

**CONTROLLED (CHEMICAL) SUBSTANCE AND ALCOHOL USE & POSSESSION POLICY**

In order to protect the safety and security of the Company, its customers, employees and the general public, Riverside Common Entities; hereinafter known as the Company; has adopted the following policy regarding the use and possession of controlled (chemical) substances and alcohol by its employees.

This policy applies to both commercial drivers who are subject to 49 CFR, 382 (subject employees) and all other employees who are not subject to these regulations (non-subject employees).

1. ***INTOXICATING BEVERAGES***, without regard to alcohol content.
  - a. All employees are prohibited from being under the influence of any intoxicating beverage during working hours. No employee shall report for work while under the influence of any intoxicating beverage.
  - b. No employee shall consume any intoxicating beverage while on duty.
  - c. No employee shall use any intoxicating beverage on Company premises or in any motor vehicle owned or operated by the Company. No employee shall bring to or store in Company premises or any motor vehicle operated by the Company an intoxicating beverage.
  
2. ***CHEMICAL SUBSTANCES***
  - a. **Prescription Drugs.** A prescription drug is any substance that the use or consumption of which has been prescribed by a licensed medical practitioner. Prescription drugs shall be used only in the quantity, manner, frequency, for the duration and by the person for whom they are prescribed. No employee shall both use a prescription drug and report for or remain at work in circumstances where the use of the prescription drug could impair the ability of the employee to safely perform the functions of his or her job as if no drug were in use. The Company may require a medical practitioner's written statement to the effect that the use of a drug prescribed by that medical practitioner will not impair the employee's safe performance of his or her duties.
  - b. **Non-prescription Substances.** No employee shall use any non-prescription substance in a manner which could impair the employee's safe performance of his/her duties.
  - c. **Illegal Substances.** An illegal substance is any drug or other substance that the manufacture, distribution, transportation, possession, sale or consumption of which is illegal. All employees are prohibited from the manufacture, distribution, transportation, possession, sale or consumption of any illegal substance whether or not on duty or on Company premises.
  - d. **Medical and Recreational Marijuana.** The use and/or possession of medical and recreational marijuana by employees, in any quantity or form, is strictly prohibited, whether or not on duty or on Company premises.

**An employee who violates any of the above policies may be subject to discipline including termination of employment.**

**Riverside Common Entities reserves the right to alter its policy without notice.**

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## **CONTROLLED (CHEMICAL) SUBSTANCE & ALCOHOL TESTING PROGRAM - SUMMARY DESCRIPTION**

To ensure that its policy on Controlled (Chemical) Substance & Alcohol Use and Possession is adhered to; and to ensure compliance with 49 CFR, §§40 and 382; Riverside Common Entities has adopted the following testing program for the detection of controlled (chemical) substance and alcohol use by its commercial vehicle drivers and other employees subject to the regulations.

Additionally, the Company has adopted this same program for its employees and prospective employees who are not subject to testing of controlled substances and alcohol under the FMCSR (non-subject employees), and reserves the right to expand the scope of testing beyond the requirements of the FMCSR, 49CFR, §382. This additional testing or expansion of testing is done at the sole discretion of the Company and is not being represented as being conducted under §382 of the Federal Motor Carriers Safety Regulations.

This program has been developed in accordance with Federal Motor Carrier Safety Regulations; 49 CFR, §§40 and 382; and applicable state workforce drug and alcohol testing laws and regulations; and is administered in conformance with these laws and regulations.

### **I. APPLICABILITY**

**Subject Employees.** Subject employees are employees who are subject to testing under the Federal Motor Carrier Safety Regulations, 49 CFR, §40 and §382. Included are; employees and prospective employees who operate a commercial motor vehicle in commerce in any state and who are required to hold a commercial driver's license; including full-time, non-temporary drivers, temporary, casual, intermittent or occasional drivers, leased drivers and independent, owner-operator contractors, who are either directly employed by or under lease to or who operate a commercial motor vehicle at the direction of or with the consent of the Company.

In addition to driver employees, all employees and prospective employees who perform safety sensitive functions as defined in 49 CFR, §382.107 are considered subject employees and will be tested in accordance with 49 CFR, §40 and §382. The terms employee and driver may be used interchangeably throughout this policy.

**Non-Subject Employees.** Non-subject employees are those employees who are not subject to Drug & Alcohol testing under 49 CFR, §382. Non-Subject employees will be tested in accordance with applicable state laws and regulations.

### **II. DEFINITIONS**

**Alcohol.** Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

**Controlled Substance.** Controlled substance for purposes of this testing program means those substances so defined in 49 CFR §40.85, including but not limited to, marijuana, cocaine, opiates including heroine (6MAM metabolite), phencyclidine (PCP), amphetamines (including methamphetamine), and MDMA (ecstasy).

**Fiduciary Function.** (for non-subject employees only) A job function where an individual has access to monies, property or other objects of value belonging to the Company, its customers, its employees or others.

**Performing a Safety-Sensitive Function** (or security and/or fiduciary function for non-subject employees). A subject employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, immediately available to perform or has just completed performance of any safety-sensitive function.

A non-subject employee is considered to be performing a safety-sensitive, security or fiduciary functions during any period in which he or she is actually performing, ready to perform, immediately available to perform or has just completed the performance of work or the supervision of work on behalf of the Company.

**Positive Test.** A positive alcohol test is defined as one in which the employee's blood alcohol concentration is 0.04 or greater. This level of workplace alcohol impairment may be lower than the level established under state statutes for impaired driving (DUI).

A positive controlled (chemical) substance test is defined as one in which the confirmatory test levels meet or exceed the

levels stated in 49 CFR, part 40.

**Prohibited Conduct.** Prohibited conduct is individual, personal conduct by an employee which is prohibited under the Company's Controlled (Chemical) Substance & Alcohol Use and Possession Policy and Testing Program.

**Prohibited Substances.** Prohibited substances include alcohol, alcoholic beverages, illegal substances (illegal drugs) and controlled substances (controlled drugs).

**Refusal to Test.** A refusal to test includes a failure to appear for any test within a reasonable time, as determined by the Company, after being directed to do so; failure to remain at the testing site until the testing process is complete; failure to provide a urine specimen for a drug test; failure to permit the observation or monitoring provision of a urine specimen in the case of a directly observed or monitored collection; failure to provide a sufficient urine or breath specimen when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure; failure or declining to take a second test the Company or the collector has directed the employee to take; failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Company as part of the procedures set forth in 49 CFR, §40.193 or §40.265, as applicable; failure to attempt to provide a saliva or breath specimen, as applicable; having an adulterated or substituted controlled substance test result, as verified by the MRO; failure to sign the certification of the Alcohol Testing Form; or failure to cooperate with any part of the testing process.

**Safety-sensitive functions for Subject employees shall include, but not be limited to:**

1. All time at a terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty;
2. All time inspecting equipment to make sure that the parts, accessories, and emergency equipment are in good working order and ready for use or otherwise inspecting, servicing, or conditioning any commercial vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle;
5. 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; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Safety-sensitive, security and fiduciary functions for Non-Subject (Non-DOT) employees shall include, but not be limited to:**

1. All time spent performing work, or the supervision of work for the company whether on company premises or not;
2. All time spent driving a company vehicle; AND
3. All time traveling to and from work-sites at the direction of the company.

**Security Function.** (for non-subject employees only) A job function where an individual has access to proprietary Company information, customer information or any other information that may be considered proprietary, confidential or personal in nature.

**Substance Abuse Professional (SAP).** A SAP is a licensed physician (Doctor of Medicine or Osteopathy), licensed or certified psychologist, licensed or certified social worker, licensed certified employee assistance professional, or drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC); or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC). The SAP must also meet all requirements set forth in 49 CFR, §40.281.

### **III. PROHIBITED CONDUCT**

The following conduct is prohibited:

1. Reporting for or remaining at work or on-duty requiring the performance of a safety-sensitive function (and/or security or fiduciary function for Non-Subject employees only) while having an alcohol concentration of 0.04 or greater.
2. Reporting for or remaining at work or on-duty requiring the performance of a safety-sensitive function (and/or security

or fiduciary function for non-subject employees only) while the employee is under the influence of or impaired by alcohol.

3. Using alcohol while at work or while performing a safety-sensitive function (and/or security or fiduciary function for non-subject employees only).

4. Reporting for work or performing a safety-sensitive function within four hours after using alcohol (subject employees only).

5. Using alcohol within eight hours following an accident, unless the employee undergoes a post-accident alcohol test first.

6. Reporting for or remaining at work or on-duty requiring the performance of a safety-sensitive function (and/or security or fiduciary function for non-subject employees only) when the employee uses any controlled substances, unless the use is pursuant to the instructions of a licensed medical doctor, who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle or perform their work functions in a safe manner.

7. Reporting for or remaining at work or on-duty requiring the performance of a safety-sensitive function (and/or security or fiduciary function for non-subject employees only) if the employee tests positive for controlled substances.

8. Refusing to submit to a drug or alcohol test.

9. Manufacturing, distributing, dispensing, possessing or using a controlled substance whether or not on company premises, in company vehicles, or while on company business, or engaging in any conduct prohibited by 49CFR, §382.

#### **IV. DRUG AND ALCOHOL TREATMENT RESOURCES**

Employees who may be engaged in substance abuse or have developed substance addiction may contact Michael Gallagher(Riverside Contracting) at (406) 721-9267; Kelly Redmond (S K Construction) at (406) 546-8759; or Dwayne Rehbein at (406) 207-0145 at for information regarding treatment programs and contacts. Additionally, abuse and addiction resource information is listed in the Drug and Alcohol - Use and Abuse Handbook provided to all employees by the Company

#### **V. TESTING FOR PROHIBITED SUBSTANCES**

**Types and Frequency of Testing.** Testing for controlled substances will be conducted as a condition of hire, on a random basis during employment, after certain work-related accidents, upon reasonable suspicion, before returning to duty after a confirmed positive test, and as a follow-up after a confirmed negative return-to-duty test.

Testing for alcohol will be conducted on a random basis during employment, after certain work-related accidents, upon reasonable suspicion, before returning to duty after a confirmed positive test, and as a follow-up after a confirmed negative return-to-duty test. All testing will be conducted in conformance with 49 CFR, §40.

**Pre-Employment Testing.** Every prospective employee is required to test negative for the use of controlled substances as a condition of hire. Employees returning to work for the Company after an absence of 30days or more will be required to undergo pre-employment testing. Any Non-Subject employee who has not been required to be tested within the last 12 months, may be subject to testing.

New hires and employees transferring into safety-sensitive positions, who are subject to FMCSR testing requirements, are also required as a condition of hire or transfer to provide written consent allowing the Company to obtain drug and alcohol testing information from DOT-regulated employers who have employed the employee during any period during the two years prior to the date of the employee's application or transfer.

**Random Testing.** Employees are subject to unannounced, random testing, which will be reasonably spaced over a twelve-month period. Employees will be selected on a random basis using a scientifically valid method, such that each employee has an equal chance of being tested each time selections are made.

**Post-Accident Testing.** Every covered employee who is involved in an accident requiring post-accident testing must provide a urine sample and a breath sample in accordance with the collection procedures of 49 CFR, §40. The urine samples must be provided as soon as possible following the accident but in no event later than thirty-two hours thereafter.

The breath sample must be provided as soon as possible following the accident but in no event later than eight hours thereafter.

An accident requiring post-accident testing for a subject employee is an accident that: 1) results in the death of a human

being; or 2) an accident in which the covered employee is cited for a moving traffic violation and there is either bodily injury to a person requiring immediate medical treatment away from the scene of the accident or disabling damage to a vehicle requiring it to be towed from the scene.

An accident requiring post-accident testing for a non-subject employee is an accident that: 1) results in the death of a human being; or 2) in which personal injury occurred; or 3) property damage in excess of \$1,500 occurred and the employer has reason to believe that the employee's act or failure to act is a direct or proximate cause of the work related accident.

If a controlled substance test required by this section is not administered within 32 hours following the accident, the Company shall cease attempts to administer the test and shall prepare and maintain a record stating the reasons the test was not promptly administered.

If an alcohol test required by this section is not administered within 8 hours following the accident, the Company shall cease attempts to administer the test and shall prepare and maintain a record stating the reasons the test was not promptly administered.

**Reasonable Suspicion Testing.** An employee will be required to submit to testing whenever a supervisor has reasonable suspicion to believe that the employee may have engaged in prohibited conduct within the meaning of this policy. The supervisor's determination that reasonable suspicion exists must be based on specific observations concerning the appearance, behavior, speech, or body odors of the employee. Reasonable suspicion drug and alcohol testing may be conducted before, during, or after the employee performs a safety-sensitive function (and/or security or fiduciary function for non-subject employees only).

In the event of testing upon reasonable suspicion, the supervisor will prepare and sign a statement of conduct observed within 24 hours of the observed behavior or before test results are released, whichever occurs first. Supervisors must be trained in the observance of behavior related to the use of controlled substances and alcohol in accordance with 49 CFR, §382.603.

The Company will not permit the employee to perform or continue to perform a safety-sensitive functions (and/or security or fiduciary functions for non-subject employees only) until a drug or alcohol test is administered; and the employee's alcohol concentration measures less than 0.02 or twenty-four hours have elapsed following the reasonable suspicion determination; or the employee's drug testing results are verified as negative for the use of a controlled substance.

If a drug test required by this section is not administered within 32 hours following the reasonable suspicion determination, the Company shall cease attempts to administer a drug test and shall maintain a record stating the reasons for not administering the test.

If an alcohol test required by this section is not administered within eight hours following the reasonable suspicion determination, the Company shall cease attempts to administer an alcohol test and shall maintain a record stating the reasons for not administering the test.

**Return-to-Duty Testing.** If the Company chooses to permit an employee to return to the performance of safety-sensitive functions (and/or security or fiduciary functions for non-subject employees only) following a positive controlled substance or alcohol test, the employee must submit to return-to-duty testing prior to returning to work. The test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.

An employee who engaged in prohibited conduct concerning controlled substances shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substance use. An employee who engaged in prohibited conduct concerning alcohol shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 before returning to duty requiring the performance of a safety-sensitive function (and/or security or fiduciary function for non-subject employees only).

**Follow-up Testing.** If the Company chooses to permit an employee to return to the performance of safety-sensitive functions (and/or security or fiduciary functions for non-subject employees only) following a positive controlled substance or alcohol test, the employee must submit to follow-up testing of a minimum of six unannounced tests during the first twelve months following a negative return-to-duty test. Moreover, the employee may be subject to additional follow-up testing during the forty-eight months following the initial twelve months of testing. These follow-up tests will be in addition to any other tests the employee may be subject to (e.g. random, post-accident or reasonable suspicion testing).

## **VI. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT**

Any employee who engages in prohibited conduct under this policy will be subject to discipline, including possible

termination of employment.

The Company will immediately remove an employee from performing safety-sensitive functions (and/or security or fiduciary functions for non-subject employees only), without pay, if it receives a verified positive, adulterated, or substituted drug test result or an alcohol test result of 0.04 or greater; or if the employee refuses to be tested.

An employee who has a confirmed alcohol concentration of greater than 0.02, but less than 0.04, will be removed from duty, without pay, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

**Specific consequences for engaging in prohibited conduct include:**

**1. Pre-employment Testing.** An applicant whose test results are positive for a controlled substance in a pre-employment test may or may not be considered for employment, at the discretion of the Company.

**2. Random Testing.** At its discretion, the Company may permit an employee whose test results are positive for a controlled substance or alcohol in a random test, an unpaid personal leave of absence in which time he/she must obtain substance abuse evaluation, counseling and/or treatment. If the employee fails to complete the required treatment or fails to return before the expiration of the unpaid leave, his or her employment with the Company may be terminated.

An employee whose test results for a second or subsequent random controlled substance or alcohol test are positive may have his/her employment with the Company terminated, at the discretion of the Company.

**3. Post-accident Testing.** An employee whose test results for a post-accident controlled substance or alcohol test are positive may have his or her employment with the Company terminated, at the discretion of the Company.

**4. Reasonable Suspicion.** At its discretion, the Company may permit an employee whose test results are positive for a controlled substance or alcohol in a reasonable suspicion test, an unpaid personal leave of absence in which time he or she must obtain substance abuse evaluation, counseling and/or treatment. If the employee fails to complete the required treatment or fails to return before the expiration of the unpaid leave, his/her employment with the Company may be terminated.

An employee whose test results for a second or subsequent reasonable suspicion controlled substance or alcohol test are positive may have his/her employment with the Company terminated.

**5. Return-to-Duty.** An employee whose test results for a return-to-duty controlled substance or alcohol test are positive may have his/her employment with the Company terminated.

**6. Follow-up.** An employee whose test results for a follow-up controlled substance or alcohol test are positive may have his/her employment with the Company terminated.

Employees who engage in prohibited conduct under this policy, and are granted a personal leave by the Company, will not perform safety-sensitive functions (and/or security or fiduciary functions for non-subject employees only) until they have completed the Substance Abuse Professional (SAP) referral, evaluation, and education/treatment process. The SAP will evaluate the employee to determine what assistance, if any, the employee needs in resolving problems associated with substance abuse.

Such employees will be subject to the standard testing program, and in addition must submit to unannounced follow-up testing. The number and frequency of the tests will be directed by the SAP and will consist of at least six tests in the first twelve months following the employee's return to duty. The SAP may also require follow up tests during the forty-eight months following the first twelve-month period.

**VII. CRIMINAL SANCTIONS**

Individuals engaging in the manufacture, distribution, transportation, possession, sale or consumption of illegal substances may be subject to criminal charges under state and federal laws. These criminal charges may be brought by state and federal law enforcement agencies and are independent of this policy and program.

## **VIII. LOSS OF OR REDUCTION IN BENEFITS**

Individuals engaging in prohibited conduct may be subject to loss of or a reduction in benefits administered by individual states.

Benefits that may be affected include, but are not limited to, unemployment compensation and worker's compensation. The loss or reduction of these benefits is governed by individual state laws and may be based on the individual's state of residency and the location of their employment.

## **IX. MEDICAL AND RECREATIONAL MARIJUANA**

Federal Motor Carrier Safety Regulations prohibit the use of Medical and Recreational Marijuana by commercial motor vehicle drivers.

For employees not subject to the commercial motor vehicle regulations, the possession of medical and recreational marijuana is allowed for in a number of states. However, the Company has adopted a strict policy against the possession and use of medical and recreational marijuana, in any form or quantity, within the workplace and/or within the facilities and upon the premises of the Company.

The medical or recreational use of marijuana within the workplace means; the use of marijuana at any time which produces a level of THC (Tetrahydrocannabinol), or its metabolites, within a person's bodily system that equals or exceeds the detection levels established by the Federal Motor Carrier Safety Regulations, 49 CFR, §40; while performing work or the supervision of work within the workplace.

## **X. SUBSTANCE ABUSE PROFESSIONAL EVALUATION AND TREATMENT**

The Company may, at its discretion, allow an employee to return to work after testing positive for a controlled (chemical) substance or alcohol. If the Company so chooses, the employee will be given an unpaid personal leave in which to complete a Substance Abuse Professional (SAP) evaluation, referral, and/or education/treatment program. The SAP will evaluate the employee to determine what assistance, if any, the employee needs in resolving problems associated with substance abuse.

Before returning to work the employee must obtain a release from the SAP and provide it to the Company. The release must indicate that the SAP has determined that the employee can safely return to the performance of safety sensitive functions (and/or security or fiduciary functions for non-subject employees only). The release must also describe additional or ongoing treatment the employee must complete, if any. If allowed to return to work by the Company, the employee is required to abide by the SAP's recommendations for any ongoing treatment as a condition of continued employment. Failure to do so may result in disciplinary action, up to and including termination of employment.

Assessment by an SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the Company. The costs for the SAP shall be paid by the employee receiving assistance.

If the employee does not complete the required SAP program **or** fails to return to work before the expiration of the personal leave period, his/her employment with the Company will be terminated.

## **XI. MEDICAL REVIEW OFFICER (MRO)**

A Medical Review Officer (MRO) will review and process all test results in accordance with 49 CFR, §40, prior to reporting them to the Company. The MRO is a licensed physician who meets the requirements of 49 CFR, §40.121.

The MRO shall examine alternate medical explanations for any positive test result. Prior to making a final decision to verify a positive test result for an individual, the MRO shall give the employee an opportunity to discuss the test result with him or her. Any person testing positive for controlled (chemical) substances will be asked to provide information concerning legal use of controlled (chemical) substances (including prescription drugs) when such information might explain the presence of a controlled (chemical) substance.

## **XII. FMCSA DRUG & ALCOHOL CLEARINGHOUSE**

The Company is required to query the Federal Motor Carrier Safety Administration's Drug & Alcohol Clearing House on all CDL drivers. This clearinghouse maintains records of commercial vehicle drivers who have tested positive for DOT drug or alcohol tests or who have engaged in other prohibited conduct. This information will be reported to the clearinghouse by DOT regulated Companies: Medical Review Officer (MRO's); TPA/CTA's (third party administrators & consortiums); Substance Abuse Professionals (SAP's) and Breath Alcohol Technicians. Information provided to the clearing house will include:





## Receipt and Acknowledgment Drug and Alcohol Use & Possession Policy and Testing Program

I have been given a copy of Riverside Common Entities's Controlled (Chemical) Substance Use and Possession Policy and the Program Summary Description. Additionally, I have received educational materials regarding Alcohol & Substance Use & Abuse. I understand the Company's Controlled (Chemical) Substance Use and Possession Policy & Program and agree to abide by its terms. I also understand the consequences of my failure to comply.

Furthermore, I understand that my compliance with this policy and program is a condition of employment and continuing employment with Riverside Common Entities. I voluntarily give my consent to submit to Controlled (Chemical) Substance and Alcohol Testing as described in this policy & program.

Date: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_