

## **Spady Transport Limited**

17735 1st Avenue  
Unit #159  
Surrey, BC  
V3Z 9S1



# **Alcohol and Drug Policy**

(With application to Company-Wide drivers)

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Toll Free: 1-800-463-4310

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Ms. Margaret Spady  
Spady Transport Limited  
17735 1st Avenue  
Unit #159  
Surrey, BC  
V3Z 9S1

Dear Ms. Spady,

Thank you for purchasing your Drug & Alcohol Policy from DriverCheck. This policy represents a significant effort by DriverCheck to ensure our clients have the most comprehensive and complete policy available while taking into consideration U.S. DOT regulations (where applicable) and Canadian human rights legislation.

This policy must be read in conjunction with the applicable U.S. Department of Transportation Regulations (currently 49 CFR Parts 40 and 382, as amended from time to time) to which the policy's terms and application are subject. The following is a link to such DOT Regulations:

[http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.aspx?section\\_type=A](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.aspx?section_type=A)

This policy must also be read in conjunction with the attached "DOT Testing Publication" – "What Employees Need To Know About Drug & Alcohol Testing". Although the U.S. DOT regulations only legally apply to your drivers who operate in the United States, you have chosen through this policy to adopt these same standards and requirements for all of your drivers and to apply them not only to your U.S. drivers, but also to your drivers who operate only in Canada (with certain exceptions, such as no direct observation for Canada only drivers).

This policy was reviewed for us by the law firm of Hicks Morley Hamilton Stewart Storie LLP of Toronto. Hicks Morley is Canada's largest management law firm specializing in human rights and employment law. Included with this policy is a letter from Hicks Morley addressing the Canadian Human Rights Commission's policy on alcohol and drug testing, and the considerations to keep in mind when implementing this policy.

This policy is intended as a "generic" policy that should be applicable to most small to medium sized companies. We strongly suggest that any modification to the policy be reviewed by Hicks Morley or other legal counsel. This policy allows for employer discretion in certain circumstances. To exercise discretion, however, you must ensure compliance with conditions imposed by the DOT. Regulation 49 CFR Part 40.197 imposes constraints to retest employees with a dilute negative test result. Similarly, employers who exempt employees from pre-employment testing must first obtain and retain the information identified in 49 CFR Part 382.301(c). Finally, where employers choose to conduct pre-employment testing of drivers who are to operate in the U.S., 49 CFR Part 382.301(d) imposes certain conditions. You are encouraged to review the above-mentioned DOT regulations, and to consult with Hicks Morley or other legal counsel to ensure that your exercise of discretion within the context of this policy is DOT-compliant.

Each driver must receive a copy of this policy including the link to the applicable DOT regulation(s) and also the corresponding "DOT Testing Publication" and each driver must sign the "Certificate of Receipt" form contained within this policy as well as the "Acknowledgment" form under Addendum E.

Finally, we must state that this policy is the intellectual property of DriverCheck and for your use only. Photocopying for distribution or sale to a third party is illegal and strictly prohibited.

Thank you again for selecting DriverCheck as your alcohol and drug testing provider. If you have any questions, please do not hesitate to call us.

Sincerely,

DriverCheck Inc.

# Legal Considerations



HUMAN RESOURCES  
LAW AND ADVOCACY

Toronto  
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JOHN J. BRUCE  
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File No. 2249-11  
November 28, 2013

**STRICTLY PRIVILEGED & CONFIDENTIAL**

Dr. Chris Page  
DriverCheck  
1 Manley Street  
P.O. Box 1186  
Ayr, ON N0B 1E0

Dear Dr. Page:

**Re: Canadian Human Rights Commission Policy and Alcohol and Drug Testing**

You have asked us for our opinion respecting the significance of the recently revised Canadian Human Rights Commission policy on alcohol and drug testing.

The Canadian Human Rights Commission (the "Commission") has issued a policy on alcohol and drug testing. The policy reflects the growing body of case law from the Supreme Court of Canada and the Provincial Court of Appeal respecting to drug testing and alcohol testing. The policy considers alcohol and drug testing to be *prima facie* discriminatory. However, testing can be justified where it is a *bona fide* occupational requirement and where employee drug and alcohol dependencies are accommodated by the employer.

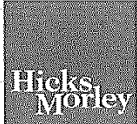
The policy considers the following types of testing to typically (but, see the truck and bus exception below) violate the *Canadian Human Rights Act*:

- pre-employment drug testing;
- pre-employment alcohol testing;
- random drug testing; and
- random alcohol testing for employees in non-safety sensitive positions.

The policy recognizes that, in some circumstances, the following types of testing may be acceptable, provided that an employer can demonstrate that they are *bona fide* occupational requirements and that dependencies are being accommodated:

hicksmorley.com

# Legal Considerations



HUMAN RESOURCES  
LAW AND ADVOCACY

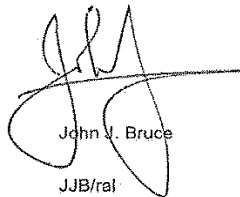
- random alcohol testing of employees in safety sensitive positions;
- "reasonable cause" or "post-accident" drug or alcohol testing; and
- periodic or random testing following disclosure of a drug or alcohol dependency or abuse problem ("return to duty" and "follow-up" testing).

Of particular interest to Canadian transportation companies is the policy's treatment of commercial truck and bus operators, especially those who operate in the United States and are subject to U.S. Department of Transportation (DOT) regulations. The Commission recognizes that truck and bus drivers are a unique group for which expanded testing may be appropriate, including pre-employment and random drug and alcohol testing. The policy recognizes that compliance with US DOT regulations may constitute a *bona fide* occupational requirement, provided the employer accommodates drivers who are alcohol or drug dependent to the point of undue hardship.

It is important to recognize that while the Commission's policy on alcohol and drug testing adopts much of the current human rights law on this subject, it is only a statement of the Commission's interpretation, and should not be read as a statement of law. Secondly, the policy suggests that while compliance with the US DOT regulations could be seen as running contrary to Canadian human rights principles, it may nevertheless constitute a *bona fide* occupational requirement, provided that employers demonstrate that all reasonable accommodation measures are taken. Thirdly, as this area of human rights jurisprudence continues to develop, it may be necessary to revisit and update this opinion, and DriverCheck's drug and alcohol policy.

I trust the above is responsive to your inquiry. Please do not hesitate to contact me if you have any questions.

Yours very truly,



John J. Bruce  
JJB/ral

## Instructions for the Company:

The following PARTS ONE and TWO must be filled out for notification purposes to applicable drivers prior to these driver(s) receiving a copy of this policy. This is a requirement by the applicable U.S. Department of Transportation Regulation(s).

### **PART ONE – Policy Designated Employer Representative(s)**

This form must be filled out to indicate which Designated Employer Representative(s) you, as the Employer, have designated to be the contact person(s) to whom the applicable driver(s) can direct any questions/concerns regarding this policy.

You may include more than one designate, however, this form should be updated and driver(s) informed, if any addition or omittance of designate(s) occurs.

### **PART TWO – Notification of Additional Employer Policies**

This form must be completed to notify applicable covered driver(s) of the Company's requirement for specific testing situations which are allowed, but not required to be performed, as stated in the applicable U.S. Department of Transportation Regulations. If the Company chooses to conduct any of these additional requirements, the Company must treat all applicable drivers the same for all purposes (i.e. must not test some covered drivers and not others).

## Part One

### **POLICY DESIGNATED EMPLOYER REPRESENTATIVE(S)**

Please direct any questions about this policy to:

---

Company DER (designated employer representative)

---

Company DER (designated employer representative)

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Company DER (designated employer representative)

## Part Two

### **NOTIFICATION OF ADDITIONAL PRE-EMPLOYMENT TESTING:**

The Company will require all applicable covered drivers to undergo a Pre-Employment Alcohol Test (in addition to the Pre-employment Drug Testing), as allowed by Part 382.301 (2)(b).

YES, it is required

NO, it is not required

### **NOTIFICATION FOR RE-TESTING OF NEGATIVE DILUTE RESULTS:**

If a test result is negative AND dilute, the driver will be required to take another test, as allowed by Part 40.197.

YES, it is required\*

NO, it is not required

\*If YES, this will be for all test types, unless otherwise specified below:

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## Part Three

### POLICY INTRODUCTION

1. The Company is committed to providing the highest standard of service to its customers and the public. Clearly, providing safe service is a necessary component in achieving such quality. The Company's drivers operate and service, with only minimal direct supervision being possible, commercial motor vehicles (CMV) which must travel together with non-commercial and other commercial traffic on public roads and highways, both in Canada and the United States. Drug or alcohol use during the performance of safety-sensitive functions may result in serious injury, harm or death to the driver, co-workers, as well as other individuals (e.g. on public roads). Signs and symptoms of drug and alcohol use include, but are not limited to, those listed in Section 35 of this Company policy. Accordingly, the Company recognizes that its drivers are operating in extremely safety-sensitive positions.
2. In addition, the activities of the Company and its drivers are strictly regulated by the Canadian, United States (49 CFR Parts 40 and 382, as amended from time to time), and provincial governments, where applicable. The regulations, which are directed at maintaining optimum safety standards, are in keeping with the safety objectives of this policy and thus have been incorporated into this policy.

This policy's terms and application are made subject to applicable U.S. Department of Transportation Regulations (currently 49 CFR Parts 40 and 382, as amended from time to time). The following is a link to such DOT Regulations:

[http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.aspx?section\\_type=A](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.aspx?section_type=A)

Although the U.S. DOT regulations only legally apply to drivers who operate in the United States, the Company has chosen by policy to adopt these same standards and requirements for all drivers and to apply them, not only to U.S. drivers, but also to drivers who operate only in Canada.

This policy must also be read in conjunction with the attached "What Employees Need to Know About DOT Drug & Alcohol Testing" (published by the U.S. Department of Transportation, Office of the Secretary, Office of Drug & Alcohol Policy & Compliance ("DOT Testing Publication"). Hereinafter, except as expressly otherwise indicated, the policy and the DOT Testing Publication shall be jointly and severally referred to as the "policy".

3. In light of these commitments, safety concerns, liabilities, supervision issues, and legal obligations, the Company must take measures which are effective in ensuring that its drivers, when performing their duties, are completely free of the negative effects of alcohol and drug use and thus performing at the optimal and regulated standard of safety. As one such measure, the Company has established and will strictly enforce this alcohol and drug use policy. It will be an essential job function for all drivers to meet and comply with the requirements of this policy.

## DEFINITIONS

4. The following list of definitions provides the meaning to be given to certain terms as used throughout the policy:

*"alcohol"*

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

*"alcohol use"*

The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

*"beverage alcohol"*

Beer, wine, and distilled spirits.

*"commercial motor vehicle" (CMV)*

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) has a gross vehicle rating of 26,001 or more pounds; (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of hazardous materials requiring placards.

*"Consortium/ Third Party Administrator (C/TPA)"*

Means a service agent who provides or coordinates drug and/or alcohol testing services to employers. C/TPA's typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employer's drug and alcohol testing program. C/TPA's are not employers.

*"driver"*

Any person performing work for the Company (including an employee,

contractor, independent owner-operator, owner-operator, leased driver, casual and intermittent driver, or applicant for work) who holds a commercial driver's licence, or is required to hold a commercial driver's licence, and who regularly or occasionally may be required by the Company to operate a commercial motor vehicle.

*"drug(s) or classes of drugs"*

Marijuana, cocaine, opioids, amphetamines, and PCP (as per 49 CFR Part 40, as amended from time to time).

*"knowledge"*

Means the knowledge by the Company that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substances use, except as outlined in this policy.

*"Medical Review Officer (MRO)"*

A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

*"refusal"*

- 1) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see § 40.61(a)).
- 2) Failure to remain at the testing site until the testing process is complete, provided that an employee who leaves the testing site before the testing process commences (see § 40.63(c)) a pre-employment test is not deemed to have refused to test.
- 3) Failure to provide a urine specimen for any drug test required by this part or DOT agency regulations, provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see § 40.63(c) for a pre-employment test is not deemed to have refused to test).
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see §§ 40.67(l) and 40.69(g)).
- 5) 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 (see §

- 40.193(d)(2)).
- 6) Fails or declines to take a second test the employer or collector has directed the driver to take.
  - 7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under § 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
  - 8) Failure to cooperate with any part of the testing process (e.g. refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process).
  - 9) Is reported by the MRO as having a verified adulterated or substituted test result.
  - 10) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
  - 11) Admits to the collector or MRO that he or she adulterated or substituted the specimen.

*"return-to-duty process"*

The process that begins after a driver violates this drug and alcohol policy. It includes an initial visit to a substance abuse professional, education and/or treatment, a second visit to a substance abuse professional, a return-to-duty test and a minimum of six follow-up tests in the 12 months after the return-to-duty test.

*"stand-down"*

The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

*"substance abuse professional"*

A person knowledgeable about and who has clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, who evaluates employees who have violated this policy and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

## Part Four

### SCOPE

5. This policy applies to any person performing work for the Company (including an employee, contractor, owner-operator, leased driver, casual and intermittent driver, or applicant for work) who holds a commercial driver's licence, or is required to hold a commercial driver's licence and who regularly or occasionally may be required by the Company to operate a commercial motor vehicle.
6. Drivers are "on duty" whenever performing work for the Company, whether on company premises, operating a company vehicle, or otherwise. Drivers are performing "safety sensitive functions" during:
  - (a) All time at a carrier or shipper plant, terminal, facility, or other property waiting to be dispatched unless the driver has been relieved from duty by the employer.
  - (b) All time inspecting, servicing, or conditioning any commercial motor vehicle or related equipment.
  - (c) All time spent at the driving controls of a commercial motor vehicle.
  - (d) All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
  - (e) All time loading or unloading a commercial motor 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.
  - (f) All time spent performing the driver requirements associated with an accident and/or disabled vehicle.

### PURPOSE

7. The purposes of this policy are:
  - (a) To assist the Company and its drivers in identifying alcohol and other drug use by drivers which could negatively impact their ability to perform at the optimal and regulated standard of safety, completely free of the negative

effects of the use of alcohol or other drugs.

- (b) To ensure that Company drivers perform their duties at the optimal and regulated standard of safety, completely free of the negative effects of the use of alcohol and other drugs.
- (c) To identify, accommodate, and assist drivers in appropriate circumstances who are identified as having a drug and/or alcohol-related dependency or disorder.
- (d) To implement appropriate corrective action up to and including discharge where a driver violates this policy.
- (e) To implement corrective measures (only in those circumstances where termination is inappropriate) which will assist any such driver(s) who have been identified as violating this policy in returning to their work duties with the essential assurance that the driver(s) will remain, while on duty, completely free of the negative effects of the use of alcohol and other drugs.

## **POLICY DESIGNATED EMPLOYER REPRESENTATIVE**

- 8. The Company will appoint an individual to be the "Alcohol and Drug Use Policy Coordinator" (also referred to as a "Designated Employer Representative" or "DER"), who will be given the responsibility and authority to maintain and enforce the provisions of this policy. The DER's name and contact information is identified in a Notice which has been attached to this policy (see Part ONE). If this person is replaced, another Notice will be issued identifying the replacement DER and contact information.
- 9. Drivers should address any questions or concerns about this policy to the designated Policy Coordinators.

## Part Five

### CONTRACTORS

10. The Company will endeavour to ensure that all drivers performing work for the Company are completely free of the negative effects of the use of alcohol and other drugs. Accordingly, as a condition of contract, all contractors (including independent owner-operators, leased drivers, casuals, and any other non-employees) who/which wish to operate a commercial motor vehicle for the Company must either participate in the mandates of this policy or must provide proof that they are implementing and enforcing an equally stringent policy with respect to the use of alcohol and other drugs.
11. Contractors will accept the mandates of this policy by signing the “Certificate of Receipt” which is attached to this policy.
12. Alternatively, the Company will ensure that its contractors are implementing and enforcing an equivalent alcohol and drug use policy by:
  - (a) Having the Contractor complete and execute written confirmation that such policy is being implemented;
  - (b) Obtaining a copy of such policy;
  - (c) Ensuring that the policy is in place before the contracted work functions commence;
  - (d) Obtaining reports from approved contractors detailing actual enforcement of the policy;
  - (e) Ensuring that the Company reserves the right to audit the Contractor's records with respect to implementing and enforcing such policy; and
  - (f) Ensuring that the Company has guaranteed immediate access to the drivers' records maintained by the Contractor.

## Part Six

### STANDARDS

13. Any driver who performs work for the Company will be subject to corrective action up to and including discharge should he or she breach any of the provisions of this policy.
14. No driver may have any beverage alcohol, drugs, beverage alcohol containers, or drug paraphernalia in their possession or control, including anywhere within their commercial vehicle (unless as part of a manifested load), except for drugs contained as an ingredient in medication which has been prescribed by a licensed physician and which the physician has advised the driver will not adversely affect his or her ability to operate a commercial motor vehicle. (Respecting medical marijuana, please refer to the Note in paragraph 15 below.)
15. No driver, who uses medication containing alcohol or drugs, shall operate a commercial motor vehicle unless:
  - (a) the medication has been prescribed by a medical practitioner; this medical practitioner must be a physician knowledgeable about occupational health, who also understands the potential impact of the prescribed medication (including medical marijuana) on workplace safety.
  - (b) the driver is using the medication only as prescribed; and
  - (c) the medical practitioner has advised the driver that such medication will not adversely affect his or her ability to operate a commercial vehicle. The medical practitioner should evaluate the employee to determine if he or she can perform their job safely while taking the drug.

In the event the driver's medical practitioner advises the driver that the use of medication will adversely affect his/her ability to operate a commercial motor vehicle, the medical practitioner will provide the Company, in writing, the nature and duration of any work modification required.

Note: In Canada, some "over the counter" medications contain drugs and/or alcohol (for example, codeine). A driver must ensure compliance with all of the requirements of paragraph 15 respecting these medications.

Note: Medical Marijuana—

For drivers who work in the United States, the U.S. DOT Office of Drug and Alcohol Policy issued a Compliance Notice (October 22, 2009) that medical

marijuana, even where licensed or lawfully authorized in certain jurisdictions, is not authorized under the DOT regulations to be a valid medical explanation for a driver's positive test result, and further that it remains a drug listed in Schedule I of the *Controlled Substance Act* and it *"remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation's drug testing regulations to use marijuana."*

For drivers who only work in Canada and are not subject to U.S. DOT regulations, any driver, who has been licensed or lawfully authorized to possess and use medical marijuana, must ensure compliance with all of the requirements in paragraph 15 and for purposes of this policy such medical marijuana will be deemed a medication.

16. No driver will report or continue to work with a blood alcohol concentration of .02 or greater.
17. No driver will report or continue to work with any presence of drugs in his or her body which would give rise to a positive drug test (as per cut-off levels identified in 49 CFR Part 40, as amended from time to time).
18. No driver will consume alcohol within four hours prior to reporting to work.
19. No driver will consume alcohol within eight hours of an accident for which this policy requires post-accident drug and alcohol testing or until he/she undergoes a post-accident alcohol test, whichever occurs first.
20. Where a Company supervisor or official has reasonable cause to believe that a driver has been using alcohol or drugs in violation of this policy, the driver will be removed from duty. The driver will not be allowed to perform his or her safety sensitive duties until after 24 hours have elapsed or after he or she has been tested for alcohol and drug use and, if testing positive, completed the return-to-duty process.
21. A driver who refuses to be tested for alcohol or drugs as required by this policy or who attempts to obstruct or sabotage the testing process will be subject to corrective discipline. This will be in addition to an assessment by a substance abuse professional, in accordance with the provisions of this policy. Failure to co-operate with the testing requirements of this policy will have the same consequences as receiving a positive test result. More details as to what will constitute a "refusal" can be found in the "Definitions" section of this policy and are set out in the attached (DOT Testing Publication) "What Employees Need To Know About DOT Drug & Alcohol Testing".
22. A driver who receives an alcohol test result indicating a blood alcohol concentration of .02 to .039 will be removed from duty immediately and will not

be allowed to return to work for at least 24 hours after the administration of the test. The driver will not be paid for any hours for which the driver was scheduled to work during this 24 hour period.

23. If a driver:

- (a) Receives an alcohol test result indicating a blood alcohol concentration of .04 or greater;
- (b) Receives a verified positive drug test result, a verified adulterated drug test result, or a verified substituted drug test result;
- (c) Refuses to be tested for drug or alcohol use as required by this policy; or
- (d) Does not report immediately and directly to a testing location as instructed, or the driver takes steps which reasonably can be seen as obstructing the testing process or as adulterating the accuracy of testing results,

The driver:

- (i) Will immediately be removed from duty;
- (ii) Will be recommended for assessment by a substance abuse professional to start the return-to-duty process;
- (iii) May be subject to corrective disciplinary action up to and including discharge; and
- (iv) (Only where the driver has not been terminated) will not be allowed to return to performing his or her safety sensitive duties until after he or she has been assessed by the substance abuse professional, has had education and/or treatment as determined by the substance abuse professional, has been re-assessed by the substance abuse professional to ensure proper compliance with the education and/or treatment recommendations, and has had a negative return-to-duty test, in accordance with the provisions of this policy.
- (v) Will be subject (only where the driver has not been terminated) to a follow-up testing program as determined by the SAP for the individual's circumstances. For drivers who operate in the U.S., the follow-up testing program will include a minimum of 6 follow-up tests within the first year after the return-to-duty test.

## Part Seven

### PREVENTION AND IDENTIFICATION

#### A. Education and Awareness

24. The Company will provide appropriate education in order to increase driver awareness of drug and alcohol use and of the detrimental and dangerous impact of these substances on work performance and safety. Drug or alcohol use during the performance of safety-sensitive functions may result in serious injury, harm or death to the driver, co-workers, as well as other individuals (e.g. on public roads). Signs and symptoms of drug and alcohol use include, but are not limited to, those listed in Section 35 of this Company policy.

The impacts of Alcohol and Drugs include the following:

- i. The use, misuse, and/or abuse of alcohol and/or controlled substances can have a serious negative impact on safety, and on an individual's work and personal life. It can endanger the lives of the driver, co-workers and the public by increasing the risk of accidents. It can also lead to absenteeism and reduced productivity, and can lead to health problems. Outside of the workplace, drug and alcohol use can lead to financial, social, marital and familial problems.
- ii. Alcohol use, misuse, and abuse can impair vision, reflexes, coordination, emotions, and judgment, thereby depriving an individual of most of the tools he or she relies on to drive safely. When it comes to the individual's health, the three primary dangers of heavy alcohol use are fatty liver, alcoholic hepatitis, and cirrhosis, but there are also many other health problems that could arise.
- iii. The effects of drug use on its own or in combination with the use of alcohol vary, depending on the substance. Amphetamines cause a false sense of alertness and potential hallucinations, which can result in risky driving and increased accidents. The hangover effect of amphetamines is characterized by physical fatigue and depression, which make operation of equipment or vehicles dangerous. The health effects of long-term heavy use include but are not limited to skin disorders, ulcers, and malnutrition.

Workplace use of opioids can lead to depression, fatigue, and slowed reflexes, impeding the reaction time of the driver, and raising the potential

for accidents. The use of cocaine can lead to lapses in attention, paranoia, and hallucinations. This can make for erratic and unpredictable reactions while driving. Potential health effects include damage to critical nerve cells and nervous system illnesses like Parkinson's disease.

The mental impairments resulting from the use of marijuana produce reactions that can lead to unsafe and erratic driving. Distortions in visual perceptions, impaired signal detection, and altered reality can make driving a vehicle very dangerous.

Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. Its use can cause drowsiness, convulsions, paranoia, agitation, or coma, all dangerous to driving. The distortions in perception and potential delusions it can cause make driver performance unpredictable and dangerous.

25. All supervisors will receive one hour training on alcohol and one hour training on drugs, the use of these substances, the impact of these substances on work performance and safety, the observable signs of a person using these substances, and the appropriate response to suspected or confirmed alcohol or drug use by drivers.

## **B. Self- Monitoring and Voluntary Self-Identification Program**

26. Drivers are expected to monitor their own use of alcohol and drugs and to report to the Company any of their own use of alcohol or drugs which reasonably could be expected to violate this policy. Drivers are encouraged to report such use prior to violating this policy, or prior to the Company making observations or requesting tests which would indicate problematic drug and alcohol use. Where appropriate, the Company will send the driver to a substance abuse professional for further assessment and assistance.

Drivers who believe their drug and/or alcohol use could potentially violate Company Policy and/or U.S. regulations (which have been incorporated into this Policy) will have the option of enrolling in the Company's Voluntary Self-Identification Program so that they can be assessed and/or treated. Drivers can also contact their personal physician, their local branch of Alcoholics Anonymous, the Canadian Centre on Substance Abuse, or the Council on Drug Abuse. Details of the Voluntary Self-Identification Program are set out in Addendum "A".

## **C. Monitoring**

27. It is recognized that drivers typically function in a self-supervising environment.

Nevertheless, wherever reasonably practicable, supervisors will monitor drivers and will follow up, report, and address any observations which indicate that the driver has used drugs or alcohol in a manner which is in violation of this policy prior to or during the performance of his or her duties. The Company will require the driver to be tested for the use of alcohol and other drugs as the next step in identifying problematic use of alcohol and other drugs.

28. The Company will educate and encourage its drivers to take appropriate action to assist fellow drivers in performing their duties completely free from the negative effects of the use of alcohol and other drugs. This action may entail confronting and intervening with the employee, alerting management and union officials, and referring the employee to management and an employee assistance program.

#### **D. Testing**

29. Due to the self-supervising environment in which drivers work, the Company is unable to monitor driver performance and behaviour in a consistent manner which, on its own, will properly ensure full compliance with this policy. The Company must rely in large part on the drivers to self-enforce their compliance with this alcohol and drug use policy. To strengthen assurances that such enforcement and self-monitoring is maintained by all drivers, the Company will implement testing which will assist in the identification of drivers who use alcohol or other drugs contrary to the requirements of this policy.
30. The procedures for such testing are as per 49 CFR Part 40, as amended from time to time and are set out in the attached DOT Testing Publication. For drivers who operate in the United States and are required to submit to testing under the Policy will complete the "Acknowledgement Form" at the collection site found in Addendum 'B', and drivers who operate only in Canada, it will be the form found in Addendum 'C', which may be updated from time to time as required.

Direct observation of sample collection is limited to very specific circumstances:

For drivers who operate in the United States:

- The Company must direct an immediate collection under observation if: (a) the lab reports an invalid specimen to the MRO and there was no valid medical explanation; and (b) the MRO advises the original positive, adulterated or substituted test result had to be cancelled because a test of the split specimen could not be performed; and (c) that the specimen was negative-dilute, and the MRO reported the specimen to you as a negative-dilute and that a second collection must take place under direct observation.
- The Company may direct a collection under observation in a return to duty or follow-up testing situation;

- The collector or properly instructed observer must be the same gender as the driver and must conduct a collection under observation if: (a) directed by the DER to do so; (b) the collector observes materials brought into the collection site or the driver's conduct indicated an attempt to tamper with the sample; (c) if the temperature of the original specimen was out of range' or (d) the specimen appeared to be tampered with.

Failure of the driver to permit any part of such direct observation procedure constitutes a refusal to test.

The company must explain to the driver the reason for a direct observed collection as per 49 CFR Part 40, as amended from time to time.

For drivers who operate only in Canada, these direct observation measures do not apply.

31. All alcohol and drug testing results will be kept in strictest confidence by the Company and only will be released to the authorized personnel in the operation of this policy or where required by law.

## **E. When Testing Will Occur**

### **(a) Pre-Employment Testing**

32. Where a driver is offered a contract of employment or a contract for services, such contract will be conditional upon the driver first undergoing testing for drug use and receiving a negative test result. The Company may choose to require the driver to undergo testing for alcohol use (see Part TWO notification). A newly-contracted driver will not perform any duties until negative test results are received. For drivers who operate in the U.S., the Company may exempt the driver from performing the drug test upon contacting the controlled substances testing program(s) in which the driver participates or participated, and the Company is able to obtain from the testing program(s) the following information:

The driver has participated in drug testing program within the previous 30 days;  
and

- (a) While participating in that program, either:
- (i) was tested for drugs within the past six months, or
  - (ii) participated in a random drug testing program for the previous twelve months; and
- (b) The driver has not violated this policy within the previous six months.

**(b) Post-Accident Testing**

33. Following an accident involving a commercial motor vehicle, the driver(s) involved will be tested for alcohol use within 8 hours and drug use within 32 hours (or as soon as practicable after the accident and document attempts to test if testing occurs more than 2 hours post accident), where:
- (a) There is a fatality; or
  - (b) The driver has been issued a citation for a moving vehicle violation and:
    - (i) a motor vehicle has been disabled so as to require towing; or
    - (ii) immediate medical treatment has been administered away from the scene to someone involved in the accident.

In the event of an accident involving a commercial motor vehicle, the driver(s) involved must immediately contact the DER and must remain readily available for testing and not use alcohol for eight hours following the accident unless a post-accident test has been administered.

**(c) Reasonable Cause Testing**

34. A driver will be tested for alcohol and/or drug use where a Company supervisor or other official, who is trained to identify drug and alcohol use by a driver, makes observations which form a reasonable basis for suspecting that the driver is in breach of this policy. Such observations will be documented, specific, contemporaneous, articulable observations concerning the appearance, behaviour, speech, or body odours of the driver. The observations may include indications of the chronic and withdrawal effects of drug and alcohol use.
35. Observations which may lead to reasonable cause testing are not limited to, but include:
- (a) Odour of alcoholic beverage on breath;
  - (b) Slurred speech;
  - (c) Glassy eyes;
  - (d) Unsteadiness in walking, standing, etc.;
  - (e) Flushed face;

- (f) Disoriented and/or drowsy;
  - (g) Accidents or injuries;
  - (h) Repeated errors in job performance; and
  - (i) Excessive absenteeism or lateness.
36. Testing as a result of reasonable cause will not be performed by the Company supervisor or official making the initial observations which gave rise to the reasonable cause, but shall be performed by some other person.
37. Reasonable cause testing for alcohol will occur while the driver is performing his or her safety sensitive duties, immediately prior to the driver commencing these duties, or immediately after the driver ceases to perform these duties.

#### **(d) Random Testing**

38. The Company will randomly test its drivers for alcohol and drug use. Such tests will be unannounced. A driver who is notified of a random test will proceed immediately and directly to the testing location.
39. The selection of drivers for random alcohol and drug tests will be by a scientifically valid method, such as a random number table or a computer based random number generating program.
40. Each year, the Company will test a percentage of its drivers for drug and alcohol testing pursuant to random testing. The Company has adopted U.S. DOT requirements respecting testing percentages. If the Company is a part of a consortium for random testing, the consortium's drivers will be tested for drug use as well as alcohol use at the required U.S. DOT percentages. These annual testing rates for drug and alcohol may increase or decrease depending on the violation rate for the entire industry, or follow any amended testing percentages or other requirements stipulated by the U.S. DOT.

#### **(e) Return-To-Duty Testing**

41. Where a driver is not terminated for violating this policy, the driver will be tested for alcohol and/or drug use prior to returning to his or her duties after violating any provision(s) of this policy.
42. In order to return to his or her duties, the driver must receive an alcohol test result indicating a blood alcohol concentration of less than .02 and/or a negative drug test result.

**(f) Follow-Up Testing**

43. When an assessment by a substance abuse professional has been made pursuant to this policy, the driver will be regularly tested for drug and/or alcohol use upon his or her return to safety sensitive duties.
44. Such testing will be unannounced and the appropriate number, frequency, and duration of such testing will be directed by the substance abuse professional. For drivers who operate in the U.S., at least 6 tests will be performed in the first twelve months after the driver returns to duty, and any such testing only will continue for a maximum of 60 months.
45. Tests for alcohol use will be made only when the driver is performing his or her safety sensitive duties, immediately before the driver performs his or her duties, or immediately after the driver ceases to perform his or her duties.
46. With respect to a driver who has been determined to have an alcohol or drug dependency, such tests are undertaken as part of the Company's accommodation and rehabilitation efforts in order to assist the driver in dealing with his or her disability.

**(g) Re-Testing After a Negative Dilute Test**

47. If a test result is negative and dilute, the driver may be required to take another test immediately (see Part TWO). In this case, it is the result of the second test – not that of the original test – that becomes the test record.

**F. Assessment by Substance Abuse Professional**

48. A driver will attend an assessment by a substance abuse professional designated by the Company where:
  - (a) The driver has received an alcohol test result indicating a blood alcohol concentration of .04 or greater;
  - (b) The driver has received a positive drug test result (as per cut-off levels identified in DOT 49 CFR Part 40, as amended from time to time), adulterated drug test result, or substituted drug test result;
  - (c) The driver has refused to be tested for alcohol and/or drug use as required by this policy, or has obstructed or adulterated the testing process or results; or
  - (d) The driver has otherwise violated this policy and the company has knowledge of the violation.

49. As required by the Company, the substance abuse professional will assess and determine the nature and extent of the driver's use of alcohol and/or other drugs, and determine whether the driver has an alcohol and/or drug use problem which requires rehabilitation and assistance and/or education.
50. All information surrounding these assessments will be kept in strictest confidence, except as described in this policy or as otherwise required by law. The substance abuse professional will only report to the Company and DriverCheck such information which is necessary to the Company for it to make an informed decision as to whether it should return the driver to his or her duties, place the employee in a rehabilitative program, or take other measures to accommodate any identified disability of the driver. All such information received by the Company and DriverCheck also will be held in strictest confidence.

## Part Eight

### REHABILITATION AND ASSISTANCE

51. Where a driver's employment is not terminated for violating this policy, the substance abuse professional will determine whether the driver has an alcohol and/or drug use problem which requires that the driver receive rehabilitation and assistance prior to being returned to work duties. Where rehabilitation and assistance is appropriate, the substance abuse professional will:
- (a) Determine the appropriate counselling and/or rehabilitation program which is necessary to rehabilitate the driver and return the driver to his or her duties with sufficient assurances that the driver will not again use drugs or alcohol in violation of this policy;
  - (b) Monitor the participation, co-operation, and progress of the driver in the rehabilitation program (including any drug and/or alcohol testing specified by the substance abuse professional);
  - (c) Assist the Company in assessing appropriate accommodations of a driver with an alcohol or drug use dependency problem;
  - (d) Determine if the driver has successfully complied with the initial recommendations.
  - (e) Assist the Company in determining, after an appropriate period of time, whether successful rehabilitation of the driver is likely ever to be achieved, and/or whether the Company has done enough to accommodate any disabilities of the driver.
52. All information surrounding a driver's participation in a counselling or rehabilitation program will be held in strictest confidence. The responsible health professional will only report to the Company and DriverCheck such information which is necessary for the Company to make an informed decision as to whether it should return the driver to his or her duties, continue the participation of the driver in a rehabilitative program, take measures to encourage the driver to participate more actively in the rehabilitation process, or take other measures to accommodate any identified disability of the driver. All such information received by the Company and DriverCheck will be held in strictest confidence.

## Part Nine

### **CORRECTIVE DISCIPLINARY ACTION**

53. In order for this policy to be effective in ensuring that Company drivers will perform their safety-sensitive duties unimpaired by alcohol and/or drugs, the provisions of this policy must be enforced. Accordingly, where a driver violates any provision(s) of this policy, the driver may be subject to corrective disciplinary action, as appropriate, up to and including discharge.
54. The purpose of such corrective disciplinary action will be to encourage drivers in future to abide by the provisions of this policy and thereby to assist in the achievement of the goals of this policy.

## Part Ten

### **ACKNOWLEDGMENT**

55. All offers of a contract of employment or of a contract for services made to drivers will be made conditional upon the driver signing the attached "Certificate of Receipt".
56. It will be an essential term of any driver's current contract of employment or current contract for services that the driver signs the "Certificate of Receipt". Failure by a current driver to sign such Certificate is grounds for the termination of the driver's contract for cause by the Company.

### **THIS POLICY IS NOT TO BE IMPLEMENTED OR INTERPRETED IN A MANNER INCONSISTENT WITH LEGAL REQUIREMENTS**

57. Nothing in this Policy is intended or should be interpreted as being inconsistent with the Company's legal obligations under any laws, including but not restricted to applicable human rights legislation, privacy legislation, or U.S. DOT Regulations, which are in existence or which are changed or come into existence in future ("Laws"). If such an inconsistency is identified or arises, a correction of that inconsistency is to be automatically read into this Policy. If in any individual circumstance of the actual application of this Policy, the application of any provision of this Policy would result in an inconsistency with the Company's obligations under any Laws, the Policy is to be automatically applied in a manner consistent with such Laws.

## CERTIFICATE OF RECEIPT

I hereby acknowledge and agree that I have received, have read, and understand the Drug and Alcohol Use Policy and its attached DOT Testing Publication "What Employees Need To Know About DOT Drug & Alcohol Testing" ( collectively "the Policy") of Spady Transport Limited ("the Company") and agree to abide by the terms and conditions of the Policy.

I hereby authorize substance abuse professionals and testing officials, including DriverCheck, in the operation of the Policy to release any information to the Company which is reasonably necessary to the implementation of the purposes and provisions of the Policy. I further hereby consent and authorize the Company in the operation of the Policy to release to substance abuse professionals and testing officials, including DriverCheck, any information which is reasonably necessary to the implementation of the Policy.

I understand and agree that my compliance with the terms and conditions of the Policy form part of my essential job functions and that the terms of the Policy have been properly mandated by the Company for my own safety, that of my co-workers, as well as of the general public.

I understand and agree that my compliance with the Policy is an essential and required term of my new or continuing contract of employment or contract for services with the Company. I further understand and agree that, as applicable: (a) my offer of a contract of employment or contract for services with the Company is conditional upon my signing of this Authorization; **or** (b) the continuation of my contract of employment or contract for services with the Company is conditional upon my signing of this Authorization, and that any failure to sign will result in the immediate termination of my contract.

\_\_\_\_\_  
**Employee/Applicant Signature**      \_\_\_\_\_ **Print Name**      \_\_\_\_/\_\_\_\_/\_\_\_\_  
**Date**

\_\_\_\_\_  
**Company Witness Signature**      \_\_\_\_\_ **Print Name**      \_\_\_\_/\_\_\_\_/\_\_\_\_  
**Date**

## Addendum “A”

### **VOLUNTARY SELF-IDENTIFICATION PROGRAM**

1. This Voluntary Self-Identification Program (“Program”) forms part of the Company’s Alcohol and Drug Use Policy (“Policy”). The Definitions set out in the Policy apply to this Program.

### **SELF-MONITORING AND IDENTIFICATION**

2. Drivers are expected to monitor their own use of alcohol and drugs and to report to the Company any of their own use of alcohol or drugs which reasonably could be expected to violate the Policy. Drivers are encouraged to report such use prior to violating the Policy, or prior to the Company making observations or requesting tests which would indicate problematic drug and alcohol use. Where appropriate, the Company will direct the driver to its Voluntary Self-Identification Program.

### **APPLICATION OF THE PROGRAM**

3. The Voluntary Self-Identification Program will not apply to a driver who has self-identified in order to avoid testing under the Policy.
4. The Program will not apply to a driver who has not self-identified prior to being on duty performing safety sensitive functions.
5. The Company will not take an adverse action against a driver simply because the driver has self-identified and enters the Program.

### **THE PROGRAM**

6. Under the Program, drivers will be placed on leaves of absence to complete assessment, education and treatment requirements.
7. Upon a driver entering the Program, the Company will direct the driver to a substance abuse professional.
8. The substance abuse professional will assess the driver and the driver’s drug and alcohol use and will stipulate in writing an education, counseling, rehabilitation and treatment program for the driver (“Rehabilitation Program”).
9. This Rehabilitation Program may stipulate scheduled drug and/or alcohol testing known as follow-up testing.
10. The Rehabilitation Program will stipulate return to duty tests for drugs and/or alcohol. No driver engaged in the Program will be returned to duty in safety sensitive functions until the driver has undergone a return to duty test for alcohol and/or drugs and received a negative result.
11. The Company will provide sufficient opportunity to the driver to successfully complete both the assessment by the substance abuse rehabilitation professional and the Rehabilitation Program stipulated by the substance abuse professional.
12. The driver will not be returned to duty in safety sensitive functions until the driver has successfully completed assessment by the substance abuse professional and has successfully completed all aspects of the Rehabilitation Program. The substance abuse professional must advise the Company in writing of such successful completion by the driver prior to the driver being returned to duty in safety sensitive functions.

## PROGRAM COMPLIANCE AND OUTCOMES

13. The substance abuse professional will monitor the participation, co-operation and progress of the driver in the Rehabilitation Program.
14. The substance abuse professional will assist the Company in assessing appropriate accommodations of the driver and respecting a return to duty.
15. The substance abuse professional will determine, and advise the Company as to, whether the driver has complied with all aspects of the stipulated Rehabilitation Program.
16. The substance abuse professional will assist the Company in determining, after an appropriate period of time, whether successful rehabilitation of the driver is likely to be achieved, and/or whether the Company has done enough to accommodate any disabilities of the driver. Where it is determined that successful rehabilitation is not likely and that the Company has satisfied its accommodation obligations, the employment of the driver may eventually be terminated or frustrated.
17. Under this Program, a driver, who does not fully complete the assessment by the substance abuse professional or the Rehabilitation Program stipulated by the substance abuse professional will be subject to corrective disciplinary action, as appropriate, up to and including discharge. The purpose of such corrective disciplinary action will be to encourage the driver to comply by and successfully complete the assessment and Rehabilitation Program.

## Addendum "B"

### ACKNOWLEDGEMENT FORM for U.S. DOT Alcohol and Drug Testing

Specimen ID: \_\_\_\_\_ Order# \_\_\_\_\_

**The purpose of this form is to notify you as to how your personal information is collected, used and disclosed. If you refuse to sign this form, but do not refuse testing, testing will proceed, and the information will be collected, used and disclosed as described below.**

I, the Donor (the individual being tested), understand that I am subject to alcohol and drug testing under my Employer's alcohol and drug policy. The employer named below is referred to as the "Employer" and its policy as the "Employer Policy", through the whole of this form. I understand that as set forth in my Employer's Policy I am subject to alcohol and drug regulations adopted by the United States Department of Transportation ("DOT") and that if I engage in conduct that is contrary to those DOT regulations, certain consequences will result under the DOT regulations and/or my Employer's Policy.

I authorize DriverCheck and its collection site (as specified below as the "Collection Site") to obtain a sample of my urine, breath and/or saliva, for the purposes of alcohol and/or drug testing in accordance with DOT regulations and my Employer's Policy. I authorize the SAMHSA certified laboratory to perform testing on my urine sample(s) for drugs or their metabolites.

I authorize the release of the information and documentation set out below to the parties named below, and to their employees and agents, for the purpose of conducting alcohol and/or drug testing, determining fitness for employment duties as well as verifying and communicating those results in accordance with the DOT regulations.

#### What will be released:

- The completed form for my alcohol test(s), often called an Alcohol Test Form (the "ATF")
- The completed form for my drug test(s), often called a Custody and Control Form (the "CCF")
- My sample(s) for testing purposes
- The results of my alcohol test(s)
- The results of my drug test(s)
- All information or statements relevant to the alcohol and drug testing processes or test results, including any interference or refusal to comply with the testing process
- All information or statements obtained during the testing and/or the Medical Review Officer review process that suggest a concern for safety or fitness for employment duties.

#### Parties that will release and/or receive the above information and documentation, as required:

- The Collection Site (the party obtaining my sample(s))
- The Chief Medical Review Officer (the physician who reviews my test results where required) or their designees
- The laboratory (certified by SAMHSA (Substance Abuse and Mental Health Services Administration))
- DriverCheck, the Third Party Administrator (TPA) (the various departments that manage all, or part, of my Employer's alcohol and drug testing program)
- The Designated Employer Representative as authorized by my Employer or, if the authorized Designated Employer Representative(s) are unavailable at the relevant time, another Employer official
- The Substance Abuse Professional (SAP) (the professional who makes recommendations concerning education, treatment, follow-up testing, and aftercare) or their designees
- The applicable DOT agency
- The National Transportation Safety Board in the course of an accident investigation
- Any Healthcare Provider charged with determining whether I am fit for duty under any applicable DOT agency safety regulation

I understand that alcohol and/or drug test results and related documentation may need to be disclosed in accordance with the law, including in legal or administrative proceedings as well as applicable foreign law.

Records are maintained securely by DriverCheck and its authorized data management service providers. For more information regarding our privacy practices, please see our Privacy Policy at [www.drivercheck.ca](http://www.drivercheck.ca) or call us at 800-463-4310.

\_\_\_\_\_  
Collection Site

\_\_\_\_\_  
Donor's Printed Name

\_\_\_\_\_  
Donor's Signature

\_\_\_\_\_  
Employer

\_\_\_\_\_  
Date

Confirmation of identification:

Photo I.D.

Company Representative

**FOR THE COLLECTOR: If the donor refuses to sign this form, but does not refuse testing, please notify donor verbally of the contents of this form, and proceed with testing. Indicate on this form that notice was given verbally.**

## Addendum "C"

### ACKNOWLEDGEMENT FORM for NON-DOT Alcohol and Drug Testing

Specimen ID: \_\_\_\_\_ Order# \_\_\_\_\_

**The purpose of this form is to notify you as to how your personal information is collected, used and disclosed. If you refuse to sign this form, but do not refuse testing, testing will proceed, and the information will be collected, used and disclosed as described below. If you withdraw consent for sharing the test results at any time before they have been reported (i.e. disclosed to the Company), or fail to participate in the full and complete testing process, the results will be reported as a refusal to test or in accordance with Company Policy as described below.**

I, the Donor (the individual being tested), understand that I am subject to alcohol and drug testing under the Company's alcohol and drug policy. The company named below is referred to as the "Company" and its policy as the "Company Policy", through the whole of this form.

I authorize DriverCheck and its collection site (as specified below as the "Collection Site") to obtain a sample of my urine, hair, breath and/or oral fluid/saliva, for the purposes of alcohol and/or drug testing in accordance with Company Policy. I authorize the certified laboratory to perform testing on my sample(s) for alcohol and/or drugs or their metabolites.

I authorize the release of the information and documentation set out below to the parties named below, and to their employees and agents, for the purpose of conducting alcohol and/or drug testing, determining fitness for employment duties as well as verifying and communicating those results.

**What will be released:**

- The completed form for my alcohol test(s), often called an Alcohol Test Form (the "ATF")
- The completed form for my drug test(s), often called a Custody and Control Form (the "CCF")
- My sample(s) for testing purposes
- The results of my alcohol test(s)
- The results of my drug test(s)
- All information or statements relevant to the alcohol and drug testing processes or test results, including any interference or refusal to comply with the testing process
- All information or statements obtained during the testing process that suggest a concern for safety or fitness for employment duties.

**Parties that will release and/or receive the above information and documentation, as required:**

- The Collection Site (the party obtaining my sample(s))
- The Chief Medical Review Officer (the physician who reviews my test results where required) or their designees
- The laboratory (certified by SAMHSA (Substance Abuse and Mental Health Services Administration))
- DriverCheck, the Third Party Administrator (TPA) (the various departments that manage all, or part, of my Company's alcohol and drug testing program)
- The authorized Company contact(s) as designated by the Company or, if the authorized Company contact(s) are unavailable at the relevant time, another Company official
- The Substance Abuse Professional (SAP) (the professional who makes recommendations concerning education, treatment, follow-up testing, and aftercare) or their designees

I understand that alcohol and/or drug test results and related documentation may need to be disclosed in accordance with the law, including in legal or administrative proceedings.

Records are maintained securely by DriverCheck and its authorized data management service providers. For more information regarding our privacy practices, please see our Privacy Policy at [www.drivercheck.ca](http://www.drivercheck.ca) or call us at 800-463-4310.

**Complete this section if applicable:**

I acknowledge that I may not be subject to the Company Policy as an employee of the Company but that I might nonetheless be required to submit to alcohol and/or drug testing, including, but not limited to, as an employee or agent of a third party (my Employer) that is in a contractual arrangement with the Company. I authorize my test results to be released by the authorized contact(s) as designated by the Company to the authorized contact(s) of my Employer.

My Employer: \_\_\_\_\_

\_\_\_\_\_  
Collection Site

\_\_\_\_\_  
Donor's Printed Name

\_\_\_\_\_  
Donor's Signature

\_\_\_\_\_  
Witness's Signature

\_\_\_\_\_  
Company

\_\_\_\_\_  
Date

Confirmation of identification:

Photo I.D.  Company Representative

\_\_\_\_\_  
Witness's Printed Name

## Addendum “D”

### ***ODAPC Employee Handbook – “What Employees Need To Know About DOT Drug and Alcohol Testing”***

*This document is published by the DOT’s Office of Drug & Alcohol Policy & Compliance, is being provided for education purposes and is not being reproduced or distributed for a fee.*

**This publication can also be accessed electronically through the internet at <http://www.dot.gov/odapc/employee-handbook-english>**



employeehandboo  
keng2019a.pdf

## Addendum “E”

### US DOT 49 CFR PART 382 SUBPART G – THE CLEARINGHOUSE

#### POLICY ADDENDUM

The provisions of this Addendum are incorporated and made part of the Company’s Alcohol and Drug Policy, and to the extent any provision in this Addendum conflicts with any provision set forth elsewhere in the Company’s Alcohol and Drug Policy, these Addendum provisions shall control.

#### ADDENDUM PURPOSE

The purpose of this Addendum is to remain in compliance with *US CFR 49 Parts 40 and 382*. The Commercial Driver’s License Drug and Alcohol Clearinghouse, referred to as “the Clearinghouse,” will improve highway safety by helping employers, the United States of America’s FMCSA, State Driver Licensing Agencies, and law enforcement to quickly and efficiently identify drivers who are not legally permitted to operate commercial motor vehicles (CMVs) due to drug and alcohol program violations.

#### EFFECTIVE DATE

This Policy Addendum is effective January 6, 2020 (or, in the event that the effective date of the Clearinghouse regulation is changed to a different date, the effective date of the regulation).

#### AMENDMENTS

The Company reserves the right to amend, alter and terminate this Addendum at any time.

#### SCOPE

This Addendum applies to any person performing work for the Company (including an employee, contractor, independent owner-operator, owner-operator, leased driver, casual and intermittent driver, person performing safety sensitive functions, or applicant for work) who holds a commercial driver’s license, or is required to hold a commercial driver’s license, and who regularly or occasionally may be required by the Company to operate a commercial motor vehicle or perform a safety sensitive function in or respecting the United States of America and is accordingly regulated by the FMCSA (“US Cross Border Driver” or “driver”). This Addendum doesn’t apply to the Company’s drivers that only work within Canada and are not regulated by the FMCSA.

#### TERMS

**Limited Query:** A limited query allows an employer to determine if any information about an individual driver exists in the Clearinghouse, but does not provide for the release of any specific violation information in the driver’s Clearinghouse record. Limited queries require only a general driver consent, but employers may obtain a multi-year general consent from the driver for annual query requirement.

**Full Query:** A full query requires the driver’s specific consent to the release of information in the Clearinghouse to a specific individual or organization at a particular point in time.

Information: For the purposes of this Addendum, information means any information respecting FMCSA regulation or rule drug and alcohol violations or incomplete return-to-duty or follow-up testing contained within the Clearinghouse.

## REPORTING TO THE CLEARINGHOUSE

The following personal information is collected and maintained under this Policy and is required to be reported to the Clearinghouse by the Company or its designated Third Party Administrator (TPA) and/or Medical Review Office (MRO) and/or Substance Abuse Professional (SAP):

1. Identification of driver, including the driver's Commercial Driver License (CDL)
2. A verified positive, adulterated, or substituted drug test result;
3. An alcohol confirmation test with a concentration of 0.04 or higher;
4. A refusal to submit to any test required by the regulations;
5. The Company's report of actual knowledge violations including the following:
  - a. On duty alcohol use;
  - b. Pre-duty alcohol use;
  - c. Alcohol use following an accident;
  - d. Controlled substance use;
6. Date the SAP's initial assessment was initiated;
7. Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing;
8. A substance abuse professional (SAP as defined in this policy) report of the successful completion of the return-to-duty process;
9. A negative return-to-duty test;
10. An employer's report of completion of follow-up testing.

## REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE CLEARINGHOUSE

The following requirements and procedures are made in compliance with the regulations and are followed by the Company or its designated Third Party Administrator (TPA):

1. Pre-employment query required. The Company must not employ an employee/driver who will be a US Cross Border Driver and subject to the regulations on controlled substances and alcohol testing to perform a safety-sensitive function in or in respect of the United States without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has any violations or incomplete return-to-duty or follow-up testing. All offered contracts of employment or contracts for services will be conditional upon the driver first complying with and satisfying these Clearinghouse requirements.
  - a. The Company must conduct a full query for all pre-employment, which releases the driver's information in the Clearinghouse to the Company and requires that the individual driver give specific consent.
2. Annual query required. The Company must conduct a query of the Clearinghouse at least once per year for information for all employees/drivers who are US Cross Border Drivers subject to controlled substance and alcohol testing under the US FMCSA regulations to determine whether information exists in the Clearinghouse about those employees. The annual query is in addition to any pre-employment queries.
3. The Company shall obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement. The limited query will tell the Company whether there is information about the individual driver in the Clearinghouse, but will not release that information to the

Company. A driver may be expected to provide a consent to conduct limited queries that is effective for a period of more than one year.

- a. If the limited query shows that information exists in the Clearinghouse about the individual driver the Company must conduct a full query within 24 hours of conducting the limited query. If the Company fails to conduct a full query within 24 hours, the Company must not allow the driver to continue to perform any safety-sensitive functions in or respecting the United States of America until the Company conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions.
4. Prohibition. The Company may not allow a driver to perform any safety-sensitive function in or respecting the United States if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211 of the regulations; or that an employer has reported actual knowledge, as defined at §382.107 of the regulations, that the driver used alcohol on duty in violation of §382.205 of the regulations, used alcohol before duty in violation of §382.207 of the regulations, used alcohol following an accident in violation of §382.209 of the regulations, or used a controlled substance in violation of §382.213 of the regulations, except where a query of the Clearinghouse demonstrates:
- a. That the driver has successfully completed a SAP evaluation, referral, and education/treatment process set forth in the regulations; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
  - b. That, if the driver has not completed all follow-up tests as prescribed by the SAP and specified in the SAP report, the driver has completed the SAP evaluation, referral, and education/treatment process and achieves a negative return-to-duty test result, and the Company assumes the responsibility for managing the follow-up testing process associated with the testing violation.

If the limited or full queries do not display any prohibitions, the Company may allow the individual driver to begin or continue performing cross-border safety-sensitive functions.

## **CORRECTING INFORMATION IN THE CLEARINGHOUSE**

Drivers have the ability to correct their information contained within the Clearinghouse under US CFR 49 Part 382.717. Under this section, drivers may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.

Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:

- (1) The driver's name, address, telephone number, and CDL number and State/Province of issuance;
- (2) Detailed description of the basis for the allegation that the information is not accurate; and
- (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

The driver or authorized representative of the driver may submit his/her petition electronically through the Clearinghouse or in writing to the Federal Motor Carrier Safety Administration's mailing address.

Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

## DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE

The Company will not query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent.

Before the Company accesses information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse.

The Company will not permit a driver to perform a safety-sensitive function in or respecting the United States if the driver refuses to grant consent.

## COMPLIANCE WITH LAWS

Nothing in this Addendum is intended or should be interpreted as being inconsistent with the Company's legal obligations under any applicable laws, including but not restricted to applicable human rights legislation, privacy legislation, FMCSA or U.S. DOT regulations or rules, which are in existence or which are changed or come into existence in future ("Laws"). If such an inconsistency is identified or arises, a correction of that inconsistency is to be automatically read into this Addendum. If in any individual circumstance of the actual application of this Addendum, the application of any provision of this Addendum would result in an inconsistency with the Company's obligations under any Laws, the Addendum is to be automatically applied in a manner consistent with such Laws.

## ACKNOWLEDGEMENT

I hereby acknowledge and agree that I have received, have read, and understand the Addendum, US DOT 49 CFR PART 382 SUBPART G – THE CLEARINGHOUSE ("Addendum") and agree to abide by the terms and conditions of the Addendum.

I understand and agree that my compliance with the terms and conditions of the Addendum form part of my essential job functions and that the terms of the Addendum have been properly mandated by the Company for my own safety, that of my co-workers, as well as of the general public.

I understand and agree that my compliance with the Addendum is an essential and required term of my new or continuing contract of employment or contract for services with the Company. I further understand and agree that, as applicable: (a) my offer of a contract of employment or contract for services with the Company is conditional upon my signing of this Acknowledgement; or (b) the continuation of my contract of employment or contract for services with the Company is conditional upon my signing of this Acknowledgement, and that any failure to sign will result in the immediate termination of my contract.

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**Employee/Applicant Signature      Print Name      Date**

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
**Company Witness Signature      Print Name      Date**

