

## **DRUG & ALCOHOL POLICY**

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Winger Companies, herein referred to as Winger, reserves the right to review the policies and procedures contained in this Drug & Alcohol Testing Policy, and reserves the right to change, revise or terminate the policy at any time. Nothing in this policy is intended or should be construed as requiring "for cause" termination or otherwise affecting the at-will nature of the employment relationship.

Winger recognizes that drug & alcohol use and abuse in the workplace constitutes an obstacle to the profitable, efficient and safe operation of its business. By enacting a drug & alcohol testing policy, Winger hopes to combat the problems associated with substance abuse by creating a drug & alcohol free workplace. In doing so, Winger has established the following drug & alcohol testing policy.

### **DEFINITIONS**

1. "Alcohol" means ethanol, isopropanol or methanol.
2. "Drug" means a substance considered a controlled substance and included in schedule I, II, III, IV or V under the Federal Controlled Substances Act, 21 USC801 et seq.
3. "Employee" means a person in the service of an employer in this state, supervisor, manager and officer, all employees of all departments, all job applicants, bargaining employees, clerical, management, contract employees and part-time employees of the employer who is actively involved in the day-to-day operations of the business.
4. "Medical Review Officer" means a licensed physician, osteopathic physician, chiropractor, nurse practitioner or physician assistant authorized to practice in any state of the United States, who is responsible for receiving laboratory results generated by an employer's drug or alcohol testing program and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with the individual's medical history and any other relevant biomedical information.
5. "Prospective employee" means a person who has made application, whether written or oral to an employer to become an employee.
6. "Legal drug" means any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose for which it was prescribed or manufactured.
7. "Reasonable suspicion drug or alcohol testing" means drug or alcohol testing based upon evidence that an employee is using or has used alcohol or other drugs in violation of the employer's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this paragraph, facts and inferences may be based upon, but not limited to, any of the following:
  - a. Observable phenomena while at work such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.
  - b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
  - c. A report of alcohol or other drug use provided by a reliable and credible source.

- d. Evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the current employer.
  - e. Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Chapter 88, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one thousand dollars.
  - f. Evidence that an employee has manufactured, sold, distributed, solicited, possessed, used or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
8. "Safety-sensitive position" means a job wherein an accident could cause loss of human life, serious bodily injury, or significant property or environmental damage, including a job with duties that immediate supervision of a person in a job that meets the requirement of this paragraph.

### **COMPANY WORK RULES INVOLVING THE USE OF DRUGS AND ALCOHOL**

- 1. **Use of Prescription Drugs:** An employee may take a prescription drug during work hours only if the drug has been prescribed for the employee by a physician or another authorized prescriber and only if the drug is taken according to the directions of the prescription.
- 2. **Use of Over-the-Counter Drugs:** An employee may take an over-the-counter drug during work hours only if the drug is used for its intended purposes, has been prescribed for the employee by a physician or another authorized prescriber and only if the drug is taken according to the directions on the package and the directions as modified by the employee's physician or other authorized prescriber.
- 3. **Abuse of Legal Drugs:** Abuse of legal drugs will not be tolerated and Winger will deal with such abuse in the same manner as it does the use of illegal drugs.
- 4. **Drug or Alcohol Possession or Use:** Except as delineated in paragraphs 1 and 2 above, an employee who possesses, uses, consumes, sells, transfers or attempts to sell or transfer any drug, prescription drug or alcoholic beverage while on duty at Winger, whether or not that individual is on Winger premises, is guilty of misconduct and is subject to disciplinary action, even for a first offense and without the necessity of a drug or alcohol test.
- 5. **Impairment During Working Hours:** An employee who appears to be impaired during work hours due to the effects of the use of alcohol and/or the abuse of a legal drug and/or the use of a drug will not be allowed to work and is subject to disciplinary action, even for the first offense and without the necessity of a drug or alcohol test.

### **PRE-EMPLOYMENT TESTING**

**Drug Testing:** Winger requires pre-employment drug testing that is designed to prevent hiring individuals who use controlled substances or abuse legal drugs. In the event that an employee was previously a tested employee of Winger and said employment terminated not less than ninety (90) days prior, the employee shall not be required to submit for a pre-employment drug test.

At the time of the collection of the sample, the prospective employee may provide to the medical review officer (MRO) any information that may be relevant to the drug test. Such information may include identification of prescription or non-prescription drugs currently or recently used or any other relevant medical information. To the extent feasible, all precautions should be taken to insure that the testing only measures and the records concerning the testing only make use of the information regarding use of drugs in the body.

A confirmed positive test result or a refusal to provide a testing sample will result in Winger refusal to hire the prospective employee. The result does not preclude the prospective employee from later initiating an employment with Winger.

**Alcohol Testing:** Winger does not require alcohol testing for prospective employees. We reserve the right to amend this policy at any time without notice. Should alcohol testing be initiated during employment at Winger pursuant to this policy, testing shall be taken in conformance with Iowa Code Chapter 730. The standard for alcohol concentration shall not be more than .04, expressed in terms of grams of alcohol per two hundred ten liters of breath, or its equivalent.

## **EMPLOYEE TESTING**

**Drug Testing:** Winger will conduct drug and alcohol testing in an attempt to discourage and prevent current employees from abusing alcohol and legal drugs and using illegal drugs. At the time of collection of the sample, an employee may provide any information which may be relevant to the drug test; such information may include identification of prescription or non-prescription medication currently or recently used and any other relevant medical information. To the extent feasible, all precautions will be taken to insure that the testing only measures and the records concerning the testing only make use of the information regarding, drugs in the body.

**Reasonable Suspicion Testing:** Any active employee may be required to submit to a drug or alcohol test if Winger has evidence that an employee is using or has used drugs or alcohol in violation of Winger's written policy. This evidence must be drawn from specific observations and articulable facts and a reasonable inference is drawn from those facts in light of experience. Examples that might support such a conclusion are:

1. Observations made at work, such as direct observation of alcohol or drug use, physical symptoms, or being impaired as to drug or alcohol use;
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
3. A report, by a reliable and credible source, of alcohol or drug use;
4. Evidence that an individual has tampered with any alcohol or drug test during the individual's employment with the Winger;
5. Evidence that an employee has an accident resulting in personal injuries other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work, demolition or transfer to another job, or property damage of \$1,000.00 or more; or
6. Evidence that an employee has manufactured, sold, distributed, possessed, used or transferred drugs while working or while on the employer's premises or while operating an employer's vehicle, machinery or equipment.

7. Final determination for reasonable suspicion testing is made by the President and/or Safety Director. The cause will be noted in the employee's permanent file.

**Unannounced Testing:** Current employees may be subjected to drug and alcohol testing which is conducted on a periodic basis, without advanced notice of the test and without the individualized suspicion delineated above.

Any employee who is in the following pool of employees, is subject to unannounced testing:

- The entire employee population at a particular work site with the exception of employees who are not scheduled to be at work at the time of the testing is to occur because of the status of the employee (i.e. leave of absence, lay off, etc.) or who have been excused from work pursuant to Winger's policy prior to the time the testing is announced to the employee.
- The entire full-time active employee population at a particular work site except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is conducted because of the status of the employees.
- All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted or have been excused from work pursuant to the employer's work policy prior to the time testing is announced to employees.

**Rehabilitation Testing:** Winger may require a current employee to undergo drug and alcohol testing during or following completion of a drug or alcohol rehabilitation, without any prior notice that the test will be conducted.

**Workplace Accident Testing:** In conjunction with the investigation of any accident in the workplace, where the accident results in an injury to a person, other than a minor injury requiring only first aid treatment, which did not involve medical treatment, loss of consciousness, restriction of work or motion or transfer to another job or which results in damage to property in an amount easily estimated at the time of the accident to exceed more than \$1,000.00, Winger may require employees to submit to drug and/or alcohol testing.

**Federal Laws/Regulations:** Winger will conduct drug and alcohol testing currently required by federal law or regulations or by law enforcement agencies.

#### **Employee Discipline in Connection with a Positive Drug Test Result**

A current employee's confirmed positive drug test result, or the refusal of the employee to provide a testing sample, will result in the following disciplinary action. Employees receiving unacceptable test results will not be allowed to work on Client/Host sites or facilities. Any employee that receives unacceptable drug and alcohol test results must be removed from the site. Any action taken against the employee is based solely upon the results of the drug test:

First Positive Test Result:	2 to 3 week suspension without pay
Second Positive Test Result:	Termination

#### **Employee Discipline in Connection with a Positive Alcohol Test Result**

Upon Winger receipt of a confirmed positive alcohol, but not drug, test result, certain employees are entitled to enroll in a rehabilitation, treatment or counseling program. The program may include

additional drug or alcohol testing. Participation and successful completion of the program is a condition of continued employment with Winger. Failure to comply with these requirements will result in appropriate discipline as set forth in "Employee Discipline in Connection with a Positive Drug Test Result". This one-time rehabilitation program only applies if the following requirements are met:

The employee tested positive only for alcohol, not drugs in an amount exceeding the standard for alcohol concentration of more than .04, expressed in terms of grams of alcohol per two hundred ten liters of breath, or its equivalent.

The employee tested positive for alcohol must have been employed by Winger for at least 12 of the 18 months immediately preceding the date of the testing;

The employee must agree to the treatment; and

The employee must not have previously violated Winger' drug and alcohol testing policy in any way.

If all of these five criteria have been met, Winger shall not take any adverse employment action against the employee, so long as the employee complies with the requirements of the rehabilitation and successfully completes the rehabilitation period. If any of the above five criteria have not been met, Winger will apply the appropriate discipline as set forth in "Employee Discipline in Connection with a Positive Drug Test Result". Payment for costs of rehabilitation will be as outlined in Iowa Code Chapter 730.

Following an alcohol test, but prior to receipt of the final results of the alcohol test, Winger may suspend the current employee, with or without pay, pending the outcome of the test. This permits Winger to suspend the employee following the testing but before the test result. If the test result is not confirmed positive, Winger will reinstate an employee who has been suspended, with back pay, and interest on such amount at eighteen (18%) percent annum compounded annually, if applicable. Any action taken against the employee is based solely upon the results of the alcohol test.

## **TEST SCHEDULING AND COSTS OF TESTS**

Drug and alcohol testing shall occur during, or immediately before or after a regular work period. The time required for testing, including travel time, will be considered work time for the purposes of compensation and benefits. The actual cost of the testing, other than for a second, confirmatory test if one is requested as provided by law, is paid by Winger. If the drug or alcohol sample is collected at a place other than the employee's normal work site, Winger will provide transportation or will pay reasonable transportation costs to the employee.

## **NOTICE TO MINORS**

Employees of Winger under the age of eighteen (18) shall be provided a copy of this written policy by mailing a copy by certified mail, return receipt requested, to the employee's parent or legal guardian. The same requirement shall apply concerning notification of a drug or alcohol test or positive drug or alcohol test conducted for the minor employee.

## **NOTICE REQUIREMENTS**

Winger does not have an employee assistance program, but maintains a resource file of employee assistance service providers, alcohol and other drug abuse programs certified by the Iowa Department of

Public Health, mental health providers, and other persons, entities and organizations which is available to employees to assist with personal or behavioral problems.

Winger, hereafter referred as the Company, together with all unions with which it has a contract, have a vital interest in maintaining a safe, healthy and efficient working environment. Being under the influence of a drug or alcohol on the job poses serious safety and health risks to the user and to all those who work with the user. The use, sale, purchase, transfer or possession of an illegal drug at the work place, and the use, possession, or being under the influence of alcohol also imposes unacceptable risks for a safe, healthy and efficient operation. The Company substance abuse policy seeks to balance our respect for individual privacy with our need to keep a safe, productive, drug and alcohol free environment. It is the Company's intention to prevent substance abuse and promote its treatment. We encourage those who use drugs or abuse alcohol to seek help in overcoming their problem.

The Company has an obligation to maintain a safe, healthy, and efficient work place for all of its employees and to protect its property, information, equipment, operations and reputation. The Company also recognizes its obligation to other companies to provide services that are free of the influence of illegal drugs and alcohol, and will endeavor through this policy to provide drug and alcohol services.

The Company expresses its intent through this policy to comply with Federal and State rules, regulations and laws that relate to the maintenance of a work place free of illegal drugs and alcohol. The Company has adopted and implemented this policy in coordination with the requirement of its negotiated contracts with unions it employs. In the event this policy conflicts with the requirements of the negotiated contract with a union it employs, the contract shall control. Should any dispute arise with respect to the application or implementation of this policy between workers employed pursuant to the collective bargaining agreement and the Company, or the Company and the union, such dispute shall be submitted through the grievance and arbitration provisions of the agreement.

## **PURPOSE**

This policy is implemented pursuant to Iowa's Private Sector Drug-Free Workplace law (Iowa Code §730.5) and the Drug-Free Workplace Act of 1998. This policy outlines the goals and objectives of the Company's drug and alcohol testing program and provides guidance to supervisors and employees concerning their responsibilities for carrying out the program.

## **SCOPE**

Substance abuse is recognized as a treatable illness. The desired result and preferred procedure is rehabilitation through a referral to a locally operated employee assistance program agreed to between the Company and respective bargaining units. For information regarding the available treatment programs, please access the Company's substance abuse resource file located in the main office or contact your respective signed union representative.

## **DEFINITIONS**

- a. **Alcohol** means any beverage that contains ethyl alcohol (ethanol), isopropanol, or methanol, including but not limited to beer, wine, and distilled spirits.
- b. **Drug Testing** means the scientific analysis of urine, breath or saliva for the purpose of detecting a drug or alcohol.
- c. **Employee** means a person in the service of the Company, and applies to all employees of all departments, all job applicants, bargaining employees, clerical, management, contract employees and part-time employees. (See below for conflict with a particular negotiated union contract.)



- d. **Employee Assistance Program (EAP)** means a program designed to assist employees with alcohol and/or substance abuse or other problems by means of counseling, treatment, or referral to more specific centers. The emphasis of the program is centered on the recovery of the individual, and to provide services designed to assist in recovery.
- e. **Good Faith** means reasonable reliance on facts, for that which is held out to be factual, without the intent to be deceived, and without reckless, malicious or negligent disregard for the truth.
- f. **Illegal Drug** means any drug which is not legally obtainable; any drug which is legally obtainable, but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level other than recommended by the manufacturer for the purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances, such as marijuana and hashish, cocaine, heroin, methamphetamine, phencyclidine (PCP), any so called designer drugs and look-alike drugs, or those substances included in Schedule I, II, III, IV or V under the Federal Controlled Substances Act, 21 U.S.C. §801 et seq.; also, any substances regulated by the Iowa Imitation Controlled Substances Act (which includes, "a substance which is not a controlled substance but which by color, shape, size, markings and other aspects of dosage unit, appearance and packing or other factors, appears to be or resembles a controlled substance") found at Iowa Code Chapter 124A; and any controlled substance or counterfeit substance under the Iowa "Uniform Control Substances Act" found at Iowa Code Chapter 124.
- g. **Legal Drug** means any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose for which prescribed or manufactured.
- h. **Limits** for drug tests will be provided in compliance with this policy to screen for detection of the following drugs at the following cutoff concentrations:
 

THC (Cannabinoids)	50 mg/ml
Amphetamines	300 mg/ml
Cocaine	300 mg/ml
Opiates	2000 mg/ml
Phencyclidine	25 mg/ml
Barbiturates	300 mg/ml
Benzodiazepines	300 mg/ml
Propoxyphene	300 mg/ml
Methadone	300 mg/ml
Methaqualone	300 mg/ml
- i. **Medical Review Officer** means a licensed physician, osteopathic physician, chiropractor, nurse practitioner, or physician assistant authorized to practice in any state of the United States, who is responsible for receiving laboratory results generated by an employer's drug or alcohol testing program, and who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's positive test result, together with individual's medical history and any other relevant biomedical information.
- j. **Minor** means an individual who is under 18 years of age and is not considered by law to be an adult.
- k. **Parent** means one biological or adoptive parent, a step parent or a legal guardian or custodian of the minor.
- l. **Pre-Employment screening** means the screening of prospective employees, which will include drug testing and/or alcohol testing as a pre-requisite for the employment offered depending upon the requirements of the applicable bargaining agreement.
- m. **Probable Cause Drug or Alcohol Testing (reasonable suspicion)** means drug or alcohol testing based upon evidence that an employee is using or has used alcohol or other drugs in violation of the Company's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this paragraph, facts and references may be based upon, but not limited to, any of the following:
  - Observable phenomena while at work, such as direct observation of alcohol or drug use

- or abuse, or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.
- Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- A report of alcohol or other drug use provided by a reliable and credible source.
- Evidence that an individual has tampered with any drug or alcohol tests during the individual's employment with the current employer.
- Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Chapter 88 of the Iowa Code, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed \$1,000.00.
- n. **Prospective Employee** means a person who has made an application, whether written or oral, to the Company to become an employee. Prospective employee includes a bargaining unit member who has been referred to the Company through their union's referral procedure.
- o. **Random Test** means testing which is conducted on a periodic basis, without advance notice of the test, to employ a subject to testing prior to the day of testing, and without individualized suspicion, any employee is subject to unannounced testing who is in a pool(s) consisting of the entire employee population as the term employee is defined in Section (k). If there is to be unannounced testing, employees who are in the pool all have an equal chance of selection, regardless of whether the employee has been selected or tested previously. The Company, as required by law will utilize a random selection process conducted by an entity independent from the Company, or pursuant to the process set forth below in "Unannounced Testing of Employees for Drugs and Alcohol."
- p. **Safety-sensitive position** means a job wherein an accident could cause loss of human life, serious bodily injury, or significant property or environmental damage, including a job with duties that immediate supervision of a person in a job that meets the requirements of this paragraph.
- q. **Under the Influence** means a condition in which a person is affected by a drug or by alcohol. Determination of being under the influence can be established by a professional opinion with a scientifically valid test, such as urinalysis or breath test.
- r. **Under the influence of alcohol** means a blood alcohol content of .04% or greater. Under the influence of a chemical or a chemical substance or drug means the urine content determined to exceed the limits established by this policy (see Section (d)).
- s. **Use** means consuming, possessing, selling, concealing, distributing or arranging to buy or sell, being under the influence and reporting for duty under the influence of alcohol or illegal drugs.
- t. **Work hours** means all of the time in which an employee is engaged in work duties.
- u. **Workplace, Company Premises or Company Facilities** means all property of Winger, or place in which Winger is providing services including, but not limited to, the offices, facilities, and surrounding areas on Winger owned or leased property, parking lots and storage areas. These areas also include Winger job sites. The term also includes Winger owned or leased vehicles and equipment, wherever located.

## REQUIRED TESTING OF EMPLOYEES FOR DRUGS AND ALCOHOL

At the Company's expense, each employee is required to take drug and alcohol tests in the following circumstances:

1. Employees will be tested for drugs and/or alcohol if there is a probable cause that the employee is under the influence of a drug or alcohol. Probable cause drug or alcohol testing is defined in this policy, and Iowa Code §730.5(1)(h).
2. When prospective employee is applying for employment with the Company.
3. When an employee is required, subject to drug and alcohol testing pursuant to federal law, regulations, or law enforcement.



4. A random test.
5. When the Company is investigating an accident in the workplace which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Chapter 88 of the Iowa Code, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one-thousand dollars.

### **UNANNOUNCED TESTING OF EMPLOYEES FOR DRUGS AND ALCOHOL**

At the Company's expense, the Company may conduct unannounced drug or alcohol testing of employees who are selected from any of the following pools of employees:

1. The entire population at a particular work site of the employer except for employees who are not scheduled to be at work at the time the testing is conducted because of the status of the employees, employees who cannot be tested pursuant to a collective bargaining agreement, or employees who have been excused from work pursuant to the employer's work policy prior to the time testing is announced to employees.
2. The entire full-time active employee population at a particular work site except for employees who are not scheduled to be at work at the time the testing is to be conducted because of the status of the employee, employees who cannot be tested pursuant to a collective bargaining agreement, or employees who have been excused from work pursuant to the employer's working policy.
3. All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees who are not scheduled to be at work at the time testing is conducted, employees who cannot be tested pursuant to a collective bargaining agreement, or employees who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.

### **DRUG AWARENESS EDUCATION**

Selected supervisory personnel of the Company will attend a minimum of two hours of initial training and attend on an annual basis thereafter a minimum of one hour of subsequent training. The training shall include, but is not limited to, information concerning the recognition of evidence of employee alcohol or drug abuse, the documentation and corroboration of employee alcohol or other drug abuse, and the referral of employees who abuse alcohol or other drugs to the employee assistance program or the resource file of employee assistance services providers. The Company shall provide to all applicable union representatives a report including the name of all those receiving such training, the dates of their training, a description of the training received and persons and/or organizations that provided the training and the report shall be updated at least once per year.

The Company shall inform employees of and does so in a Substance Abuse Resource file located in the main office shop break room and permanent jobsite trailers of the following:

- Dangers of drug and alcohol use in the workplace.
- Local employee assistance programs, and other drug abuse programs certified by the Iowa Department of Public Health, mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems.
- The provisions of this policy.

### **PROHIBITED ACTIVITIES**

The use, sale, purchase, transfer, or possession of any illegal drug or alcohol by an employee while on Company premises or while performing Company business is prohibited.

## **DISCIPLINE**

- a. Any employee who possesses, distributes, sells, attempts to sell, or transfers illegal drugs on Company premises or while on Company business will be discharged.
- b. Any employee who is found in possession of or under the influence of alcohol in excess of .04 blood alcohol content or greater violates this policy and is subject to discipline, up to and including discharge.
- c. Any employee who is found through drug or alcohol testing to have in his or her body an amount of an illegal drug or alcohol above the level, which is in violation of the standards established by this policy will be offered a one-time opportunity to enter and successfully complete a rehabilitation program that has been approved by the Company and the Union. During rehabilitation, the employee will be subject to unannounced drug or alcohol testing. Upon return to work from rehabilitation, the employee will be subject to unannounced drug or alcohol testing for a period of one (1) year. Any test that is confirmed as positive during or following rehabilitation will result in discharge.
- d. Any employee who refuses to submit to a drug or alcohol test when requested to do so will be subject to discipline up to and including discharge.

## **DRUG AND ALCOHOL TESTING OF PROSPECTIVE EMPLOYEES**

All prospective employees are subject to drug and alcohol testing at the Company's expense. A prospective employee must pass the drug and alcohol test to be considered for employment. All drug and alcohol testing of prospective employees shall provide a rapid result wherever possible. A prospective employee will be provided a written notice of this policy by the Company, and by signature will be required to acknowledge receipt and understanding of the policy.

If a prospective employee refuses to take a drug or alcohol test, the pre-employment process will be terminated. If the test result confirms use of illegal drugs or alcohol above the limits established by this policy, the pre-employment process will be terminated. If the initial test result is inconclusive, the prospective employee will be offered one more opportunity to test, at the Company's expense, before the pre-employment process is terminated.

The Company will pay a prospective employee who has been referred for employment by the respective union, and for whom a negative test result has been forwarded to the Company an expense reimbursement or pay in accordance with the applicable union contract.

## **DRUG AND ALCOHOL TESTING OF EMPLOYEES**

The Company will notify employees of this policy by providing each employee a copy of the written policy, and obtaining a written acknowledgement from each employee that the policy has been received and read and announcing the policy in various written communications and making presentations at employee meetings.

An employee's consent to submit to drug or alcohol testing is required as a condition of employment, and the employee's refusal to consent may result in disciplinary action, including discharge, for a first refusal or any subsequent refusal. Additionally, any employee who is tested in a probable cause situation may be suspended pending receipt of written test results and whatever inquiries may be required. If the drug or alcohol test results are negative, the employee will be reimbursed for all back-pay that resulted from the suspension.

The Company will offer to provide transportation or pay reasonable transportation costs to an employee if drug and/or alcohol sample collection is conducted at a location other than the employee's normal work site. If the employee whose faculties appear to be impaired refuses transportation assistance and indicates an intention to drive from work or to the testing center, the supervisor or designee will document the refusal and will warn the employee that proper authorities will be notified.

A confirmed positive drug or alcohol test result of a current employee shall be provided to the employee by the Company in writing, by certified mail, return receipt requested. The employee has the right to request and obtain a confirmatory test of the second sample collected at an approved laboratory of the employee's choice. The fees for such a confirmatory test shall be payable by the employee. If an employee is a minor, any notice that is required to be given shall be provided to the parents of any minor employee by certified mail, return receipt requested.

Any action taken against an employee or prospective employee shall be based only on the results of the drug or alcohol test. If rehabilitation is required, the Company shall not take adverse employment action against the employee so long as the employee complies with the requirements of rehabilitation and successfully completes rehabilitation.

### **APPEAL OF A DRUG OR ALCOHOL TEST RESULT**

An employee or prospective employee whose drug or alcohol test is positive will be offered the opportunity to explain to the Medical Review Officer (MRO) the positive results. The purpose of this meeting will be to determine if there is any reason that a positive finding could have resulted from some cause other than drug or alcohol use. The Company, through inquiry with the MRO, will judge whether or not an offered explanation merits further inquiry.

An employee or prospective employee whose drug or alcohol test is reported positive will be offered an opportunity to obtain an independent test at the employee's expense, of the remaining portion of the urine specimen which yielded the positive results and/or obtain the written test result and submit it to an independent MRO at the employee's expense.

An employee or prospective employee may contest the positive test results by informing the Human Resources Director of the Company in person or by certified mail, return receipt requested, within 7 days of the date of mailing by the Company by certified mail, return receipt requested, of the notice that he or she has had a positive test result for a prohibited substance and requesting that such confirmation test be done at a laboratory of his or her choosing. The laboratory that the individual chooses must be a certified laboratory and the testing limits must be at or below those required by this policy. During the period of an appeal and any resulting inquiries, the pre-employment selection process for a prospective employee will be placed on hold, and the employment status of an employee may be suspended and the costs of second testing will be paid by the employee. If the employee appeal is successful, the employee will receive back-pay for all time he or she was suspended and the costs of the second testing.

Any bargaining unit employee, subject to this policy, continues to have access to the usual protections provided by their prospective collective bargaining agreement. A bargaining unit member may request that a union representative be available or present prior to any action taken by the Company at any stage of the policy in its administration. If an individual is aggrieved by any action taken under this drug/alcohol policy and his or her complaint cannot be resolved, it may, if the individual or union requests, be referred as a grievance under the grievance and arbitration provisions of that union's collective bargaining agreement. In the event the matter is ultimately referred to an arbitrator, the arbitrator shall be bound by the provisions of the drug/alcohol policy.

## **REHABILITATION AND EMPLOYEE ASSISTANCE**

Rehabilitation assistance in lieu of discharge shall be offered to any employee, with a confirmed positive alcohol test greater than .04 with the exception of prospective employees, who requested rehabilitation assistance, provided the request is unrelated to any identification of the employee as a violator of this policy or to any employee, with the exception of prospective employees, who has violated this policy for the first time,

When an employee tests positive for the first time for the presence of alcohol, the Company shall take no disciplinary action against said employee if the employee undergoes a substance abuse evaluation and if an employee successfully completes substance abuse treatment, if treatment is recommended by the evaluation. However, if an employee fails to undergo a substance abuse evaluation required under the results of the alcohol test within one (1) week from the occurrence, or fails to complete substance abuse treatment when recommended by an evaluation, the employee may be disciplined, up to and including discharge.

Rehabilitation assistance provided by the Company, with approval of the appropriate Union, will be limited to those medical benefits that are available in the employee's medical benefits plan or those medical benefits obtained through a rehabilitation program that has been pre-approved by the Company and with the approval of the appropriate union.

The Company will provide to any employee, upon request, and at no cost to the employee, information concerning local resources that are available for treatment of drug and alcohol related problems. A Substance Abuse Resource file is located in the main office of the Company is accessible by any employee during regular business hours.

## **INSPECTIONS AND SEARCHES**

When probable cause, as defined by this policy, exists to believe an employee has illegal drugs in his or her possession while at work, the Company may conduct unannounced searches for illegal and unauthorized drugs, legal drugs, and alcohol at the Company's premises, at sites in which the Company is providing services and in the Company's vehicles or equipment wherever located. Employees are expected to cooperate.

Such searches shall, however, include only property owned and issued by the Company and shall not include the employee's person, lunch box, purse, personal tool box, personal vehicle or other personal property in the employee's possession. The Company shall notify the appropriate union before conducting a search pursuant to this policy, and the employee shall have the right to have a union representative present when the search occurs. Any employee who fails to cooperate in a search will be subject to disciplinary action, up to and including immediate discharge.

It should be noted that some customer facilities will perform unannounced searches on an employee, lunch box, tool box, personal vehicle parked in their parking lot or other items to deter theft and other illegal activities. An employee's consent to a search is required as a condition of employment, and the employee's refusal to consent may result in disciplinary action, including discharge, even for a first refusal.

Illegal drugs and drug paraphernalia found on the Company's property or on sites where the Company is providing services will be turned over to the appropriate law enforcement agency and full cooperation will be given in any subsequent investigation. An employee who is the subject of a drug related investigation by the Company or by a law enforcement agency may be suspended pending completion of the

investigation. If, after investigation, the employee is exonerated, the employee shall be immediately reinstated, and any reference to the investigation and suspension will be expunged from the employee's file.

## **CONFIDENTIALITY**

All information relating to drug or alcohol testing or the identification of persons as users of drugs and alcohol will be protected by the Company as confidential, unless otherwise required by law or authorized in writing by the persons in question. The Company, with the approval of the appropriate union, shall select at least one and no more than two designated representatives to handle all confidential matters regarding this policy. Only the designated representatives will be informed of the test results. The names of the Company's designated representatives will be communicated to the EAP in writing. Employees may obtain the names of the designated representative from the Company or the applicable union.

An employee or prospective employee who is subject to the drug or alcohol tests conducted under this policy for whom a confirmed positive test result, or inconclusive test result, is reported shall, upon written request, have access to any records relating to the employee's drug or alcohol test, including records of the laboratory where the testing was conducted and any records relating to the results of any relevant certification or review by a MRO. However, a prospective employee shall be entitled to records under this section only if the prospective employee requests the records, in writing, within fifteen calendar days from the date the Company provided the prospective employee written notice of the results of a drug or alcohol test.

The Company may use and disclose information concerning the results of a drug or alcohol test under any of the following circumstances:

- a. In an arbitration proceeding in accordance with any collective bargaining agreement, or administrative agency proceeding under workers' compensation laws or employment compensation laws or under common statutory laws where action taken by the Company based on the tests is relevant or challenged.
- b. To any federal agency or any other unit of the federal governments required under law, regulation or order, or in accordance with compliance requirements of a federal government contract.
- c. To any agency of this state authorized to license individuals if the employee tested is licensed by that agency and the rules of that agency require such disclosure.
- d. To a union representing the employee.
- e. To a substance abuse evaluation or treatment facility or professional for the purpose of evaluation or treatment of the employee.

Positive test results or inconclusive test results from a drug or alcohol testing program shall not be used as evidence in any criminal action against the employee or prospective employee.

## **COMPLIANCE WITH APPLICABLE LAW**

It is the intent of the Company to operate this policy in accordance with existing State and Federal laws. If any provision of this policy, or the application of such provision to any such person or circumstances, be held invalid by a court of competent jurisdiction, the remainder of this policy or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

## **PRESCRIPTION DRUG POLICY**

Employees are required to immediately notify their supervisor and/or the Company Human Resources/Safety Director of any prescription drug (s) they are taking which a physician or pharmacist have indicated may impair their ability to work.

## **CERTIFICATE**

I hereby certify that I have received and read the Winger Companies' Program for a Drug-Free Workplace dated September 13, 2017, and that I understand and agree to abide by the policies and rules stated therein.

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



### **SOURCE CREDITS:**

U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) [www.osha.gov](http://www.osha.gov)  
SMACNA: Contractors Guide to Alcohol and Substance Abuse  
Mechanical Contractors Association of Iowa, Inc.: Drug and Alcohol Testing Policy and Procedure  
Mechanical Contractors Association of America, [www.mcaa.org](http://www.mcaa.org)

### **DOCUMENT CONTROL:**

Initial Program September 15, 2005  
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