

DEPARTMENT OF TRANSPORTATION (“DOT”) Alcohol Misuse & Controlled Substances Use Policy

For CDL (applies only to drivers of 16+ passenger vehicles) Effective Date: January 01, 2011

I. INTRODUCTION

This policy is not intended as and should not be construed as a contract between Heartland Industries, Inc., Hearth Residential Homes, Inc., Adult Life Programs and Montana Achievement Project (All listed companies will be collectively known as the “Company”.) and any individual. Like other employment policies of the Company, this policy does not constitute a contract of employment, and does not change the fact that employment at the Company is at-will, meaning that the employee has the right to terminate his or her employment at any time, with or without cause or notice, and that the Company has the same right. This policy, or any portion thereof, may be changed, altered, deleted or discontinued at the sole discretion of the company at any time, and with or without notice.

II. WHO IS COVERED

Certain employees of the Company have job descriptions requiring that they drive or be qualified to drive commercial motor vehicles. Parts 382 and 40 of Title 49 of the Code of Federal Regulations require that drivers of commercial motor vehicles in safety-sensitive positions submit to testing for alcohol misuse and controlled substances use. Those regulations also require that the Company establish a policy for alcohol misuse and controlled substances use.

This policy sets forth the Company’s policies and procedures with respect to alcohol misuse and controlled substances use by drivers’ subject to Parts 382 and 40. This policy applies to the following: all job applicants with conditional offers for, and all employees who hold, driver positions involving or potentially involving safety-sensitive functions. Part 382 defines safety-sensitive functions to include operation of commercial motor vehicles used on public highways in interstate commerce when (a) the vehicle has a gross vehicle or gross combination weight rating of 26,001 or more pounds; (b) the vehicle is designed to transport 16 or more passengers, including the driver; or (c) the vehicle is used to transport hazardous materials in certain quantities. All individuals subject to this policy shall be referred to herein as “drivers.”

III. PROHIBITIONS

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions, as defined in 49 C.F.R. § 382.107, including but not limited to operating commercial motor vehicles, waiting to operate commercial motor vehicles, being ready to operate commercial motor vehicles, being immediately available to operate commercial motor vehicles, or inspecting, servicing or conditioning commercial motor vehicles, while having an alcohol concentration of 0.04 or greater. No driver shall use alcohol while performing safety-sensitive functions, nor shall perform safety-sensitive functions within four (4) hours after using alcohol. Finally, no driver required to take a post-accident alcohol test described below shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances, except pursuant to the instructions of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a commercial motor vehicle. Pursuant to the Company’s independent authority, any driver who uses a controlled substance pursuant to such instructions of a licensed medical practitioner must notify the Company before reporting for duty or remaining on duty requiring the performance of safety-sensitive functions. A driver who is subject to post-accident testing described below shall remain readily available for such testing in the 32 hours following the accident or may be deemed to have refused to submit to such testing.

No driver shall refuse to submit to alcohol or controlled substances testing. Refusal to submit to an alcohol or controlled substances test means that a driver: (a) fails to appear for a test when directed to report; (b) fails to remain at the test site; (c) fails to provide a urine specimen or an adequate amount of saliva or breath; (d) fails to permit a monitored or observed urine collection where required; (e) fails to provide a sufficient amount of urine or breath specimen without medical reason; (f) fails or declines to take an additional drug test the employer or collector has directed; (g) fails to cooperate with any part of the urine collection process; (h) fails to follow instructions to raise and lower clothing and turn around in an observed collection; (i) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (j) admits to the collector or Medical Review Officer (“MRO”) to having adulterated or substituted the specimen; or (k) adulterates or substitutes a specimen. Under its independent authority, the Company also reserves the

right to consider a driver who refuses to sign the Certificate of Receipt of Department of Transportation ("DOT") Alcohol Misuse & Controlled Substances Use Policy to have refused to submit to required testing.

Procedures for collecting urine specimens will allow individual privacy unless, pursuant to DOT regulations, there is a reason to believe that a particular individual may alter or substitute the specimen to be provided. If there is reason to believe that the individual being tested may alter or substitute the specimen to be provided, a specimen may be obtained under the direct observation of a collection site person of the same gender as the individual being tested.

IV. **REQUIRED TESTING**

A. Pre-Employment: All persons applying for or transferring into driver positions, after receiving a contingent offer of employment or transfer, will be requested to undergo controlled substances testing that will include the provision of a urine sample. The Company will not allow the driver to perform safety-sensitive functions unless the Company has received a controlled substances test result indicating a verified negative result for that driver.

B. Reasonable Suspicion: Drivers will be required to undergo alcohol or controlled substances testing when a Company supervisor has reasonable suspicion to believe that the driver has violated a prohibition contained in Part III. The Company's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. Such observations must be witnessed by a supervisor who has received training required by 49 C.F.R. § 382.603 on alcohol misuse and use of controlled substances. The Company will prepare and sign documentation of the observations leading to the reasonable suspicion test within twenty-four (24) hours of the observed behavior or before the test results are released, whichever is earlier.

1. Alcohol testing based on reasonable suspicion will take place only when the supervisor's observations are made just before, during, or just after the driver's work day. Further, a driver will be directed to undergo reasonable suspicion alcohol testing only while, just before, or just after the driver is performing safety-sensitive functions as defined by applicable federal law.
2. Alcohol tests will be administered within two (2) hours after the reasonable suspicion determination was made, or as soon as practicable thereafter. Notwithstanding the foregoing, if testing is not administered within eight (8) hours, the Company will cease attempts to administer the alcohol test.
3. Even where a reasonable suspicion alcohol test has not been conducted, a driver cannot report for or remain on duty requiring the performance of safety-sensitive functions, while the driver is under the influence of or impaired by alcohol, as shown by behavioral, speech and performance indicators of alcohol misuse, unless and until the driver has either undergone testing and his/her alcohol concentration is less than 0.02, or twenty-four (24) hours have elapsed following such observations.

- C. Post-Accident:** A driver who is involved in an accident while driving a commercial motor vehicle which:
- (1) results in a loss of human life, or
 - (2) the driver receives a citation under state or local law for a moving violation arising from the accident and the accident either:
 - a. results in bodily injury to any person requiring immediate medical treatment away from the scene of the accident, or
 - b. results in disabling damage to one or more motor vehicles, will be required to undergo testing for alcohol misuse and controlled substances use. The citation must be issued within eight (8) hours of the accident for alcohol testing to apply, or within thirty-two (32) hours of the accident for controlled substances testing to apply.

Employers must test for alcohol misuse and controlled substances use as soon as practicable following such an occurrence. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing. Drivers shall, of course, be permitted to leave the scene of an accident as necessary to obtain assistance or necessary emergency medical care.

The Company will administer the alcohol test within two (2) hours and the controlled substances test within thirty-two (32) hours following the accident, or as soon as practicable. If the alcohol test is not administered within eight (8) hours, or thirty-two (32) hours in the case of a controlled substances test, the Company will cease attempts to administer those tests.

The results of breath or blood tests for alcohol use or a urine test for use of controlled substances for the use of Federal, State, or local officials with independent authority to administer such tests shall be considered to satisfy the testing

requirements of Part 382, provided such tests conform with applicable Federal, State, or local testing requirements, and that the results of the tests are obtained by the employer.

D. Random Testing: Drivers must submit to random alcohol and controlled substances testing on an unannounced, random basis. Once notified of selection for such random testing, drivers must proceed to the test site immediately. The Company will randomly test its drivers for alcohol and controlled substances use, using a scientifically valid selection process which gives each driver an equal chance of being selected each time selections. The Company will perform random alcohol testing at a rate equal to at least ten (10) percent of its average number of driver positions each year. The Company will perform random controlled substances testing at a rate equal to at least fifty (50) percent of its average number of driver positions each year. These percentages may change pursuant to federal requirements. Random testing for alcohol shall occur only during, just before, or just after an employee is or has been performing safety-sensitive functions.

E. Return-To-Duty Testing: Drivers who have violated the prohibitions contained in Part III shall not return to duty until they have completed the return-to-duty requirements in Part 40. Drivers must undergo an evaluation with a Substance Abuse Professional (SAP), successfully comply with and complete the recommended treatment and education, and then undergo alcohol and controlled substances testing as required by DOT return-to-duty rules. The driver must complete a return-to-duty alcohol test with a result indicating an alcohol concentration less than 0.02, if the prohibited conduct involved alcohol, or, if the prohibited conduct involved a controlled substance, must complete a controlled substances test with a verified negative result. Part 40 requires that return-to-duty testing be conducted under direct supervision.

F. Follow-up Testing: Drivers who are permitted to return to work after violating the prohibitions contained in Part III are subject to unannounced follow-up testing on a schedule directed by the Substance Abuse Professional (SAP) responsible for the driver's return to duty. Pursuant to federal law, follow-up testing alcohol and/or controlled substances testing shall occur at least six (6) times in the first twelve (12) months following the driver's return to duty, and the SAP may extend testing for up to sixty (60) months after the driver returns to safety-sensitive duties. Drivers may be required to submit to such testing under direct observation. A driver will be directed to undergo follow-up alcohol testing only while, just before, or just after the driver is or has been performing safety-sensitive functions.

V. COMMUNICATION OF TEST RESULTS

Test results will be communicated promptly to test subjects. Any employee subject to testing is entitled, upon written request to the Company's MRO, to obtain copies of any records relating to his or her alcohol or controlled substances tests. Test results will be treated as confidential and will not be disclosed to anyone outside the Company except as authorized by the test subject or required or permitted by law.

VI. CONSEQUENCES FOR VIOLATION OF PROHIBITIONS

A. Applicants: A job applicant shall not be allowed to perform safety-sensitive functions unless he or she has received a verified negative controlled substances test result. Pursuant to the Company's independent authority, when a job applicant refuses to submit to testing, or receives a positive controlled substances test result, the offer of conditional employment will be withdrawn.

B. Employees: Drivers who violate the prohibitions contained in Part III above will be immediately removed from performing safety-sensitive functions.

Any driver who is found to have an alcohol concentration of 0.02 or greater, but less than 0.04, will be removed from performing safety-sensitive functions at least until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test.

In addition to removal from safety-sensitive functions, driver disqualification, or other action pursuant to DOT regulations, under the Company's independent authority, test refusal or positive test results may also result in one or more of the following: (1) suspension without pay; (2) evaluation by the Company's employee assistance program and compliance with any program prescribed; (3) return-to-duty and follow-up testing pursuant to guidelines set forth above in this Policy; or (4) other disciplinary action, up to and including immediate termination. Termination also may result for performance deficiencies or other reasons.

VII. TESTING PROCEDURES

Testing will be conducted in accordance with applicable DOT and Federal Motor Carrier Safety Administration ("FMCSA") regulations. Collection and testing procedures will be such as to protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that test results are attributed to the correct driver. The DOT procedures include comprehensive regulations governing the following:

A. Clinics: The Company will contract only with licensed medical facilities that agree to abide by the DOT regulations governing the collection of urine specimens.

B. Testing Laboratories: The Company will contract only with testing laboratories that are approved under the DOT regulations.

C. Chain of Custody: The Company will contract only with medical facilities, testing providers and laboratories that comply with the DOT regulations regulating the chain of custody for urine specimens, in order to ensure testing accuracy.

D. Alcohol and Controlled Substances Tested: Testing will be conducted only for alcohol misuse (post-employment) and controlled substances prohibited under the DOT regulations.

E. Confirmatory Tests: The Company will rely only on positive test results that have been confirmed by the method or methods of analysis established by the DOT and FMCSA regulations.

F. Confidentiality: The Company will seek to maintain the confidentiality of alcohol and controlled substances testing results and other information acquired in the process, and will disclose such information only as required or permitted by law or as authorized by the test subject.

VIII. TEST REVIEW AND EVALUATION

A. Alcohol Testing and Test Results:

Alcohol tests will be performed on a device that appears on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL) and that meets the DOT's testing requirements.

For alcohol testing, a screening test is conducted first. The screening test may be conducted using saliva devices or breath testing using evidential breath testing (EBT) and non-evidential breath testing devices approved by the NHTSA. Any result less than 0.02 alcohol concentration is considered a "negative" test.

If the result of the screening test indicates an alcohol concentration of 0.02 or greater, a Breath Alcohol Technician (BAT) will perform a confirmatory test, no less than fifteen (15) and no more than thirty (30) minutes after the completion of the screening test. The driver and BAT shall complete the alcohol testing form to ensure the results are properly recorded. The confirmation test must be conducted using an evidential breath test (EBT) device that prints out the results, date and time, a sequential test number, and the serial number of the EBT to ensure the reliability of the results. If the confirmatory test is positive, the Breath Alcohol Technician (BAT) shall immediately forward the results to the Company's Designated Employer Representative (DER).

Random, reasonable suspicion, and follow-up alcohol testing must be done just before, during, or just after a driver performs safety-sensitive functions; return-to-duty testing must be done prior to a driver performing any safety-sensitive function.

B. Controlled Substances Testing and Test Results:

Drug testing is conducted by analyzing a driver's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The driver provides a urine specimen in a location that affords privacy and the collector seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug-testing laboratory. For commercial motor vehicle drivers, the law requires that each urine specimen be subdivided into two bottles labeled as a "primary" and "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis confirms the presence of controlled substances, the driver has seventy-two (72) hours to request the split specimen be sent to another DHHS-certified laboratory for analysis.

The DHHS-approved testing laboratory shall forward the results of every controlled substances test to a Company designated MRO for review. If the test result is negative, the result will be reported by the MRO to the Company's DER. If the MRO receives a positive, adulterated, substituted, or invalid test result, the MRO shall contact the driver, and will give the driver an opportunity to discuss the test results prior to making a final decision to verify a positive test result. The MRO shall inform the driver of his/her right to test of the split specimen at a different DHHS-approved laboratory within seventy-two (72) hours of the driver having been notified of a verified positive, adulterated, substituted, or invalid test result.

If, after making reasonable efforts, the MRO is not able to contact the driver within twenty-four (24) hours, the MRO shall report to the Company's DER that all reasonable efforts have been made to contact the driver, without success. The Company's DER shall then, as soon as practicable, ask the driver to contact the MRO within the next twenty-four (24) hours or on the next business day, and inform the driver that the MRO may verify a positive test or refusal to test with the DER if the driver does not contact the MRO within the next seventy-two (72) hours. The DER shall apprise the MRO that the driver has been so notified. If, after making all reasonable efforts, the Company's DER is unable to contact the driver, the Company may place the driver on temporary medically unqualified status or medical leave.

The MRO may verify a test as positive or a refusal to test without having communicated directly with the driver about the test only if:

1. The driver expressly declines the opportunity to discuss the test; or
2. The Company's DER has successfully made and documented a contact with the driver and instructed the driver to contact the MRO (see above) and more than seventy-two (72) hours have passed since the date the driver was successfully contacted by the Company's DER; or
3. Neither the MRO nor the Company's DER, after making all reasonable efforts, has been able to contact the employee within ten (10) days of the date on which the MRO receives the confirmed positive test result from the laboratory.

The driver may present to the MRO information documenting that serious illness, injury or other circumstances unavoidably prevented the employee from being contacted by the MRO or the Company's DER, or from contacting the MRO, as applicable, within the times provided. The MRO, on the basis of such information, may reopen the verification, allowing the driver to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO will declare the test to be negative. Similarly, if the MRO concludes that there is a legitimate explanation for the driver's failure to contact the MRO within seventy-two (72) hours to request a test of the split specimen, the MRO shall direct that the reanalysis of the specimen be performed. The cost of a retest shall be borne by the driver.

The MRO shall report the test results to the Company's DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test. The MRO shall provide the following information in a report to the DER within two (2) days of verification by the MRO:

1. Full name of the employee tested;
2. Specimen ID number and the donor SSN or employee ID number;
3. Reason for the test (e.g., random, post-accident);
4. Date of the collection;
5. Date the MRO received Copy 2 of the Custody and Control Form (CCF);
6. Result of the test (e.g., positive, negative, dilute, refusal to test, test cancelled) and the date the result was verified by the MRO;
7. For verified positive tests, the drug(s)/metabolite(s) for which the test was positive;
8. For cancelled tests, the reason for the cancellation;
9. For refusals to test, the reason for the refusal determination (e.g., in the case of an adulterated test result, the name of the adulterant); and
10. The DOT Agency.

IX. EDUCATIONAL MATERIALS

All the Company drivers will be provided with educational materials concerning the effects of alcohol misuse and controlled substances use on an individual's health, work and personal life, as well as signs and symptoms of an alcohol or controlled substances problem, and any available methods of intervening where a problem is suspected.

X. FURTHER INFORMATION

For further information, please contact **Barb or Mike Hillenbrand**, the Company's Designated Employer Representative ("DER").

CERTIFICATE OF RECEIPT OF DEPARTMENT OF TRANSPORTATION ("DOT") ALCOHOL MISUSE & CONTROLLED SUBSTANCES USE POLICY

I, _____ (Employee), certify that I have received a copy of the Company's Department of Transportation ("DOT") Alcohol Misuse & Controlled Substances Use Policy.

Employee

Name

Signature

Date