

## **SUBSTANCE ABUSE POLICY OF MAX GRAY CONSTRUCTION, INC.**

It is the policy of Max Gray Construction, Inc., (hereinafter "Max Gray" or "the Employer") to maintain for its employees and customers a work environment that is free from the effects of drug and alcohol abuse. With this goal and because of the serious drug and alcohol abuse problem in today's workplace, we have established the following policy.

### **Prohibited Conduct**

Max Gray explicitly prohibits the use, possession, solicitation for or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on Employer or customer premises or while performing an assignment.

Max Gray explicitly prohibits being impaired or under the influence of legal or illegal drugs or alcohol off the Employer or customer premises that adversely affects the employee's work performance, his or her own or others' safety at the work place, or the Employer's reputation.

Max Gray reserves the right to enforce this policy through drug and alcohol testing, through the use of non-testing detection methods such as observation, or through a combination of testing and non-testing detection methods, at the Employer's discretion.

### **Drug and Alcohol Testing**

All applicants and employees are subject to Max Gray drug and alcohol testing.

#### **Applicants**

Max Gray may request or require applicants to undergo drug and alcohol testing after a conditional job offer has been made for a position requiring all applicants to undergo such testing.

Applicants previously employed by Max Gray who have undergone drug and alcohol testing pursuant to this policy within one hundred and eighty (180) days prior to their application may, in lieu of undergoing drug and alcohol testing, rely on their prior test results.

#### **Employees**

Random testing: Max Gray may request or require employees in safety sensitive positions to undergo drug and alcohol testing on a random selection basis. "Safety sensitive position" means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person. Employees occupying safety sensitive positions at Max Gray include, without being limited to, on-site field and warehouse employees. Max Gray reserves the right to identify any future positions falling into the category of jobs in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

Routine physical examination testing: Max Gray may request or require its employees to undergo drug and alcohol testing as part of a routine physical examination. Such tests may not be requested or required more than once annually, and the employee will be given at least two weeks' written notice that a drug or alcohol test may be requested or required as part of the routine physical examination.

Reasonable suspicion testing: Max Gray may request or require its employees to undergo drug and alcohol testing if Max Gray has a reasonable suspicion that an employee: (1) is under the influence of drugs or alcohol; (2) has violated the Employer's written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while the employee is working or while the employee is on the Employer's or customer's premises or operating the Employer's or customer's vehicle, machinery, or equipment; (3) has sustained a personal injury or has caused another employee to sustain a personal injury; (4) has caused a work-related accident or was operating or helping to operate machinery, equipment or other vehicles involved in a work-related accident.

Treatment program testing: Max Gray may request or require its employees to undergo drug and alcohol testing where the employee has been referred to chemical dependency treatment or evaluation in which case a request for testing can be made without prior notice during the evaluation period and for two years thereafter.

### **Right To Refuse Testing and Consequences**

An applicant or employee has the right to refuse to undergo the Employer's drug and alcohol testing. Refusal shall subject an applicant to withdrawal of a conditional job offer, and an employee to discipline up to and including termination.

### **Provision of Adulterated, Substituted, or Diluted Tests and Consequences**

Applicant or employee submission of a test sample that has been adulterated, substituted, diluted, or tampered with in any way will be considered a refusal to undergo the Employer's drug and alcohol testing, thereby subjecting an applicant to withdrawal of a conditional job offer and an employee to discipline up to and including termination.

### **Positive Test Results and Consequences**

#### **Applicants**

Upon receipt of a confirmatory test verifying a positive test result on an initial screening test, the Employer may withdraw a conditional offer made to an applicant.

#### **Employees**

Upon receipt of a confirmatory test verifying a positive test result on an initial screening test, an employee will be referred to a chemical dependency treatment program if the confirmatory test was the employee's first such result. An employee may be terminated upon that employee's refusal to participate, failure to successfully complete the program, or testing positive on a confirmatory test after completion of the program.

### **Explanations and Retests**

In any test for evidence of drug or alcohol use, any positive test will be confirmed using a second test. Applicants and employees have the right to explain a positive test result on a confirmatory test. Before testing, they will have an opportunity to disclose medications and other information that may explain a positive test result. After receiving notice of a confirmed positive result, they have three working days to submit information to the Employer to explain the positive test results.

Applicants and employees have the right to request and pay for a confirmatory retest. After receiving notice of a confirmed, positive test, an applicant or employee has five working days to, in writing, request a confirmatory retest (at the employee's or applicant's expense) of the medical specimen tested, to be performed by either the original testing laboratory or another laboratory chosen by the employee or applicant meeting the requirements of applicable law. The Employer will take no adverse personnel action against an applicant or employee if a confirmatory retest does not confirm the original positive test result.

### **Confidentiality**

All information obtained through drug and alcohol testing will be treated confidentially and disclosed only as allowed by Minnesota law.