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DRUG AND ALCOHOL POLICY

The Berg Group recognizes that substance abuse has reached epidemic proportions within our nation today and that it affects every segment of our society. Substance use and abuse may affect an employee's job performance and presents safety dangers to fellow employees. While Berg will respect everyone's privacy, we are committed to the highest safety standards. It is our goal to maintain a workplace free from drug and alcohol use or abuse and promote its treatment. With these goals in mind we initiate this Drug and Alcohol Policy.

Applicability: The policy contained herein applies to all employees of Berg and its applicants. This policy covers applicants (after a conditional offer of employment has been made) and are required to consent and participate in a pre-employment test as required for jobsite placement. Applicants, however, are not entitled to participate in a rehabilitation program offered by Berg to its employees.

NOTE: Pre-employment drug testing is only applicable if required by GC or Specific jobsite. Applicant will be notified if a test is required prior to his/her placement.

General Work Rules

1. Alcohol and illegal drugs are strictly prohibited at the jobsite.
2. The use or taking of prohibited drugs and alcohol or being under the influence of alcohol or illegal drugs while at the workplace, including breaks, or on Company property, or while operating the Company's vehicles, machinery, or equipment, is prohibited. Any employee who reports to work under the influence of alcohol or illegal drugs, or any employee who uses alcohol or illegal drugs while at work will not be allowed to remain on the employer's premises.
3. The distribution or sale of illegal drugs including; planning during working time or on Company property for the sale, purchase, or transfer of illegal drugs is strictly prohibited.
4. **Prescription Drugs:** Physician-prescribed medication can adversely affect workplace safety and job performance. Therefore, if an employee is taking any such medication, the employee shall inform the prescribing doctor of the nature of the employee's job and ask whether the medication poses a threat to the employee's health or safety on the job, or that of others. If the employee's doctor believes that such a threat exists, the employee must inform his/her supervisor. **All prescription medication must be kept in the container in which they received it from the pharmacy or treating physician.**

If a prescription has a safety warning and the employee does not disclose that information to your direct supervisor, violations may result in discipline, up to and including termination of employment.

5. **Over-the-Counter** medications may be taken during work hours only if the drug is used for its intended purposes and in accordance with package directions.
6. **Mental or Physical Impairment:** Any employee, whose abilities may be negatively impaired, during work hours will be removed from the worksite regardless of the cause of impairment. If the cause is found to relate to the use or abuse of legal drugs, illegal drugs or alcohol, the employee will be subject to Berg's disciplinary policy.

7. Berg reserves the right to inspect our vehicles, premises and property; including offices, desks, lockers and other repositories and personal items; such as lunch boxes/bags, purses, gym bags, backpacks, handbags or coats, where there is reasonable cause to believe that an employee has violated this Drug and Alcohol Policy.
8. The Company reserves the right to interpret the provisions of this Policy and to modify its terms, as the Company deems appropriate and in keeping with applicable law. This Policy is not intended to and does not constitute the terms of a contract and does not in any way restrict the rights of the Company or any employee to terminate employment, as either may deem appropriate.

Employee Drug and Alcohol Testing

A. Reasonable Suspicion: Berg may require an employee to undergo drug and alcohol testing, if the Company has reason to believe that any of the following conditions have occurred:

1. The employee is under the influence of illegal drugs or alcohol.
2. The employee has violated this drug and alcohol policy prohibiting the use, possession, sale or transfer of drugs or alcohol while the employee is working, whether on or off the Company's premises, or while the employee is operating the Company's vehicles, machinery or equipment.
3. The employee has sustained a personal injury or caused another employee to sustain personal injury.
 - a. In accordance with Minnesota law "personal injury" means, in part, any mental impairment as defined by law, or physical injury arising out of and in the course of employment and includes personal injury caused by occupational disease; but does not cover an employee except while engaged in, on, or about the premises where the employee's services require the employee's presence as a part of that service at the time of the injury and during the hours of that service. . . . Personal injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of personal reasons, and not directed against the employee as an employee, or because of the employment. *** (Minn. Stat. 176.011, subd. 16).
4. The employee has caused a work-related accident or was operating or helping to operate machinery, equipment or vehicles involved in a work-related accident.
5. **Note:** Any Union employee asked to submit to a reasonable suspicion test not only has a right to confer with a Union representative but has the right to have that representative present during the test process. Test must not be unreasonable delayed.

B. Post-Accident Testing: A drug and/or alcohol test will be conducted on all employees involved in accidents; excluding first-aid care, occurring during work hours or on Berg's property. Covered accidents include, but are not limited to, accidents that the employee caused or contributed to that involves; (1) personal injury to employees or others, which necessitates medical attention; (2) results in lost work time; and/or damage to Berg's property, which would include leased, owned, or rented.

NOTE: Post accident testing may be required by any employee whose conduct could have contributed to an incident/accident, not just the employee who reported the incident/accident. To be determined by the safety director and/or onsite leadership.

C. Regulation Testing (Federal Law): Berg will conduct drug and alcohol testing (1) as required by federal law or regulation; (2) by law enforcement; (3) or a specific project, whose contract requires specified testing provisions.

D. Rehabilitation Testing: Berg may require an employee to undergo drug and alcohol testing, without notice, during the evaluation or treatment period and for a period of up to two years

following completion of any prescribed chemical dependency treatment program, if the employee has been referred by Berg for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan.

Testing Procedures

Before requiring an employee to undergo a drug and alcohol test, Berg will issue the Notification and Consent for Drug/Alcohol Testing Form to the employee. The Drug and Alcohol Policy is part of Berg's New Hire Orientation.

The Company designated collection facility will require the employee to sign a consent/release form authorizing the drug and alcohol screening before any screening will be performed. Failure to sign a consent/release form authorizing the drug and alcohol screening will constitute a refusal to take the drug and alcohol test and shall be grounds for disciplinary action up to and including discharge.

Drug Test Fees: Berg will pay the actual costs for the initial drug screen. If the test result is anything but "Negative", the employee would be responsible for the fees if they would choose to retest the original sample.

Transportation: Employees are responsible for their own transportation to and from the testing facility. If an employee is on a Berg jobsite and is deemed unfit for duty, Berg will offer public or private transportation to take the employee home or to a testing facility.

Berg will not allow a suspected impaired employee to get behind the wheel. In the event that they refuse transportation provided by Berg, the local police department will be contacted for transportation.

Privacy: All information acquired in the testing program is private and confidential information. Berg has educated its field leadership staff to hold any information confidential regarding employee testing and considers such information private and on a "need to know" basis. The Berg Group will not disclose information to another employer, or third-party individual, governmental agency or private organization without written consent of the employee, with the following exceptions:

1. Positive drug test results on a confirmatory test may be used in arbitration proceeding, an administrative hearing under any applicable state law, or in a judicial proceeding if information is relevant to the hearing or proceeding.
2. Evidence of a positive test result on a confirmatory test or a confirmatory retest may be disclosed to any Federal agency or United States government unit as required under Federal law, regulation or order, or in accordance with a Federal government contract.
3. Evidence of a positive test result on a confirmatory retest may be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

At the time the sample is collected, the employee may provide any information relevant to the drug test. The employee may indicate any prescription medication or over-the-counter medication they are currently or have recently ingested which would explain a positive test result.

Positive Test Result: Berg will suspend a tested employee, with an initial positive test result. based on details/severity of the positive test. No lost time benefits will be paid during the suspension period, yet all medical costs incurred will be covered under Berg's Workers Compensation Policy.

The employee will be notified in writing of the results from the drug and alcohol test within three (3) working days from the day Berg receives the initial test result from the testing laboratory.

If an employee receives a positive drug test result, they will have the right to explain the test results. The employee can indicate any prescription medication or over-the-counter medication they are currently or have recently ingested to explain the positive test result. All information must be submitted within three (3) days after the notice of a positive test result.

The employee has the right to request and receive a copy of the test result directly from the testing facility.

The employee may request a confirmatory retest of the original sample once they are informed of a positive test result (testing paid for by the employee). The employee must notify Berg within five (5) working days after notice of the confirmatory test result, in writing, of his/her intention to obtain a confirmatory retest. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee. The tested employee will be reinstated with full back pay.

If the confirmatory test or confirmatory retest is "Positive" **and** it is the first such positive result for the employee, they will be required to participate in a drug and alcohol counseling, or rehabilitation program Berg encourages employees to reach out for EAP services. **The employee will be retested prior to returning to work.** Once a negative test result is obtained, the employee would be reinstated to their regular duties or performing tasks within any work restrictions required if the employee continues to participate in their rehabilitation program and the program allows for working during treatment. If the program does not allow for working during treatment reinstatement would be at the end of successful program completion.

If the positive confirmatory test or confirmatory retest is not the employees first such positive test, the employee will be terminated from employment.

Rehabilitation Programs: Any employee who believes he or she has become addicted to or dependent upon drugs or alcohol, or has a problem relating to drugs or alcohol, is encouraged to seek assistance Berg encourages employees to reach out for EAP services. If the employee receives a positive test result on a confirmatory test or confirmatory retest during their rehabilitation probation of two years, the employee will be terminated from employment. Any employee seeking medical treatment for alcoholism and drug addiction may seek insurance coverage under the employee's union benefit plan, per the provisions of that plan. Payment for any portion of the treatment, which is not covered by that plan, is the employee's responsibility, and not the responsibility of Berg.

If the employee either:

- (1) Refuses to participate in and successfully complete the counseling or rehabilitation program
- (2) Refuses to undergo drug and alcohol testing
- (3) Refuses to comply with their prescribed counseling program after a positive drug test result, on a confirmatory test or retest

This will be grounds for disciplinary action up to and including termination of employment.

To facilitate admission to a counseling and/or rehabilitation program the Company's Human

Resources group will collaborate to identify the employee's union health plan and EAP. This will be an effort to determine level of support and coverage offered by the employee's union benefit plan(s).

If an individual employee isn't able to enroll in a counseling and/or rehabilitation program through his/her union health plan or EAP, the Company will require enrollment at the employee's expense.

This policy is non-discriminatory in intent and application and is written to be consistent with applicable state and local laws. However, where state laws differ they will be followed. A separate State-Specific Addendum will be provided.

Employee Assistance Providers are available free of charge to all union members. Please reach out to Safety@berggroup.us.



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**ACKNOWLEDGMENT OF RECEIPT OF DRUG AND ALCOHOL TESTING POLICY AND CONSENT FOR
EMPLOYEE DRUG/ALCOHOL TESTING**

I have received a copy of Employer's Drug and Alcohol Testing Policy. I consent to the disclosure of the drug and alcohol test results to Employer.

By electronically signing below, I acknowledge that I have been provided with a copy of the above-mentioned policy and that I have been provided with an opportunity to read the policy and ask questions about my rights under that policy.

I hereby voluntarily consent to undergo drug and alcohol testing pursuant to the written policy of the Company, which testing may involve a collection of blood or urine sample(s) from me at a designated testing facility.

I further voluntarily consent that the designated testing facility or persons or entities acting with them or for such facility may disclose to the Company the test result data.

Employee Name (print)

Employee Signature

Date