not be released to any person except as required by law or expressly authorized by the driver.
- 10.2 The laboratory may disclose drug test results only to the MRO. The MRO, STT and BAT may disclose test results only to the individual tested, Designated Employer Representatives, a treatment program, or a court of law or

administrative tribunal to the extent required by law. Beyond that, a Program Participant's test results shall not be released to any person without the individual's written consent.

## **11.0 INSPECTIONS**

- 11.1 **Inspections of Company Property:** The Participating Employer may conduct unannounced random inspections for drugs and alcohol on Participating Employer facilities and property such as, but not limited to, Participating Employer vehicles, desks, file cabinets, Participating Employer -issued employee lockers in which the Company retains a copy of the key or the combination, etc. Program Participants are expected to cooperate in the conduct of such inspections. Inspections of Participating Employer facilities and property may be conducted at any time and need not be based on reasonable suspicion.
- 11.2 **Inspections of Program Participant Property:** Inspections of Program Participants and their personal property such as, but not limited to, vehicles, clothing, packages, purses, brief cases, lunch boxes, or other containers brought on to Participating Employer's premises may be conducted when there is reasonable suspicion to believe that he/she may have or has violated the drug or alcohol prohibitions contained in this plan.

**12.0 COMPLIANCE WITH PLAN AS CONDITION OF EMPLOYMENT** Inspections of Program Participants and their personal property such as, but not limited to, vehicles, clothing, packages, purses, brief cases, lunch boxes, or other containers brought on to Participating Employer's premises may be conducted when there is reasonable suspicion to believe that he/she may have or has violated the drug or alcohol prohibitions contained in this plan.

All Program Participants are advised that full compliance with this substance abuse plan shall be a condition of employment and continued employment. See Section 7.0 for the consequences for refusal to submit to tests and policy violations.

## **13.0 EMPLOYEE ASSISTANCE PROGRAM ("EAP")**

As part of the Participating Employer's commitment to provide a safe, healthy and efficient working environment for our employees, the Participating Employer maintains an Employee Assistance Program ("EAP"). The EAP provides information concerning the effects and consequences of alcohol and drug use on an individual's health, work, and personal life and the signs and symptoms of an alcohol or drug problem. In addition, the EAP provides referral services to Program Participants and their families seeking help with problems resulting from alcohol misuse and drug use. Participation in this program is voluntary and confidential. The EAP can discuss available counseling, treatment and rehabilitation programs, fiscal responsibilities, and can help the Program Participants decide what program might be best for his or her situation. For further information or to arrange an appointment, call \_\_\_\_\_ EAP at 1-800-\_\_\_\_\_ .

