

**THE CENTRAL ILLINOIS BUILDERS OF AGC  
(THE "ASSOCIATION")**

**AND**

**THE GREAT PLAINS LABORERS' DISTRICT COUNCIL,  
(THE "DISTRICT COUNCIL")**

**SUBSTANCE ABUSE TESTING PROGRAM**

**PROCEDURES**

**EFFECTIVE: MARCH 1, 2008**

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# KEY CONTACTS

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# **EMPLOYER INSTRUCTIONS**

The following forms need to be completed by the Employer and returned to CDS by fax or E-mail prior to testing:

**EMPLOYER REGISTRATION**

**EXHIBIT B**

**COMMUNICATOR AUTHORIZATION AND SETUP**

**EXHIBIT H**

**THE CENTRAL ILLINOIS BUILDERS OF AGC  
(THE “ASSOCIATION”)**

**AND**

**THE GREAT PLAINS LABORERS’ DISTRICT COUNCIL,  
(THE “DISTRICT COUNCIL”)**

**SUBSTANCE ABUSE TESTING AND ASSISTANCE PROGRAM**

**ARTICLE 1  
PROGRAM OBJECTIVE**

The Central Illinois Builders of AGC hereinafter called the “Association” and other participating Employers who do not bargain through the aforementioned Contractor Association (Employers) and The Great Plains Laborers’ District Council, hereinafter called the “District Council” are committed to establishing and maintaining a drug-free workplace for every employee, both those covered under the Collective Bargaining Agreement (CBA) and those employees not under the CBA. As such, the objective of this Substance Abuse Testing Program (Program) is to provide consistent, fair, and manageable procedures for drug and alcohol testing of employees that will be accepted by participating Employers and job site Owners, and to maintain a central database of participating individuals in order to expedite their employment and access to the Owner’s job site.

The purpose of the Program is to increase on-the-job safety and ensure high quality services and productivity to customers by denying job site presence to individuals whose abilities are impaired by drugs or alcohol and to the greatest extent possible, it is the objective of the District Council, in coordination with the Local Unions, to provide and refer out drug-free Laborers to participating Employers. The types of testing conducted under this Program will involve enrollment, pre-access, random, post accident/incident, reasonable cause/suspicion, periodic, return to work, and probationary status/follow-up testing. This program, along with the Member Assistance Program (MAP), will:

1. Help produce a safe, healthful and drug-free workplace for all employees;
2. Educate employers and employees on the signs, symptoms and consequences of substance abuse;
3. Improve workplace safety and reduce substance abuse-related injuries and property damage;
4. Reduce substance abuse-related absenteeism and tardiness;
5. Refer employees with substance abuse problems to appropriate care and assistance;
6. Deter individuals from bringing, possessing, using, distributing or having in their systems alcohol or other drugs on work time or premises;

7. Improve the image of our industry;
8. Improve productivity and service quality.

## **ARTICLE 2 DEFINITIONS**

As used in this Program, and unless the context in which they are used clearly requires otherwise, words used in this Agreement denoting gender shall refer to both the masculine and feminine and the following terms shall have the following meanings:

1. **“Accident”** – Any event resulting in injury to a person requiring outside medical care or treatment or property damage to which an employee contributed as a direct or indirect cause.
2. **“Adulterated Test Result”** - The donor has tainted the specimen with a foreign contaminate, such as bleach, to prevent the detection by the laboratory of an illegal or controlled substance. An adulterated sample is considered an administrative positive and has the same consequences as a confirmed positive test result.
3. **“Alcohol”** – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.
4. **“Applicant”** – Any individual who will perform work and has been referred for hire by a Laborers’ Local Union and / or certain personnel as designated by the Employer (i.e. Superintendents, Foremen, etc.). As a condition of employment, all applicants must meet the applicable conditions of this Policy prior to employment.
5. **“Breath Alcohol Technician”** – A person trained to proficiency and certified in the use of Evidential Breath Testing device (EBT) in a DOT course.
6. **“Communicator”** – A Company and/or Union Representative(s) designated by the Company and/or Union to preserve the confidentiality of employee’s drug testing information.
7. **“Company Premises”** – Any and all property, facilities, land, parking lots, structures, and vehicles owned, leased, used or under the control of the Employer, and any job site to which the Employer assigns any Employee.
8. **“Diluted Test Result”** - A diluted test result means that the specific gravity of the specimen is 1.003 or less and the creatinine level is less than 20 mg/dl. The following are some of the causes for a diluted sample and the related procedures:

### **Causes**

- a. Dialysis or chemotherapy;
- b. A kidney or pancreas disorder requiring medical attention;
- c. The individual is attempting to flush out his system of illegal substances. This requires an enormous amount of water to be consumed over approximately twenty-four (24) hours prior to providing a sample. The normal consumption of liquids or consuming liquids prior to testing will not cause a sample to be diluted.

### **Procedures**

- a. A diluted specimen with a creatinine level of less than 20 mg/dl but greater than 5 mg/dl will require the employee to provide another sample within twenty-four (24) hours.
  - b. A diluted specimen with a creatinine level greater than or equal to 2 mg/dl, but less than or equal to 5 mg/dl will require the employee to provide another specimen within twenty-four (24) hours, under direct observation.
  - c. A diluted specimen with a creatinine level of less than 2 mg/dl will be ruled as a substituted specimen and will have the same consequences as a positive test result.
- 9. **“Employee”** – Any individual employed by the Employer who directly or indirectly performs work for a Customer.
  - 10. **“Employer”** – A Contractor who pays wages and benefits to an employee to directly or indirectly perform work for a Customer.
  - 11. **“Illegal/Unauthorized Drugs”** – Any drug that is illegal and/or the use of a controlled substance by an individual other than the individual for whom the controlled substance was prescribed or the abuse of a controlled substance by the individual for whom it was prescribed.
  - 12. **“Incident”** - An event which has all the attributes of an accident, except that no apparent or perceived harm was caused to person or property.
  - 13. **“Legal/Controlled Drugs”** – Any prescribed or over-the-counter drug, which has been legally prescribed / obtained and is being used for the purpose for which it was prescribed / manufactured.
  - 14. **“Medical Review Officer (MRO)”** - All urine samples confirmed, as non-negative by the laboratory shall be referred to a Medical Review Officer for interpretation and final confirmation. The MRO is a licensed physician who has knowledge of substance abuse disorders and has received the appropriate medical training to interpret and evaluate an individual’s positive test result as it relates to the Employee’s medical history and

any other biomedical condition. The District Council and the Association have mutually chosen the MRO for this program.

15. **“Negative Test Result”** - A negative result indicates that the alcohol level is below .04 BAC and/or an illegal/unauthorized substance below the levels as described in this Program, has not been detected in the person’s specimen by the laboratory.
16. **“Non-Negative Test Result”** – A non-negative test result is a laboratory test result that indicates a substance(s) in the individual’s system but the result has not been confirmed as positive or negative by the MRO.
17. **“Not Consistent With Human Urine or Substituted Test Result”** - This test result is self-explanatory and is determined by the laboratory. A not consistent with human urine or substituted test result has the same consequences as a confirmed positive test result.
18. **“Positive Test Result”** - A positive test result indicates that the alcohol level is .04 BAC or above and/or the laboratory and MRO have confirmed an illegal/unauthorized drug(s) in the person’s system as described in this Program.
19. **“Possession”** - Actual or constructive care, custody, control or immediate access to illegal or unauthorized drugs or alcohol.
20. **“Prohibited Substances and Items”** include:

Illegal or legal drugs that have not been legally prescribed for the individual and controlled substances, “look-alike”, designer and synthetic drugs and mood or mind altering substances;

  - a) Prescribed drugs used in a manner inconsistent with the prescription;
  - b) Alcoholic beverages; and
  - c) Substance paraphernalia in the possession of or being used by an employee on the job, excluding any substance or paraphernalia prescribed by a physician and being used in a manner consistent with the prescription.
21. **“Reasonable Cause”** – An employee’s excessive tardiness, excessive absenteeism, poor job performance, and/or erratic behavior such as noticeable imbalance, incoherence, and disorientation. This definition is only illustrative and would lead a trained person to reasonably suspect that an employee is “under the influence” of intoxicating liquor or illegal (or misused prescription) drugs requiring an objective criteria be used per **Exhibit E – Reasonable Suspicion / Cause Documentation**.

22. **“Reasonable Suspicion”** - A belief based on objective and articulated, written facts sufficient to lead a supervisor, who has received the proper training, to suspect that drugs and / or alcohol might influence an individual’s behavior. **Exhibit E, Reasonable Suspicion / Cause Documentation**, should be utilized when an Employee is suspected of alcohol and / or drug use by actions, appearance or conduct, which constitutes a noticeable change in the person’s appearance and / or behavior. Employees testing for reasonable suspicion shall have the right to have their Job Steward notified.
23. **“Safety Sensitive”** - An exposure to operations where failure could result in serious harm to public or employee well-being, company property, or the environment. Supervisors of company personnel are included.
24. **“Substance Abuse Professional (SAP)”** – A Substance Abuse Professional is a person who meets one of the following requirements:
- i. Is a licensed physician (Doctor of Medicine or Osteopathy)
  - ii. Is a licensed or certified social worker
  - iii. Is a licensed or certified employee assistance professional
  - iv. Is a 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 on Alcohol and other Drug Abuse (ICRC)

In addition to meeting one of the above requirements, a SAP must also have the basic knowledge and qualification training that meets the requirements as defined in 49 CFR, Part 40.281, Subpart O of the Federal Motor Carriers Safety Regulations.

25. **“Substance Testing”** – Drug and alcohol analysis by means of breath, urine, blood, and/or saliva.
26. **“Third Party Administrator” (TPA)** – Construction Data Services (CDS) is an independent third party professional organization that will implement and monitor the Program and its contents, including, but not limited to, pre-access testing; collection sites; random selection; random testing; auditing of program integrity; and updating and maintaining the Program to keep pace with current and developing trends in the field of substance abuse and testing.
27. **“Under the Influence”** - The presence of a **PROHIBITED SUBSTANCE** in body fluids or breath that affects the individual in any detectable manner. The symptoms of influence may be, but are not limited to, slurred speech or difficulty in maintaining balance. “Under the Influence” for alcohol refers to a breath alcohol content of .04 or greater.

28. **“Unsuitable Test Result”** - The laboratory determines that the specimen contains a foreign contaminate or the individual has ingested fluids to mask the illegal/unauthorized drug but the levels are not in the range to legally determine if the specimen is adulterated or substituted. An unsuitable test result will require the individual to provide another sample under observation.
29. **"Worker Status"** - CDS will maintain a database of employees indicating their current status in the Program. A worker's status shall indicate his compliance or non-compliance with the Program's terms and conditions as follow:
- a) **Active Status:** employees who have been subject to and have complied with the Program's terms and who therefore are eligible for immediate placement without having to take another drug test.
  - b) **Inactive Status:** employees who have missed a random test through no fault of their own (not willful), or who have had a diluted or unsuitable test result and need to be re-tested.
  - c) **No Test Status:** employees who have not provided a drug test under this program. Employees with a No Test Status will be subject to a random selection over a thirty-six (36) month period at an annualized rate of twenty-five (25%) percent. After thirty-six months, all remaining employees with a No Test Status will be required to provide a drug test.
  - d) **Pending Status:** employees who have provided a specimen but the final results have not been received from the laboratory and/or MRO. Also includes an employee's temporary inclusion in the database pending the receipt of a post-accident, enrollment or random test result. **An Employer cannot refuse a referred employee based on that employee being listed in “Pending Status”, unless test is due to post-accident or reasonable suspicion.**
  - e) **Random Status:** employees who have been selected for a random drug test and have not yet been tested. **An Employer cannot refuse a referred employee based on that employee being listed in “Random Status”.**
  - f) **Reinstate Status:** employees who have been suspended for violation of the Policy and must complete the reinstatement requirements prior to being returned to Active status.

### **ARTICLE 3 PROGRAM STATEMENT**

1. This is to notify all employees that the use, abuse, or reporting to work under the influence, bringing onto the worksite, the unlawful manufacture, distribution,

possession, transfer, storage, concealment, transportation, promotion or sale of illegal and unauthorized drugs, controlled substances, alcoholic beverages or drug related paraphernalia by employees is strictly prohibited and is a violation of this Program and subject to disciplinary action, up to and including, immediate termination.

2. Each employee must acknowledge in writing his acceptance of the Program and provide consent to be tested for drugs and alcohol and authorize release of the results to Construction Data Services (CDS) (the Third-Party Administrator), Communicators, the clinic, the laboratory, the MRO and the Union. An example of such consent form is attached, though any form chosen by CDS may be used.

#### **ARTICLE 4 PROGRAM ADMINISTRATION AND AUDIT**

The development, implementation and overall responsibility of this Program shall be the joint responsibility of the Employers and the Union.

CDS will provide the daily administration and management of the Program. CDS shall make testing records available so as to meet the requirements of federal, state and / or local agencies, the contractual requirements of Employers and upon request to the parties of a grievance initiated by the employee or Union.

To the extent that the District Council promotes, endorses, or are otherwise associated with the adoption and use of the CDS service in any employment context, CDS agrees to fully defend, hold harmless and indemnify The Great Plains Laborers' District Council, and its affiliated Local Unions and LECET Funds, The Central Illinois Builders of AGC, and Employer members and Communicators from any and all claims, damages, losses, lawsuits, verdicts, judgments, or other adverse consequences stemming from any action of CDS in respect to the work performance of its drug testing services, or any action or failure to act by any CDS employee, agent, or subcontractor under the operative Drug Testing Services Agreement to the fullest extent permitted by law.

CDS also will add the aforementioned parties as additional insured under any liability or liability by contract rider that it provides to Owners mandating or requiring drug testing services used under this Agreement. Furthermore, CDS agrees to provide the aforementioned parties with appropriate evidence of insurance coverage including certificates of insurance and liability policy riders in amounts sufficient to cover the potential loss and acceptable to the contracting parties in the local area.

#### **ARTICLE 5 MEMBER ASSISTANCE PROGRAM (MAP)**

The Program recognizes that chemical dependency and other medical behavioral conditions are highly complex problems, which often can be successfully treated. Each employee is responsible for seeking help before an alcohol or drug problem leads to disciplinary action. The employee's decision to seek assistance (Self-Referral) prior to a violation of the Program will not be used as a basis for disciplinary action and will not be used against the employee in any

disciplinary proceeding. Employees are encouraged to contact their Health and Welfare Program or the Midwest Region Laborers' Health and Safety Fund for assistance.

## **ARTICLE 6 TRAINING AND EDUCATION**

1. Designated employees of the Employer and/or Union ("Communicators") will be provided training and education in their responsibilities and administration of the Program by CDS. The time and location of such training and education shall be determined by mutual agreement between CDS, the Employer and the Union.
2. CDS will provide training and education to supervisory personnel responsible for determining whether an employee must be tested based on reasonable cause/suspicion. Training shall cover the specific, contemporaneous physical, behavioral and performance indicators of drug and / or alcohol abuse.

## **ARTICLE 7 SUBSTANCE ABUSE TESTING PROTOCOLS**

Employees will be required to undergo substance abuse testing to determine the use of any illegal or unauthorized drug, alcohol or substances prohibited by the Program.

**A. CONFIDENTIALITY:** An employee's expectation of privacy and confidentiality is a top priority of this Program. Accordingly, all testing records will be considered confidential and will only be released upon written consent of the employee, except that such information will be released, regardless of consent, upon issuance of a subpoena compelling release of such information from a duly situated and authorized administrative or judicial forum, to Workers Compensation carriers and the Unemployment Compensation Commission in which the test results are a material issue or the parties of a grievance initiated by the employee or Union in which the test results are a material issue.

**B. SAMPLE COLLECTIONS:** Certified Collection Specialists and Breath Alcohol Technicians will collect all samples, utilizing Substance Abuse and Mental Health Services Administration (SAMHSA) procedures to insure both proper chain of custody protocols and employee confidentiality. All samples will be collected with concern for each employee's personal privacy, dignity, and confidentiality. CDS will provide the following three (3) options for substance abuse collections:

1. **Mobile On-Site Collections:** CDS certified collectors may be available to conduct the substance abuse collections at the job site or the Employer's office. **Call the CDS office to arrange for on-site collections.**
2. **Clinical Collections:** CDS has made arrangements with clinical collection sites throughout the state of Illinois for testing of employees.

These collection sites consist of Quest Diagnostics Laboratory facilities, hospitals and occupational medicine facilities. **(See Exhibit C – Approved Testing Locations).**

- a. Prior to sending an employee to a clinical collection site, the Employer needs to provide notification to the Program Administrator of the employee being tested **(See Exhibit D – Substance Abuse Testing Notification).**
  - b. The employee needs to complete the **EMPLOYEE NOTICE OF POLICY, CONSENT AND RELEASE (EXHIBIT A)**, which should be faxed to the Program Administrator.
  - c. **Employer members, who have a preference for a clinical collection site that is not on the list, should contact the Program Administrator to request that the collection facility be added to the list.**
3. **CDS Office Collections:** If practical and feasible, CDS will consider establishing additional offices throughout the state of Illinois, which would provide other options for testing of workers.

In the event the urine specimen collection process has started and the employee fails to produce a sufficient amount of urine in order for analysis to be performed, before the collection process can be deemed as a refusal to take a required drug test, the procedures as described in 49 CFR part 40.193 Subpart I of the Federal Motor Carrier Safety Regulations must be followed.

**C. TYPES OF TESTING TO BE CONDUCTED: The following types of testing will be conducted by use of urine, blood, saliva or breath:**

1. **Enrollment Testing:** New prospective employees are subject to drug testing to ascertain whether an applicant is capable of safely performing the duties and meeting the prerequisites of the employment offered.
2. **Pre-Access Testing:** Employees shall remain subject to the testing requirements of the Customer for which they are working unless otherwise excluded by the Customer.
3. **Grandfathering:** The Company can “grandfather in” workers who provided a negative drug and/or alcohol test within the previous ninety (90) days when the previous negative drug and alcohol test result **meets or exceeds** the standards of this Program as verified by CDS.
4. **Random Testing:** Employees and all individuals on Local Union Referral Lists shall be subject to unannounced random drug testing.

Random selections will be made twelve times a year at an annualized rate of twenty-five (25%) percent. The Program may select a higher percentage of total participants during the months of March through October of each year. Random selections will be made by use of a computer generated numerical program designed to ensure that no employee can be singled out. A random test will be required of individuals who have not been tested within a thirty-six (36) month period from the last test date. Upon notification of workers selected for random testing, the Union Communicator shall, within twenty-four (24) hours, notify the Employer Communicator of individual(s) selected for testing. The Employer Communicator shall locate and notify the employee / member within seventy-two (72) hours. Once the Employer Communicator notifies the employee / member, the employee / member is required to immediately contact the Union Communicator to verify that he has been notified. The employee / member must report for testing as directed by the Communicator, but the Communicator must not allow the worker more than 24 hours notice to report for testing. It shall be the Employer's responsibility, if so desired, to obtain written verification showing date and time of notification, via employee signature, to substantiate Employer's compliance regarding notification.

5. **Post-Accident / Incident Testing:** Employees shall be required to take a drug and alcohol test after having been involved in, or after causing, an accident or incident, which caused or could have caused personal injury or damage to equipment or property. Testing of employees will be consistently/equally applied to all employees. Drug and alcohol testing by use of blood will only be used for post-accident/incident testing and only when the employee is physically unable to provide a normal urine drug and/or breath test.

If testing under this policy is ever required of an employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the specimen. However, such an employee shall promptly, upon request, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.

The Company will make transportation arrangements for any employee to be tested following the mandatory guidelines of the Department Health and Human Services (DHHS). The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity enroute to the collection site for the employee to ingest anything that could affect the results.

6. **Reasonable Suspicion/Cause Testing:** Employees will be subject to a drug and alcohol test based on reasonable and articulated belief that an employee is using or has recently abused drugs, alcohol or substances prohibited by this Program. A decision to test will be based on specific physical, behavioral or performance indicators and documented by a Supervisor who has received training in the detection of possible symptoms of drugs and alcohol use and must be witnessed by a second supervisor. **(Exhibit E – Reasonable Suspicion / Cause Documentation)**

During the process of establishing reasonable cause for testing, the employee has the right to request that his on-site representative (Job Steward) be notified.

The Company will make transportation arrangements for any Employee to be tested following the mandatory guidelines of DHHS. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity enroute to the collection site for the employee to ingest anything that could affect the results.

7. **Periodic Testing:** A test will be required of individuals who have not been tested within a thirty-six (36) month period.
8. **Return To Work, Post Treatment, Rehabilitation Testing:** Employees shall be required to successfully pass a drug and alcohol test upon release from an approved rehabilitation and/or assessment program prior to being returned to work.
9. **Probationary Status / Follow-up Testing:** Individuals who have previously tested positive for drugs and/or alcohol and upon completion of the Reinstatement Requirements of the Program will be subject to additional random testing for a period of up to twenty-four (24) months at an annualized rate of fifty (50) percent. During this period, the Program has the right to conduct six of these additional random tests in the first twelve (12) months.
10. **Retest:** Individuals receiving a confirmed positive test result shall have the right to request that their original sample be retested by a SAMHSA certified laboratory of their choice. The request must be made to the MRO within twenty-four (24) hours of the notification of a confirmed positive test. The employee requesting the retest shall pay the initial cost for a retest in advance to the MRO.

In the event that said retest should prove to be negative, the employee shall be reimbursed for the cost of the test, paid any back wages lost, and made re-eligible for hire if work is available or

reinstated as an employee provided work is available with the Employer.

- 11. Federally Mandated Testing:** Any employee, for whom testing is mandated under a Federal Substance Abuse Testing Program, will remain subject to such testing notwithstanding the requirements of this Program.

**D. SPECIMEN ANALYSIS:** All samples collected under this program will be analyzed by a SAMHSA certified laboratory, and shall include an initial Enzyme Multiplied Immunoassay Screening Test (EMIT) and, when necessary, confirmed by a Gas Chromatography/Mass Spectrometry (GC/MS) Confirmation Test. Said testing must screen, at a minimum, for the following substances and below the following levels to result in a negative test:

<u>Drugs Tested</u>	<b>(EMIT) Initial Test Cut-Off Level (ng/ml)</b>	<b>(GC/MS) Confirmation Test Cut-Off Level (ng/ml)</b>
Amphetamines	1000	500
Barbiturates	300	200
Benzodiazepines	300	200
Cannabinoids (Marijuana - THC)	50	15
Cocaine Metabolite	300	150
Methadone	300	200
Methaqualone	300	200
Opiates	2000	2000
Phencyclidine (PCP)	25	25
Propoxyphene	300	200
Breath/Blood Alcohol Content (BAC)	.04%	.04%

1. The Program shall have the right to change the drugs tested, the cut-off levels and the analysis procedures as new technology in substance abuse testing warrants.
2. Workers who provide two (2) subsequent diluted test results under this Program will be required to seek medical assistance to determine if there is a valid medical reason for the diluted results. If a medical reason cannot be determined or if the worker refuses to seek medical assistance, the third (3<sup>rd</sup>) and remaining tests (if necessary) will be at the individual's expense.
3. Any worker who provides an unsuitable test result will be required to have subsequent drug tests observed.
4. Blood, saliva or breath screen tests are acceptable for alcohol testing.
5. Saliva screening for alcohol will utilize the QED-A150, which gives a quantitative reading (a range of alcohol from 0 – 150 mg/dl). If the QED-A150 registers any level equal to or greater than 20 mg/dl (.02%), then a DOT-approved Breath Alcohol

Test will be performed. A screening level less than 20 mg/dl (.04%) is considered negative.

- E. RECORD KEEPING:** Hard copy testing results shall be maintained by the TPA for the following specified periods:

Negative test results will be maintained for one (1) year  
Positive test results will be maintained for five (5) years  
Rehabilitation records will be maintained for five (5) years.

## **ARTICLE 8 POLICY VIOLATIONS**

- 1) The following are consequences for violation of the Policy (The consequences for violation under The Illinois Laborers' & Contractors' Joint Apprenticeship & Training Program Substance Abuse and Drug Testing Apprentice Policy will supersede this Policy when an apprentice is tested under this Policy): In the event that the participating Employer has its own drug testing program, the Employer retains the right to implement its program including but not limited to disciplinary procedures and return to work criteria :**

- a) ***First Violation of Policy:*** An employee who tests positive for the first time will be ineligible for employment for fourteen (14) days from the date that he/she was notified by the MRO. The reinstatement requirements must be satisfied prior to returning to work.
- b) ***Second Violation of Policy:*** An employee who tests positive for the second time will be ineligible for employment for forty-five (45) days from the date that he/she was notified by the MRO. The reinstatement requirements must be satisfied prior to returning to work.
- c) ***Third Violation of Policy:*** An employee who tests positive for the third time will be ineligible for employment for six (6) months from the date that he/she was notified by the MRO. The reinstatement requirements must be satisfied prior to returning to work.
- d) ***Violations of the Policy Greater than Three:*** Each positive result greater than three will result in an additional one year ineligible period for each violation from the date that he/she was notified by the MRO. The reinstatement requirements must be satisfied prior to returning to work.
- e) An employee's failure to comply with any provisions of the Program shall be cause for disciplinary action, up to and including, immediate termination and / or removal from Local Union(s) Referral List(s).
- f) It is the responsibility of the Union to monitor and enforce violations.

- 2) Determination for Violation of Policy:**

1. A confirmed positive drug and / or alcohol test result.
2. Failure or refusal to sign Notice of Policy and Consent to be tested.
3. Failure to contact the Medical Review Officer as directed.
4. Failure to report as directed for testing.
5. The use, possession, sale or distribution of alcohol or a controlled illegal or unauthorized substance, or the presence of any employee in the workplace with such ingested substances for non-medical reasons.
6. Working, reporting to work, being in the workplace, or in a Customer / Employer owned, leased or rented vehicle while "Under The Influence" of alcohol (.04 BAC or greater).
7. Switching, adulterating, or attempting to tamper with any sample submitted for drug or alcohol testing, or otherwise interfering or attempting to interfere with the testing process.
8. Refusal to submit a specimen for testing will be viewed as a positive test and will carry with it the same consequences as specimens tested and confirmed as positive.
9. The use of a controlled substance by an individual other than the individual for whom the controlled substance was prescribed or the abuse of a controlled substance by the individual for whom it was prescribed.

### **3) Confirmed Positive Test Results:**

#### **A. MEDICAL REVIEW OFFICER NOTIFICATION (MRO)**

After the reporting of a non-negative test by the laboratory, it will be necessary for the MRO to speak with the employee to allow the individual the opportunity to provide documentation for any legal/controlled drug(s). Employees who fail to contact the MRO within two (2) days of their notification will be reported as a non-contact positive, and will carry the same consequences as a confirmed positive test. **(See Exhibit F – Medical Review Officer Procedures)**

#### **B. ILLEGAL AND/OR CONTROLLED SUBSTANCES**

Any employee who receives a confirmed positive test result for a substance prohibited by the Program will be subject to disciplinary action, up to and including, immediate termination.

#### **C. ALCOHOLIC OR INTOXICATING BEVERAGES**

The following actions of an employee that involve alcoholic beverages are prohibited by the Program and any violation thereof and the employee will be subject to disciplinary action, up to and including, immediate termination:

- a. The consumption, possession, manufacture, distribution, use or sale of any alcoholic beverage while on or in the workplace is prohibited.

- b. The performance or attempted performance of any job function or the operation of any Owner and/or Employer property or equipment while “Under the Influence” of Alcohol.
- c. An alcohol test and confirmation result of .04 BAC or greater.

#### **4) Reinstatement Requirements:**

An individual with a confirmed positive test result cannot return to work until all of the following conditions are satisfied and if work is available:

1. The Substance Abuse Professional (SAP) notifies CDS in writing that the individual has completed or is actively participating in a Program/Company approved drug and/or alcohol assessment, treatment, and/or counseling program and that the individual is released to return to duty.
2. The employee agrees prior to returning to work to submit to a drug and alcohol test through CDS to determine the existence of foreign substances and alcohol within the system and such test is negative. The employee will be responsible for all costs incurred for this drug and alcohol test.
3. The individual agrees in writing to CDS to continue the prescribed treatment, counseling or rehabilitation as required by the SAP. If the individual does not complete the required treatment, he/she will be subject to disciplinary action, up to and including immediate termination.
4. The individual agrees to be subject to Probationary Status/Follow-up Testing. **(See Exhibit G – Reinstatement Requirements)**

#### **5) Probationary Status/Follow-up Testing:**

Upon completion of the reinstatement requirements, individuals will be subject to additional random testing at an annualized rate of fifty (50) percent for a period of up to twenty-four (24) months. During this period, the Program has the right to conduct six of these additional random tests in the first twelve (12) months. Any and all additional tests performed during the Probationary Status / Follow-up Testing period will be at the employee’s expense.

### **ARTICLE 9 GRIEVANCE**

All aspects of this Policy and Program shall be subject to the grievance procedure of the applicable Collective Bargaining Agreement.

**ARTICLE 10  
COST OF COLLECTION AND TESTING**

1. The contributions to Laborers' – Employers' Cooperation and Education Trust Funds by signatory Employers will be used to fund this Program. CDS, as the Third Party Administrator, shall submit an itemized statement for the number of tests performed under this Program each month.
2. Any employee who loses time from working in order to provide a specimen(s) for drug and alcohol testing related to random, post-accident or reasonable cause will be paid wages and benefits by the Employer for the actual time lost until the end of the regular shift, only if employee is released during his regular scheduled working hours and if the test results are negative. No wages or benefits will be paid for enrollment testing.
3. Employers failing to give notice to an employee to report for a random drug test when so notified shall be required to pay an amount equal to four (4) hours of wages and benefits for each employee that is not so directed at the wage and benefit rate as set forth in current Wage Addendums and made part of the Agreement; such amount shall be payable to the relevant LECET Fund. It shall be the Employer's responsibility, if so desired, to obtain written verification showing date and time of notification, via employee signature, to substantiate Employer's compliance regarding notification.

**ARTICLE 11  
COMMUNICATOR  
(See Exhibit H – Communicator Authorization and Setup)**

Each Employer member assigned access rights and Local Union shall be required to designate a primary and alternate Communicator. Each Communicator will be provided with an access code and password. The Communicators will be the only persons allowed to request or receive testing results.

**Communicator duties include:**

**A. Completion of Communicator and Reasonable Cause Training.**

**B. MRO Contact Person (See Exhibit F – MRO Procedures)**

CDS will contact the Union Communicator immediately when the laboratory reports the non-negative test result. The Union Communicator is then responsible for notifying the Employer Communicator to notify an employee to contact the MRO when a non-negative test result is received by CDS from the laboratory. CDS will notify both the Union Communicator and the Employer Communicator of the MRO's final test results as soon as such results are available.

**C. Administering the random selection list**

Communicators for each Local Union will be notified by CDS of the members selected for a random test and will have twenty-four (24) hours to notify the Employer / Employer Communicator of employees that have been selected or will directly notify the member

when not employed. The Employer Communicator shall have up to seventy-two (72) hours to notify and make arrangements to have the randomly selected employees tested on-site, at the CDS office or at a clinical location. Once the Employer Communicator notifies the employee / member, the employee / member is required to immediately contact the Union Communicator to verify that he has been notified; the employee / member must report for testing as directed by the Communicator, but the Communicator must not allow the worker more than 24 hours notice to report for testing. At the time the employee / member is notified, the Communicator informs the employee / member of the location (on-site, CDS office or clinical site) to be tested. If the employee / member is to be tested at a clinical collection site, the Communicator shall insure that the employee is provided with a chain-of-custody form unique to the Program and shall inform the employee where to report for the Substance Abuse Testing collection.

The procedures for Union Communicators to obtain their random selections are as follows:

1. Upon generating the random selections from the Active Pool in our Substance Abuse Testing Information System (SATIS), the Union Communicators will automatically be notified via email that their current random selections are available on-line.
2. The Union Communicator will login, using his secure access code and password, to the CDS website to obtain his random selections. Once the Union Communicator has selected the proper Program, the following menu will be provided:

**Communicator Update** – provides explanation of new enhancements to SATIS.

**My Profile** – allows Communicators to update their E-mail address and password.

**Random Selection List** – provides the random selections. **Union Communicators can only view the random selections for their own members. Only Communicators with proper authorization, based on their access code, can view the Random Selection Sheet on-line. Communicators who do not have proper authorization can only perform inquiries and will not have access to view the Random Selection List.**

**Current Members** – allows Union Communicators to view the members assigned to the Local Union along with the members' identification number, eligibility status and last date of test. Union Communicators can also select individuals that are no longer members, which will delete the member from the Local Union's list.

**Check Pool Status** – allows Union and Employer Communicators to perform inquiries on an employee's Eligibility Status.

3. Upon selecting "**Random Selection List**" from the menu, Union Communicators can view and complete the Random Selection Sheet on-line, indicating whether the individual is no longer a member and the collection method for employees still working. This on-line process is interfaced **real-time** with SATIS.
4. Communicators who do not have Internet access will receive the Random Selection List by secure fax following telephone notification from CDS.

#### **D. Making inquiries**

1. Employer Communicators may make an inquiry at the time of hire or placement to ascertain the status of an employee.
2. Inquiries can be made by:
  - a. **Internet Access** – Communicators are allowed secure confidential Internet access to SATIS.
    - i. The Communicator will login, using his secure access code and password, to the CDS website to perform an inquiry. Once the Communicator has selected the proper Program, the Communicator selects “**Check Pool Status**” from the main menu.
    - ii. The Communicator enters the Social Security Number or Employee Identification Number.
    - iii. The employee’s Eligibility Status (Active, Inactive, No Test, Pending, Random or Reinstate) can be viewed on screen or printed.
  - b. **Phone** – Communicators can inquire on a worker by phone by calling the Program Administrator. The Communicator’s access code and password must be provided.
  - c. **Fax** - Communicators can inquire on workers by fax (**See Exhibit I – Pool Status Inquiry**)
3. Passage is protected by a series of access codes and passwords. No information will be released without the proper security clearance.

Therefore, be it understood that the below-signed parties and agents for the "Association" and the "District Council" agree to be bound by one document as developed and presented in this Substance Abuse Testing Program, with said Program to be implemented by and between the "Association" and the "District Council", with Construction Data Services (CDS) being engaged as the Third Party Administrator.

**FOR THE DISTRICT COUNCIL:**

**Great Plains Laborers' District Council**

\_\_\_\_\_  
John Penn, Business Manager

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

**FOR THE ASSOCIATION:**

**The Central Illinois Builders of AGC**

\_\_\_\_\_  
Scott M. Larkin, Director of Labor Relations

Date \_\_\_\_\_