

# DRUG-FREE WORKPLACE POLICY

## 1. STATEMENT OF POLICY

Tervo Masonry believes that it is very important to provide a safe workplace for all of its employees. We are taking steps to address the problem of substance use that negatively affects every workplace, including ours. Our business is concerned with the health and well being of all employees. Behaviors related to substance use can endanger all employees, not just substance users. We can't condone and won't tolerate behaviors on the part of employees that relate to substance use, such as:

1. Use of illegal drugs;
2. Misuse of alcohol;
3. Sale, purchase transfer, trafficking, use or possession of any illegal drugs;
4. Arrival or return to work under the influence of any drug (legal or illegal) or alcohol to the extent that job performance is affected.

Management is fully committed to our Drug-Free Workplace Policy which establishes clear guidelines for acceptable and unacceptable employee behavior for everyone in the workplace. We will not tolerate substance use in violation of this Policy and intend to hold everyone reasonable responsible for supporting the Policy.

This document (Policy) describes our Company's Drug-Free Workplace Program, and every employee is expected to read and understand it. The Policy applies to every employee including management, and also applies to contractors and subcontractors we may use. The consequences stated in this Drug-Free Policy will apply to anyone who violates the Policy.

Tervo Masonry holds all employees accountable in terms of substance use but also supports getting help for employees. Employees who come forward voluntarily to identify that they have a substance problem will receive our support and assistance. However, if an employee has a substance problem and does not come forward, and the employee then tests positive for drug or alcohol use in violation of this Policy, we reserve the right to terminate employment for violation of this work rule. Employees whose jobs are subject to any special law or regulation may face additional requirements in terms of substance use. Other consequences that apply to all employees who violate this Policy are spelled out within this document.

This program will go into effect within 60 days of the announcement of our Drug-Free Workplace Program and this new Policy that describes our program. Our Policy covers five key parts of the Company's program. The five parts are:

- ❖ A written policy that clearly spells out the program rules and how everyone benefits.
- ❖ Annual substance awareness education for all employees.
- ❖ Training for supervisors regarding their responsibilities.
- ❖ Drug and alcohol testing, the most effective way to change harmful behaviors related to substance use.

- ❖ Employee assistance.

Employees will have the opportunity to receive information about how substance use is a problem affecting the workplace. You will learn the signs and symptoms, dangers of use, and how and where to get help for yourselves and your families. Aaron Tervo will be our Drug-Free Workplace Coordinator so everyone knows who to go to for information or help. He will be responsible for arranging drug and alcohol testing, as needed, and will have a list of places that employees can turn to for help for themselves and/or their families. He will also arrange to get knowledgeable presenters to educate our employees about substance use.

## **Protections for Employees**

This program is designed to protect employees from the behaviors of substance users. Some of the protections built into the program are:

- ❖ Employee records like testing results and referrals for help will be kept confidential. Information will be on a need-to-know basis. Any violation of confidentiality rights is subject to disciplinary action up to and including termination of employment.
- ❖ We're committed to employees who have a substance problem getting help. Each situation will be reviewed individually. Employee assistance is available for employees and their families a list of resources available through our Drug-Free Coordinator and posted in our office or job trailer. We want you to come forward if you have a substance problem and not wait. If you test positive, you're risking losing your job. We don't want that to happen.
- ❖ All supervisors will be trained in their duties relate to testing before this program begins.
- ❖ All employees will receive awareness education every year to help identify problems and learn where employees can go for help.
- ❖ Collection of urine specimens and breath testing will be done at a local clinic, and urine drug test specimens will be analyzed by a laboratory certified by the federal government. These labs use the highest level of care in ensuring that results are accurate, and the process that's used is 100% accurate in detecting that the substances that the Company is concerned about are present in the employee in sufficient quantity to lead to behaviors that may hurt the person or other employees. The lab will work closely with our local clinic to ensure fairness and accuracy of every test, and we also have a Medical Review Officer (called an MRO), a trained physician responsible for checking whether there's a valid reason for the presence of the substance in the employee's system. The MRO is an expert in drugs and alcohol. When the MRO receives positive test results, the MRO will contact the employee and any appropriate health care provider to determine whether there is a valid reason for the presence of the drug in the person's system.
- ❖ The testing program consists of an initial screening test. If the initial results are positive, then a second test is used. Cut-off levels for each drug and for alcohol are established for what will be considered a positive test. These levels show that the employee didn't just have a little of the substance in his or her system but enough to

affect workplace safety and the ability to do the job. These cut-off levels come from federal guidelines and are fair for all employees.

**Employee Awareness Education:**

Every employee will attend a session in which this policy is discussed. You will have a chance to ask questions. We'll give everyone a copy of our written Policy, and everyone will be expected to sign that they received it. Later, we'll have a qualified person explain why and how substance use is a workplace problem, the effects, signs/symptoms of use, effects of commonly used drugs in the workplace, and how to get help. There will be a minimum of two hours of substance education annually for all employees. New employees will hear about the program during orientation and will receive substance education as soon as possible thereafter.

**Supervisor Training:**

Supervisors will be trained to recognize substance problems that may endanger the employee and others as well as violate this Policy. This training is in addition to the employee education session. Supervisors will be trained about testing responsibilities, how to recognize behaviors that demonstrate an alcohol/drug problem and how to make referrals for help.

**Drug and Alcohol Testing:**

Testing will be used to detect problems, get employees not to use substances in a way that they violate our Policy and then allow us to take appropriate action to correct the situation. In addition to alcohol, the drugs that we're testing for are:

- ❖ Amphetamines (speed, uppers)
- ❖ Cocaine (including crack cocaine)
- ❖ Marijuana
- ❖ Opiates (codeine, heroin, morphine)
- ❖ Phencyclidine (PCP "angel dust")

**Employee Assistance**

Tervo Masonry believes in offering assistance to employees with a substance problem. We don't have a rehabilitation program and can't afford to pay for someone to attend a program, but we are supportive of employees taking action on their own behalf to address a substance problem. We have a list of local community resources to give to employees who come forward voluntarily to seek help. The list is of places to go for an assessment and for treatment. When an employee has a substance problem, we'll meet with the employee to discuss the problem and any violation of this Policy. The Company reserves the right to terminate based on a positive test.

**II. WHEN WILL A TEST OCCUR?**

Employees will be tested for the presence of drugs in the urine and/or alcohol on the breath under any and/or all of the conditions outlined below:

**A. Post-Offer, Pre-Employment Medical Examination and Drug Testing**

As part of the Company's employment procedures, all applications will be required to undergo a post-offer, pre-employment medical examination and a drug screen/test that is conducted by a contractor designated by us. Any offer of employment depends upon satisfactory completion of this examination and/or screening, and the determination of Tervo Masonry and its examining physician that the person is capable of performing the responsibilities of the position that has been offered.

**B. Reasonable Suspicion Testing**

Reasonable suspicion testing will occur when management has reason to suspect that an employee may be in violation of this Policy. The suspicion will be documented in writing prior to the release of the test findings. A reasonable suspicion test may occur based on:

1. Observed behavior, such as direct observation of drug/alcohol use or possession and/or physical symptoms of drug and/or alcohol use;
2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for a drug-related offense, or identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notification of Tervo Masonry within (5) working days, of any drug-related conviction;
4. Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use; or
5. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

Reasonable suspicion testing does not require certainty, but mere "hunches" are not sufficient to justify testing. To prevent this, all managers/supervisors will be trained to recognize drug and alcohol-related sign and symptoms. Testing may be for drugs or alcohol or both.

**C. Post-Accident Testing**

Post-accident testing will be conducted whenever an accident occurs, regardless of whether there's an injury. We consider an accident an unplanned, unexpected or unintended event that occurs on our property, during the conduct of our business, or during working hours, or which involves one of our motor vehicles or motor vehicles that are used in conducting company business, or is within the scope of employment, and which results in any of the following:

1. A fatality of anyone involved in the accident
2. Bodily injury to the employee and/or another person that requires off-site medical attention away from the Company's place of employment;
3. Vehicular damage in apparent excess of \$100.00. or
4. Non-vehicular damage in apparent excess of \$50.00.

When such an accident results in one of the situations below, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

### **Drug and/or Alcohol Testing after an Accident**

Urine specimen collection (for drugs) or breath/saliva (for alcohol) is to occur as quickly as possible after a need to test has been determined. At no time will a urine specimen be collected after 32 hours from the time of an employment-related incident. Breath or saliva alcohol testing will be performed as quickly as possible, but no later than eight hours after the incident, or it will be documented but not performed. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee grants the company the right to request that attending medical personnel obtain appropriate specimens (breath, urine and/or blood) for the purpose of conducting alcohol and/or drug testing. Further, all employees grant Tervo Masonry access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the work-related accident including a full medical report from the examining physician(s) or other health care providers. A signed consent to testing form is considered a condition of employment. Management reserves the right to determine who may have caused or contributed to a work-related accident and may choose not to test after minor accidents if there is no violation of a safety or work rule, minor damage and/or injuries and no reasonable suspicion. **ANY EMPLOYEE THAT TESTS POSITIVE FOR DRUGS OR ALCOHOL AFTER AN ACCIDENT WILL BE DENIED ANY WORKERS COMPENSATION.**

### **D. Follow up Testing after Return-to-Duty from Assessment or Treatment**

This test occurs when an employee who has previously tested positive and the decision is made to not terminate the employee. A negative return-to-duty test is required before the employee will be allowed to return to work. If the employee fails this test, this will lead to termination of employment. Once an employee passes the drug and/or alcohol test and returns to work, management may choose to do additional unannounced tests for as long as we deem necessary. Any employee with a second positive test result will be terminated.

### **E. Random Drug Testing**

Random drug testing will include all employees and contract workers and is conducted on an unannounced basis. A non-company testing organization uses computer software that ensures a truly random selection process in which all employees in the testing pool have an equal statistical likelihood of being selected for testing. When the next random draw is conducted, all employees are again included in the pool with an equal chance of selection, regardless of whether an employee was previously selected. Random testing is designed to deter drug use in violation of the Policy and ensure that we maintain confidence in our employees' ability to perform their duties. Tervo Masonry has contracted with an outside vendor to perform the periodic selection of employees for inclusion in the random testing pools. The contractor selects employees at random for drug testing at any time during each calendar year. Tervo Masonry will provide employee identification numbers to be used in the random selection drawings. The contractor will, in turn, furnish the Company with a list of individuals to be tested at the beginning of each selection period. It shall be the responsibility of the Company to notify each employee who was selected with the date, time and location that random

testing will be performed. When notified, it shall be the responsibility of the individual employee to provide a urine specimen for drug testing. An employee's failure to comply with the request for a specimen for random testing will result in termination of employment.

### **III. SUBSTANCES TO BE TESTED FOR AND METHODS OF TESTING**

The procedure that we're relying on is called systems presence testing. This is how qualified testing professionals identify the presence of one or more of prohibited controlled substances or alcohol that may be present in the employee. There is an initial screening test. If it's negative, then a negative test is declared. If the initial test is positive (comes in at or higher than the cut-off level), a second test called a "confirmatory" test is done. This is a different test and is considered 100% accurate by the experts and in court. Cut-off levels are standards that have been established each of the tested drugs after years of research. These levels will be used to interpret all drug screen/tests, whether for a pre-employment examination, reasonable suspicion test, post-accident test or follow up test.

Breath alcohol testing will be conducted by a medical clinic that uses only certified equipment and personnel. Breath alcohol concentrations exceeding .04 will be considered a verified positive result. In the event of an accident where an employee has "whole blood" alcohol drawn at a medical treatment facility, a result equal to or greater than .04 shall be considered to be a verified positive result. An Evidentiary Breath Test (EBT) will typically be used to confirm any initial positive test result. The Company also reserves the right to add or delete substances on the list above, especially if mandated by changes in existing Federal, State or local regulations or laws.

An employee who adulterates, attempts to adulterate or substitutes a specimen or otherwise manipulates the testing process will be terminated. A refusal to provide a specimen is considered a positive test unless there's a verifiable medical reason that the specimen could not be produced.

### **IV. SPECIMEN COLLECTION PROCEDURE**

Urine specimens and breath testing will be conducted by trained collection personnel who meet standards for urine collection and breath alcohol testing. Confidentiality is required from our collection sites and labs. Employees are permitted to provide urine specimens in private, but subject to strict scrutiny by collection personnel so as to avoid any alteration or substitution of the specimen.

Breath alcohol testing will likewise be done in an area that affords the individual privacy. In all cases, there will only be one individual tested at a time. Failure to appear for testing when scheduled shall be considered refusal to participate in testing, and will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. An observed voiding will only occur if there is grounds for suspecting manipulation of the testing process.

## **V. REVIEW OF TEST RESULTS**

To ensure that every employee who is tested is treated fairly, we have hired a Medical Review Officer ("MRO"). The MRO is a doctor with a specialized knowledge of substance abuse disorders and will be able to determine whether there are any valid reasons for the presence in the employee's system of the substance that was tested positive.

## **VI. EMPLOYEES' RIGHTS WHEN THERE'S A POSITIVE TEST RESULT**

An employee who tests positive under this Policy will be given an opportunity to explain the findings to the MRO prior to the issuance of a positive test result to Tervo Masonry. Upon receipt of a confirmed positive finding, the MRO will attempt to contact the employee by telephone or in person. If contact is made by the MRO, the employee will be informed of the positive finding and given an opportunity to rebut or explain the findings. The MRO can request information on recent medical history and on medications taken within the last thirty days by the employee. If the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position (for example, the names of treating physician, pharmacies where prescription have been filled, etc.) A failure on the part of the employee to provide such documentary evidence will result in the issuance of a positive report by the MRO with no attendant medical explanation. A medical disqualification of the employee will result. If the employee fails to contact the MRO as instructed, the MRO will issue a positive report to Tervo Masonry.

## **VII. REPORTING OF RESULTS**

All test results will be reported to the MRO prior to the results being issued to Tervo Masonry. The MRO will receive a detailed report of the findings of the analysis from the testing laboratory. Each substance tested for will be listed along with the results of the testing. Tervo Masonry will receive a summary report, and this report will indicate that the employee passed or failed the test. All of these procedures are intended to be consistent with the most current guidelines for Medical Review Officers, published by the federal Department of Health and Human Services.

## **VIII. STORAGE OF TEST RESULTS AND RIGHT TO REVIEW TEST RESULTS**

All records of drug/alcohol testing will be stored separately and apart from the employee's general personnel documents. These records shall be maintained under lock and key at all times. Access is limited to designated company officials. The information contained in these files shall be utilized only to properly administer this Policy and to provide to certifying agencies for review as required by law. Designated company officials that shall have access to these records. Any breach of confidentiality with regard to these records may be an offense resulting in termination of employment. Any employees tested under this Policy have the right to review and/or receive a copy of their own test results. An employee may request from the Drug-Free Coordinator, in writing, presenting a duly notarized Employee Request for Release of Drug Tests Results form, requesting that a copy of the test be provided. Tervo Masonry will use its best

efforts to promptly comply with this request and will issue to the employee a copy of the results personally or by U.S. Certified Mail, Return Receipt Requested.

#### **IX. POSITIVE TEST RESULTS**

Employees who are found to have a confirmed positive drug or alcohol test will be immediately taken off safety-sensitive duties and are subject to discipline up to and including termination.

#### **XI. TERMINATION NOTICES**

In those cases where substance testing results in the termination of employment, all termination notices will list "misconduct" as the reason. Termination shall be deemed "for cause."