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# **Aviation Consulting Experts, Inc.**

**FAA Drug and Alcohol Misuse/Prevention Program**

**U.S. Department of Transportation Federal Aviation  
Administration (FAA) Regulations)**

**14 CFR Part 120  
49 CFR Part 40**

**Effective: March 26, 2021**



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## Aviation Consulting Experts, Inc

# FAA Drug and Alcohol Misuse/Prevention Program

## I. GENERAL

### A. Purpose

The U.S. Department of Transportation (DOT) and the U.S. DOT Federal Aviation Administration (FAA) have published regulations at 49 CFR Part 40 and 14 CFR Part 120 which are read together and are directly applicable to aviation personnel in certain safety-sensitive positions, as defined in the FAA Testing Regulations. The agency's regulations require drug and alcohol testing of specified employees as described in this policy.

The goal of Aviation Consulting Experts, Inc (The Company) policy and the testing is to ensure a drug and alcohol-free transportation and work environment, and to reduce and eliminate drug and alcohol related accidents, injuries, fatalities, and damage to Company property. Aviation Consulting Experts, Inc also has an obligation to its employees, clients, customers and to the general public to provide a safe workplace.

### B. Authority

It is the Company's intention to comply fully with the DOT regulations. These regulations establish minimum content and procedural standards for FAA-required Drug and Alcohol Testing Programs. This Policy and the Company's drug and alcohol testing program are being implemented in accordance with the Company's legal obligations under the FAA's mandatory Drug and Alcohol Testing Program requirements. However, federal regulations do not preclude the Company from taking additional drug-free workplace actions beyond what may be contained in this policy. The Company will advise employees and applicants when any drug-free workplace policy or practice is mandated by DOT or whether it be by the independent authority of the Company. Outside of the requirements of the federal requirements of the federal regulations the Company will comply with all applicable state and local laws.

In compliance with the DOT regulations, the Company has a designated employer representative (DER). The DER is an individual authorized to receive communications and test results from service agents. The DER is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. Please direct all questions regarding this policy to the DER. The DER name and contact information are included in Appendix A of this policy.

### C. Requirement for Notice

Before performing each alcohol or drug test under this Policy, the Company will notify a covered employee that the alcohol and drug test is required by the FAA Testing Regulations. The Company will not falsely represent that a test is administered under FAA regulations.



#### **D. Requirement for Notice**

Before performing each alcohol or drug test under this Policy, the Company will notify a covered employee that the alcohol and drug test is required by the FAA Testing Regulations. The Company will not falsely represent that a test is administered under FAA regulations.

#### **E. Preemption of State and Local Laws**

- i. Except as provided paragraph 2 (below), FAA regulations preempt any State or local law, rule, regulation, or order to the extent that:
  - a. Compliance with both State or local requirement and this appendix is not possible; or
  - b. Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in the FAA's regulations
- ii. The FAA's alcohol misuse requirements do not preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

#### **F. Prohibited Conduct**

Aviation Consulting Experts, Inc employees are prohibited by DOT regulations and this Policy from having the presence of drugs (controlled substances) or alcohol in their bodies while at work, unless they have a prescription for the substance and have consulted with their health care provider regarding the effects of the substance on job performance.

##### **i. On-duty Use**

No covered employee will use prohibited drugs or alcohol while performing safety-sensitive functions.

##### **ii. Pre-duty Use**

- a. FAA regulations and this Policy prohibit the use of alcohol within the eight (8) hours prior to performance of flight crewmember, flight attendant, or air traffic control duties.
- b. FAA regulations and this Policy prohibit the use of alcohol within the four (4) hours prior to performance of safety-sensitive duties other than those listed in paragraph a, above.

##### **iii. Alcohol Concentration**

FAA regulations specify that no covered employee will report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Covered employees with an alcohol test



result between 0.02 and 0.039 will be temporarily removed from performing safety sensitive functions until:

- a. The employee's alcohol concentration measures less than 0.02; or
- b. The start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

**iv. Use Following an Accident**

No covered employee who has actual knowledge of an accident involving an aircraft for which he or she performed a safety-sensitive function at or near the time of the accident will use alcohol for 8 hours following the accident, unless he or she has been given a post-accident alcohol test, or the Company has determined that the employee's performance could not have contributed to the accident.

**v. Refusal to Submit to a Required Drug and/or Alcohol Test**

No covered employee will refuse to submit to a post-accident, random, reasonable suspicion, or follow-up drug and/or alcohol test required under this Policy.

**vi. Reporting for Duty, Remaining on Duty, or Performing a Safety-Sensitive Function**

If the covered employee tests positive for alcohol and/or drugs or refuses to submit to an FAA-required test and the individual has not yet completed the post-violation/return-to-duty procedures required by Part 40, Aviation Consulting Experts, Inc will not permit the covered employee to perform or continue to perform safety-sensitive functions.

If Aviation Consulting Experts, Inc has actual knowledge that a covered employee has a prohibited drug in his or hers while performing safety-sensitive functions, Aviation Consulting Experts, Inc will not permit the covered employee to perform or continue to perform safety-sensitive functions.

**vii. Use of Marijuana**

The DOT's Drug and Alcohol Testing Regulation – 49 CFR Part 40 does not authorize the use of Schedule I drugs, including marijuana for any reason. Therefore, Medical Review Officers (MRO) will not verify a drug test as negative based upon learning that the employee used "medical marijuana" and/or "recreational marijuana" when a state law passed medical marijuana or recreational marijuana initiatives. Marijuana remains unacceptable for any safety-sensitive employee subject to drug testing under the DOT.

**G. Consequences of Prohibited Conduct**

Covered employees who use prohibited drugs without medical authorization, or refuse to test for prohibited drugs or alcohol, will not perform safety-sensitive duties for Aviation Consulting Experts, Inc. The specific consequences of conduct prohibited under this Policy are described below in section XV.



## **H. Disciplinary Consequences of Prohibited Conduct**

The FAA drug and/or alcohol testing regulations impose specific requirements regarding prohibited drug use and alcohol misuse. The disciplinary consequences for violations of this Policy, as described in section XXIV, occur under the independent authority of Aviation Consulting Experts, Inc.

## **I. Intent to Comply**

It is the Company's intention to comply fully with DOT regulations. In the event DOT regulations are amended or revised, the Policy and the applicable terms, conditions, and/or requirements shall be deemed to have been amended automatically. Redrafting will not be necessary to reflect and be in compliance with DOT regulations. The Company reserves the right to apply the amended or revised requirements immediately, without giving prior notice to covered employees, applicants or other individuals covered by this Policy unless DOT regulations or other applicable law requires such notice.

## **II. DEFINITIONS**

This Policy includes the following defined terms. The following definitions are included here as they appear in 14 CFR part 120 (other defined terms that may apply are found in 49 CFR part 40, which are not included here):

### **A. Accident**

An occurrence associated with the operation of an aircraft which takes place between the time any individual boards the aircraft with the intention of flight and all such individuals have disembarked, and in which any individual suffers death or serious injury or in which the aircraft receives substantial damage.

### **B. Alcohol**

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

### **C. Alcohol Concentration (or Content)**

Alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath as indicated by an EBT under the FAA Testing Regulations.

### **D. Alcohol Use**

The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

### **E. Breath Alcohol Technician (BAT)**

A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device (EBT).

### **F. Chain of Custody**

The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).



**G. Confirmation (or Confirmatory) Drug Test**

A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

**H. Confirmation (or Confirmatory) Validity Test**

A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

**I. Confirmed Drug Test**

A confirmation test result received by an MRO from a laboratory.

**J. Consortium/Third Party Administrator (C/TPA)**

A service agent that provides or coordinates the provision of one or more drug and alcohol testing services to DOT-regulated employers. C/TPA's typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g.; having a combined random testing pool.) C/TPA's are not "employers" for purposes of the FAA Testing Regulations.

**K. Contractor**

An individual or company that performs a safety-sensitive function by contract for an employer or another contractor.

**L. Covered Employee**

An individual who performs, either directly or by contract, a safety-sensitive function listed in §§120.105 and 120.215 for an employer. For purposes of pre-employment testing only, the term "covered employee" includes an individual applying to perform a safety-sensitive function.

**M. Designated Employer Representative (DER)**

The individual identified by the employer to receive test results and other communications from service agents for the employer, consistent with the requirements of Part 40. Also, the DER is the individual authorized by the employer to take immediate actions to remove employees from safety-sensitive duties and make required decisions in the testing and evaluation processes. The individual must be an employee of the Company. Service agents cannot serve as DERs.

**N. Dilute Specimen**

A specimen with creatinine and specific gravity values that are lower than expected for human urine. If the MRO informs the Company that a negative drug test was dilute, the following will apply:

**i. Dilute Negative with Low Creatinine**

If the MRO indicates that a recollection under direct observation is required because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL, the Company must immediately instruct the employee to undergo a recollection under direct observation. The





DOT's stated purpose for this requirement is so that people who may naturally produce low creatinine levels will not be reported to employers as having substituted their specimens.

- ii. Other Dilute Negative: Otherwise, if the creatinine concentration of the dilute specimen is greater than 5mg/dL but less than 20 mg/dL, the Company will not require the employee to take another test and will accept the test as a negative test.

**O. Drug**

A controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act, 21 USC § 812. The drugs for which tests are required under 49 CFR Part 40 and the FAA Testing Regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids (referred to herein as "prohibited drugs"). Employer reserves its independent authority and discretion to prohibit and test for other drugs, as defined above, within the limits of applicable state and/or local law or regulation.

**P. Employee**

An individual who is hired, either directly or by contract, to perform a safety-sensitive function for an employer, as defined in paragraph (i) of this section. An employee is also an individual who transfers into a position to perform a safety-sensitive function for an employer.

**Q. Employer**

A Part 119 certificate holder with authority to operate under Parts 121 and/or 135, an operator as defined in § 91.147 of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military. An employer may use a contract employee who is not included under that employer's FAA-mandated drug and alcohol testing program to perform a safety-sensitive function only if that contract employee is included under the contractor's FAA-mandated drug and alcohol testing program and is performing a safety-sensitive function on behalf of the contractor (i.e., within the scope of employment with the contractor.). Pursuant to Part 40, the term also includes a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with Part 40. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for purposes of Part 40.

**R. Evidential Breath Testing Device (EBT)**

A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 concentrations, placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL) and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

**S. Hire**

Retaining an individual for a safety-sensitive function as a paid employee, as a volunteer, or through barter or other form of compensation.

**T. Medical Review Officer (MRO)**



A licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. A licensed physician (medical doctor or doctor of osteopathy) qualified to act as an MRO under 49 CFR Part 40 by possessing the required (a) credentials, (b) basic knowledge, and (c) receiving qualification and requalification training meeting the requirements of 40 CFR Part 40.

**U. Performing (a Safety-Sensitive Function)**

Any period in which the covered employee is actually performing, ready to perform, or immediately available to perform such function.

**V. Prohibited Drugs**

The drugs for which tests are required under 49 CFR Part 40 and the FAA Testing Regulations, which currently includes marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

**W. Safety-Sensitive Function**

An individual performs, either directly or by contract (including by subcontract at any tier), for an employer one of the following functions: (1) flight crewmember duties, (2) flight attendant duties, (3) flight instruction duties, (4) aircraft dispatcher duties, (5) aircraft maintenance and preventive maintenance duties, (6) ground security coordinator duties, (7) aviation screening duties, (8) air traffic control duties, or (9) operation control specialist.

**X. SAMHSA Certified Laboratory**

Substance Abuse and Mental Health Services accredited drug-testing laboratories (laboratories were formerly accredited by NIDA). SAMHSA inspects and regulates such laboratories.

**Y. Screening Test (or Initial Test)**

The test used to differentiate a negative specimen from one that requires further testing for drug or drug metabolites. For alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Z. Substance Abuse Professional (SAP)**

A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. To be qualified to act as a SAP under the DOT program, the SAP must be a licensed physician (Doctor of Medicine or Osteopathy), a licensed or certified social worker, a licensed or certified psychologist, a licensed or certified Employee Assistance Professional, a state-licensed or certified marriage and family therapist, or a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC), by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC), or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC). The SAP must also be knowledgeable about and have clinical experience in controlled substances, abuse disorders, including knowledge of the SAP function as it relates to employer interests in safety-sensitive duties. The SAP must also be knowledgeable



about Part 40, the current SAP guideline, the DOT agency regulations applicable to the employer for whom the SAP evaluates employees and the SAP must keep current on any changes to these materials including subscribing to ODAPC's list-serve. Qualification training and continuing education requirements are also required.

**AA. Substituted Test**

A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

**BB. Verified Negative Drug Test Result**

A drug test result from an HHS-certified laboratory that has undergone review by an MRO and has been determined by the MRO to be a negative result.

**CC. Verified Positive Drug Test Result**

A drug test result from an HHS-certified laboratory that has undergone review by an MRO and has been determined by the MRO to be a positive result.

**III. COVERED EMPLOYEES**

Each employee, including any assistant, helper, or individual in a training status, who performs a safety-sensitive function listed below directly or by contract (including by subcontract at any tier) for an employer as defined in 14 CFR part 120.105 must be subject to drug and alcohol testing under a drug and alcohol testing program implemented in accordance with FAA regulations. This includes full-time, part-time, temporary, and intermittent employees regardless of the degree of supervision. The safety-sensitive functions are:

- A. Flight Crewmember Duties**
- B. Flight Attendant Duties**
- C. Flight Instruction Duties**
- D. Aircraft Dispatcher Duties**
- E. Aircraft Maintenance and Preventive Maintenance Duties**
- F. Ground Security Coordinator Duties**
- G. Aviation Screening Duties**
- H. Air Traffic Control Duties**
- I. Operations Control Specialist**

The Company will identify any employee who is subject to the testing regulations of more than one DOT agency. Prior to conducting any tests on a covered employee subject to the testing regulations of more than one DOT agency, the Company must determine which DOT agency authorizes or requires the test.



#### IV. SUBSTANCES AND CUT-OFF LEVELS

Aviation Consulting Experts, Inc will test each employee who performs a safety-sensitive function for evidence of the following substances and/or alcohol:

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites	50 ng/mL	THCA1	15 ng/mL
Cocaine metabolites (Benzoylecgonine)	150 ng/mL	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL 2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL 100 ng/mL
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL 100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL 250 ng/mL
MDMA/MDA	500 ng/mL	MDMA MDA	250 ng/mL 250 ng/mL

#### V. TYPES OF TESTING REQUIRED

##### A. Pre-Employment Testing

- i. The Company will not hire any individual for a safety-sensitive function unless a pre-employment drug test is conducted first and the result is verified negative.
- ii. The Company will not allow an individual to transfer from a non-safety-sensitive to a safety-sensitive function unless the Company first conducts a pre-employment test and receives a verified negative drug test result for the individual.
- iii. The Company must conduct another pre-employment test and receive a verified negative drug test result before hiring or transferring an individual into a safety-sensitive function if more than 180 days elapse between conducting the pre-employment test required by paragraphs (A) (i) and (ii) of this section and hiring or transferring the individual into a safety-sensitive function, resulting in that individual being brought under an FAA drug testing program.
- iv. If the following criteria are met, the Company is permitted to conduct a pre-employment test, and if such a test is conducted, the Company must receive a negative test result before putting the individual into a safety-sensitive function:



- a. The individual previously performed a safety-sensitive function for the Company and the Company is not required to pre-employment test the individual under 14 CFR Section 120.109 (a)(1) or (a)(2) before putting the individual to work in a safety-sensitive function;
  - b. The Company removed the individual from the Company's random testing program conducted under 14 CFR Part 120 for reasons other than a verified positive test result on an FAA-mandated drug test or a refusal to submit to such testing; and
  - c. The individual will be returning to the performance of a safety-sensitive function.
- v. Before hiring or transferring an individual to a safety-sensitive function, the Company must advise each individual that he or she will be required to undergo pre-employment testing in accordance with 14 CFR Part 120, to determine the presence of marijuana, cocaine, opioids, phencyclidine (PCP), and amphetamines, or a metabolite of those drugs in the individual's system. The Company will provide this same notification to each individual required by the employer to undergo pre-employment testing as outlined above.

## **B. Random Testing**

- i. Covered employees performing safety-sensitive functions will be subject to unannounced random testing at the minimum annual percentage rates established by the FAA (the current FAA annual random testing rates are ten percent (10%) for alcohol and twenty-five (25%) for drugs).
- ii. The Company must select and test a percentage of employees at least equal to the minimum annual percentage rate each year.
  - a. Company will determine whether it has met the minimum annual percentage rate by dividing the number of random testing results for safety-sensitive employees by the average number of safety-sensitive employees eligible for random testing.
  - b. The Company will count all random positives, random negatives, and random refusals as the Company's "random testing results."
  - c. To calculate the average number of safety-sensitive employees eligible for random testing throughout the year, the Company will add the total number of safety-sensitive employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Only safety-sensitive employees are to be in the Company's random testing pool, and all safety-sensitive employees must be in the random pool. If the Company conducts random testing more often than once per month (e.g., you select daily, weekly, bi-weekly) the Company is not required to compute this total number of safety-sensitive employees more than on a once per month basis.



- iii. The Company may use a service agent to perform random selections, and safety-sensitive employees may be part of a larger random testing pool of safety-sensitive employees. However, the Company must ensure that the service agent used is testing at the appropriate percentage established for the industry and that only safety-sensitive employees are in the random testing pool.
- iv. The Company must ensure that random tests are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.
- v. Each covered employee selected for testing shall be tested within the selection period.
- vi. The Company will require that each safety-sensitive employee who is notified of selection for random testing proceeds to the collection site immediately; provided, however, that if the employee is performing a safety-sensitive function at the time of the notification, the Company will instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the collection site as soon as possible.
- vii. A covered employee will only be randomly tested for alcohol while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

### **C. Post-Accident Testing**

- i. In the event of an accident, each covered employee whose performance of a safety-sensitive function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident will be subject to testing for drugs and alcohol. The decision not to administer a test under this section shall be based solely on the Company's determination, using the best available information at the time of the determination that the covered employee's performance could not have contributed to the accident.
- ii. For purposes of this Policy, an accident is defined as an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage.
- iii. The FAA Testing Regulations establish the following requirements regarding Post-Accident Testing:
  - a. **Covered Employee Responsibility**  
A person who is subject to Post-Accident testing must remain readily available for testing, or the Company may consider him/her to have refused to submit to testing. Persons subject to Post-Accident testing



must refrain from consuming alcohol for 8 hours following the accident, or until he/she submits to an alcohol test.

**b. Company Responsibilities**

The Company shall provide necessary Post-Accident information, procedures and instructions, prior to the covered employee performing safety-sensitive functions, so that he/she will be able to comply with the requirement of this section.

**iv.** In the event a required Post-Accident test has not been administered within the required time frame following the accident, the following action must be taken:

**a. Time Elapsed**

**2 hours:**

- **Action Required**

If the covered employee has not submitted to an alcohol test at this time, the Company shall prepare and maintain on file a record stating the reason the test was not promptly administered.

**8 hours:**

- **Action Required**

Cease attempts to administer an alcohol test and prepare and maintain record described above.

**32 hours:**

- **Action Required**

If the covered employee has not submitted to a drug test by this time, the Company shall cease attempts to administer a drug test and prepare and maintain the record described above.

Important Note: Nothing in this document should be construed as to require the delay of necessary medical attention for injured people following an accident, or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

**D. Reasonable Suspicion Testing**

- Covered employees who perform safety-sensitive functions will be subject to testing for drugs and/or alcohol when there is reasonable suspicion (also referred to as reasonable cause) to believe the employee has used a prohibited drug or has violated the FAA alcohol misuse prohibitions.
- Aviation Consulting Experts, Inc's determination that reasonable suspicion exists to require the covered employee undergo testing shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, performance, speech or body odors of the employee that indicate





probable drug use and/or alcohol misuse. Observations may include indications of the chronic and withdrawal effects of drugs.

- iii. At least two of the covered employee's supervisors, one of whom is trained in the detection of symptoms of possible drug use and/or prohibited alcohol conduct, must substantiate and concur in the decision to test a covered employee who is reasonably suspected of drug use or alcohol misuse; except that in the case of an employer, other than a Part 120 certificate holder, who employs 50 or fewer employees who perform safety-sensitive functions, one supervisor who is trained in detection of symptoms of possible drug use shall substantiate the decision to test an employee who is reasonably suspected of drug use.
- iv. Supervisors or company officials making observations for alcohol and drug reasonable suspicion testing shall be provided at least 60 minutes of training on alcohol misuse and at least another 60 minutes of training on prohibited drug use. Supervisor training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of drugs.
- v. Reasonable Suspicion testing for alcohol shall occur only if the observations forming the basis for the reasonable suspicion determination are made during, just preceding, or just after the covered employee performs safety-sensitive functions and the alcohol test is administered during, just preceding, or just after the covered employee performs safety sensitive functions.
  - a. If a Reasonable Suspicion alcohol test is not administered within two (2) hours following the determination of reasonable suspicion, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered.
  - b. If a Reasonable Suspicion alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the Company shall cease attempts to administer an alcohol test and shall state in the record the reasons for not completing the test.
- vi. Notwithstanding the absence of a Reasonable Suspicion alcohol test under this section, no covered employee shall report for duty or remain on duty requiring the performance of safety sensitive functions while the covered employee is under the influence of or impaired by alcohol as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall the Company permit the covered employee to perform or continue to perform safety-sensitive functions until:
  - a. An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
  - b. The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the reasonable suspicion determination that the employee has violated the alcohol misuse provisions of the FAA regulations.





- Except as otherwise provided by this section, no employer shall take any action under the FAA Testing Regulations against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an employer with authority independent of the FAA Testing Regulations from taking any action otherwise consistent with law.

## **E. Return-to-Duty Testing**

- i. Aviation Consulting Experts, Inc shall ensure that before a covered employee returns to duty to perform a safety-sensitive function after engaging in prohibited conduct concerning alcohol (including refusal to submit to a required alcohol test), the employee shall undergo a Return-to-Duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- ii. Aviation Consulting Experts, Inc shall ensure that before a covered employee returns to duty to perform a safety-sensitive function after engaging in prohibited conduct concerning prohibited drugs (including refusal to submit to a required drug test), the employee shall undergo a Return-to-Duty drug test with a result indicating a verified negative result for drug use. As required by DOT drug testing procedures, specimen collection for all Return-to-Duty drug tests will be conducted under direct observation (See 49 CFR Section 40.67(b)).
- iii. The covered employee must comply with the education and/or treatment recommendations prescribed by the SAP to be considered eligible to return-to-duty and prior to taking the required Return-to-Duty test(s).

## **F. Follow-Up Testing**

- i. A covered employee who has violated a DOT drug and/or alcohol prohibition (e.g., a positive test, refusal to test, etc.) must be evaluated by a SAP and follow the prescribed rehabilitation/treatment program and take the required Return-to-Duty test(s). Thereafter, the employee will be subject to unannounced, Follow-Up alcohol and/or drug testing as directed by a SAP.
- ii. The number and frequency of Follow-Up testing shall be determined by (Insert Company Name) SAP, but must consist of: (a) a minimum of six (6) tests in the first twelve (12) months after the individual returns to safety-sensitive work, as required by 49 CFR Part 40; and (b) for any additional period as determined by the SAP up to a total of 60 months.
- iii. Follow-up alcohol testing shall be conducted only when the covered employee is performing safety-sensitive functions, just before the covered employee is to perform safety-sensitive functions, or just after the covered employee has ceased performing safety-sensitive functions.



- iv. As required by DOT drug testing procedures, specimen collection for all Follow-Up drug tests will be conducted under direct observation (See 49 CFR Section 40.67(b)).

#### **G. Retesting of Covered Employees with an Alcohol Concentration of 0.02 or Greater but Less than 0.04**

The Company will retest a covered employee to ensure compliance with the provisions of 14 CFR part 120.221(f) if the Company chooses to permit the employee to perform a safety-sensitive function within eight (8) hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

### **XVI. DRUG AND ALCOHOL TESTING PROCEDURES**

#### **A. Drug Testing Procedures**

As required by FAA rules, the Company's drug and alcohol testing procedures comply with the Federal Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, as amended. (A copy may be obtained from the Company's DER). These procedures ensure the integrity, confidentiality and reliability of the testing processes, safeguard the validity of the test results and ensure that these results are attributed to the correct covered employee. Further, these procedures minimize the impact upon the privacy and dignity of persons undergoing such tests to every extent feasible. Aviation Consulting Experts, Inc is under contract with the service agents listed in Appendix A to perform testing procedures according to 49 CFR Part 40 regulations.

##### **i. Drug Testing Chain of Custody/Laboratory**

For purposes of conducting drug tests, the Company has established a chain-of-custody procedure for the collection and analysis of urine specimens that will verify the identity of each specimen and test result. All drug tests conducted pursuant to this policy will be performed by a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA), a division of the U.S. Department of Health and Human Services (DHHS).

##### **ii. Confirmation and Review of Drug Test Results**

All positive drug test results will be confirmed by gas chromatography and mass spectrometry (GC/MS). All confirmed positive drug test results will be reviewed by a MRO to determine whether there is any legitimate explanation for the positive test result. This review may include a medical interview, review of the individual's medical history, or review of any other relevant biomedical factors and all medical records made available by the tested individual.

Individuals testing positive will be given the opportunity to discuss with the MRO any legitimate explanation for the positive test result. If, after speaking with the tested individual, the MRO determines that there is a legitimate medical explanation, consistent with Part 40 requirements, exists, the MRO will report the test result as negative (i.e., legal drug use). If the MRO determines that medical information, including medications disclosed by the individual during the



interview, presents a significant safety risk or may be medically disqualifying for the position, the MRO will report a safety concern to the Company. The applicant/employee will be required to: 1) provide fitness for duty documentation from his/her personal prescribing physician, and/or; 2) undergo a fitness for duty evaluation by a physician designated by the Company. If the MRO determines there is no acceptable medical explanation for the positive, the MRO verifies the test as positive.

Under the circumstances set forth in 49 CFR Part 40, the MRO is permitted to verify a test result as positive without having first communicated directly with the tested individual. If serious illness, injury or other unavoidable circumstances prevented the individual from being contacted by the MRO or a DER, however, the MRO may reopen the verification process to permit the tested individual to provide information concerning a legitimate explanation for the positive test.

**iii. Stand-Down Policy**

The Company is not permitted under the authority of the DOT regulations to “stand down” an employee prior to receiving the test result from the MRO. However, the Company may request a waiver of this policy by a direct appeal to DOT. A waiver, if granted, permits the Company to stand down an employee following the MRO’s receipt of a laboratory report of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test pertaining to the employee. For further details, refer to 49 CFR Part 40, §40. 21.

**iv. Right to Have Split Specimen Tested**

An applicant or covered employee has the right to request, within 72 hours of being notified by the MRO of a verified positive, adulterated, or substituted test result, that the split portion of the sample be analyzed by a different SAMHSA-certified laboratory (which the tested individual may choose from a list of available labs) to reconfirm the result. If the split specimen reconfirms the presence of the drug(s) or drug metabolite(s), or that the specimen is adulterated or substituted, the MRO will notify the DER and the tested individual of the test results.

If the split specimen fails to reconfirm a positive, adulterated, or substituted result, or if the split is unavailable or inadequate for testing, the MRO will cancel the test and report the cancellation and the reasons for it to DER, the FAA, and the tested individual.

If a split specimen is not available and the MRO cancels the test, the Company is required to arrange for immediate specimen re-collection under direct observation, with no advance notice to the covered employee.

**v. Inability to Provide Adequate Amount of Urine**

Tested individuals must provide at least 45 milliliters of urine for a drug test. If the tested individual is unable to provide such a quantity of urine, then the tested individual will be instructed to drink up to 40 ounces of fluids, distributed reasonably over a period of up to three (3) hours, and again attempt to provide a complete specimen. If the individual refuses to provide a new urine specimen,



this will constitute a refusal to submit to a test and the tested individual will be ineligible for employment with the Company. If the tested individual is a covered employee of the company and refuses to provide a new urine specimen this will constitute a refusal to submit to testing and the employee's employment will be terminated. A refusal to test will be reported to the Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division.

If a covered employee has not provided a sufficient specimen within three (3) hours after the first unsuccessful attempt to provide the specimen, the Company will direct the employee to obtain, as soon as possible, a medical evaluation from a physician selected by the Company. If the physician determines that there is no legitimate medical explanation for the employee's failure to provide an adequate amount of urine, this will constitute a refusal to submit to a test and the employee's employment will be terminated.

**vi. Altered or Substituted Urine Specimens**

Procedures for collecting urine specimens allow an individual privacy unless there is a reason to believe that a particular individual has altered or attempted to alter or substitute the specimen as defined in the Federal Procedures for Transportation Workplace Drug Testing Programs, 49 CFR Part 40. In such cases, a specimen may be obtained under the direct observation of a same gender collection site person in accordance with such procedures.

**vii. Urine Collection**

Federal regulations require a collector or observer to directly observe the covered employee while that employee provides a urine specimen if:

- a. The covered employee's previous urine specimen was out of normal temperature range, or
- b. The collector previously observed the covered employee attempting to tamper or substitute a specimen, or
- c. The covered employee's previous test result was invalid due to an interfering substance and the covered employee did not have a legitimate medical explanation, or
- d. The covered employee's split specimen could not be tested following a non-negative test result, or
- e. If the MRO indicates that a recollection under direct observation is required because the creatinine concentration of the specimen was equal or greater than 2 mg/dL but less than or equal to 5 mg/dL, the Company must immediately instruct the covered employee to undergo a recollection under direct observation.
- f. For every return-to-duty and follow-up test

**viii. Direct Observation Procedures**



The collector (or the observer) must be of the same gender as the covered employee for direct observations collections. If the collector is going to have someone else perform the observation so as to ensure a same gender observer is utilized, the collector must verbally instruct that person to follow the procedures listed below. If the collector is the observer, they must also follow the same procedures. For more information about observed collections see Subpart E - Urine Specimen Collections in 49 CFR Part 40.

The observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show by turning around, that they do not have a prosthetic device. After determining that the employee does not have such a device, the collector may permit the covered employee to return clothing to its proper position for observed urination.

The observer must watch the covered employee urinate into the collection container. Specifically, the observer will watch the urine go from the employee's body into the collection container.

## **B. Alcohol Testing Procedures**

The Company's alcohol testing procedures comply with the Federal Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, as amended. (A copy may be obtained from the Program Manager). These procedures ensure the integrity, confidentiality and reliability of the testing processes, safeguard the validity of the test results and ensure that these results are attributed to the correct employee.

### **i. Screening Test Procedure**

Alcohol screening tests will be performed by a screening test technician ("STT") using a non-evidential screening device, or by a breath alcohol technician ("BAT") using an EBT. The Company has a quality assurance plan for each non-evidential alcohol screening device and EBT it uses. In addition, the Company ensures that the STTs are proficient in the operation of non-evidential screening devices and that the BATs are proficient in the operation of EBTs. Further, the Company uses non-evidential alcohol screening devices that are on the NHTSA Conforming Products List ("CPL") for non-evidential screening devices and EBTs which are on NHTSA's CPL for evidential breath measurement devices.

#### **a. Confirmation of Alcohol Test Results**

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed using an EBT. The confirmation test will be conducted within 30 minutes from the end of the screening test. The confirmation test result is the result upon which any discipline or other actions taken under the Company's policy will be based.

#### **b. Inability to Provide an Adequate Sample**



If the covered employee is unable to provide sufficient saliva to complete a test on a saliva screening device, the STT will conduct a new test, using a new device. If the employee refuses to complete the new test, this will constitute a refusal to submit to a test. If the new test is completed, but there is an insufficient amount of saliva to activate the device, the employee will immediately take an alcohol test using an EBT.

If a covered employee fails to provide or claims that he or she is unable to provide a sufficient amount of breath sample to permit a valid breath test because of a medical condition, the Company will require the covered employee to be evaluated by a physician selected by the Company.

If the physician determines that the covered employee's alleged medical condition is not likely to have precluded the covered employee from providing an adequate amount of breath sample, this will constitute a refusal to test.

Screening Test Technicians and Breath Alcohol Technicians are responsible for reporting alcohol test results to the DER in a confidential manner.

## **XVII. HANDLING OF TEST RESULTS, RECORDS RETENTION, AND CONFIDENTIALITY**

### **A. Retention of Records**

The Company will maintain records associated with this Policy in a secure location with controlled access. Periods of retention are set out below:

#### **i. Five Years**

- a.** Copies of annual drug/alcohol reports submitted to the FAA;
- b.** Records of notifications to the Federal Air Surgeon of refusals to submit to testing and violations of the alcohol misuse prohibitions by covered employees who hold medical certificates issued under 14 CFR part 67;
- c.** Documents presented by a covered employee to dispute the result of an alcohol test administered under the FAA Testing Regulations;
- d.** Records of alcohol test results with results indicating an alcohol concentration of 0.02 or greater;
- e.** Records of verified positive drug test results;
- f.** SAP reports;
- g.** All Follow-Up tests and schedules for Follow-Up tests; and
- h.** Records related to other violations of 14 CFR part 120.19 or 120.37.

#### **ii. Three Years**



- a. Records related to information obtained from previous employers under § 40.25 concerning drug and alcohol test results of employees shall be maintained for a minimum of three years.

### **iii. Two Years**

- a. Documents related to the random selection process;
- b. Documents generated about decisions to administer reasonable suspicion alcohol tests;
- c. Documents generated about decisions on post-accident tests;
- d. Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing;
- e. Materials on alcohol misuse awareness, including a copy of this Policy;
- f. Records of the inspection, maintenance, and calibration of EBTs;
- g. Documentation of compliance with the requirements of 14 CFR part 120.223(a).
- h. Documentation of training provided to supervisors for qualifying the supervisors to determine the need for alcohol testing based on reasonable suspicion; and
- i. Certification that any training conducted under this Policy complies with the FAA's requirements for such training.

### **iv. One Year**

- a. Records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02.

## **B. Annual Reports (MIS)**

- i. Annual reports summarizing the results of the Company's drug and alcohol testing program shall be submitted to the FAA in the form and manner prescribed by the FAA by March 15 of each year, covering the previous calendar year (January 1 through December 31) in accordance with 49 CFR Part 40 and the FAA Testing Regulation provisions stated below.
- ii. Each Part 120 certificate holder is required to submit an annual report each year. Each entity conducting testing pursuant to FAA-approved drug and alcohol testing program, other than a Part 120 certificate holder, that has 50 or more employees performing safety-sensitive functions on January 1 of any calendar year is required to submit an annual report to the FAA for that calendar year. The FAA may require





other aviation employers to submit annual reports, and the FAA will notify employers so required in writing.

- iii. Each report shall be submitted in the form and manner prescribed by the FAA unless otherwise indicated by the FAA, the Management Information System (MIS) form and instructions as required by 49 CFR Section 40.26 to Part 40 shall be used for this purpose. The DER or other designated representative shall sign each report and must certify the accuracy and completeness of the MIS report, no matter who prepares it.

For information on where to submit MIS forms and for the electronic version of the form, see:

[http://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/aam/drug\\_alcohol](http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/drug_alcohol)

- iv. A service agent may prepare the MIS report on behalf of the Company. However, the DER or another authorized representative of the Company must certify the accuracy and completeness of the MIS report, regardless of who prepares it.

### **C. Access to Records and Facilities**

- i. Except as required by law or expressly authorized or required by DOT and/or FAA Testing Regulations, the Company will not release covered employee information that is contained in records required to be maintained under FAA regulations.
- ii. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the covered employee's use of alcohol, including any records pertaining to his or her alcohol tests in accordance with 49 CFR part 40. The Company will promptly provide the records requested by the covered employee. Access to a covered employee's records will not be contingent upon payment for records other than those specifically requested.
- iii. The Company will permit access to all facilities utilized in complying with the requirements of the FAA regulations to the Secretary of Transportation or any DOT agency with regulatory authority over the Company or any of its covered employees.
- iv. Records shall be made available to a subsequent employer upon receipt of a written request from the covered employee, pursuant to 49 CFR § 40.25.

## **XVIII. MRO, SAP, AND EMPLOYER RESPONSIBILITIES**

### **A. Medical Review Officer (MRO)**

- i. The Company will designate or appoint a MRO who will be qualified in accordance with 49 CFR part 40 and will perform the functions set forth in 49





CFR part 40 and the FAA regulations. The Company may contract for the provision of MRO services as part of its drug testing program.

- ii. The MRO must perform the functions set forth in subpart G of 49 CFR part 40, and subpart E of the FAA regulations. The MRO will not delay verification of the primary test result following a request for a split specimen test unless such delay is based on reasons other than the fact that the split specimen test result is pending. If the primary test result is verified as positive, actions required under this rule (e.g., notification to the Federal Air Surgeon, removal from safety-sensitive position) are not stayed during the 72-hour request period or pending receipt of the split specimen test result.
- iii. As part of verifying a confirmed positive test result or refusal to submit to a test, the MRO must ask and the individual must answer whether he or she holds an airman medical certificate issued under 14 CFR part 67 or would be required to hold an airman medical certificate to perform a safety-sensitive function for the Company. If the individual answers in the affirmative to either question, in addition to notifying the Company in accordance with 49 CFR part 40, the MRO must forward to the Federal Air Surgeon, the name of the individual, along with identifying information and supporting documentation, within 2 working days after verifying a positive drug test result or refusal to submit to a test.

## **B. Substance Abuse Professional (SAP)**

- i. The SAP must perform the functions set forth in 49 CFR part 40, subpart O.
- ii. During the SAP interview required for a verified positive test result or a refusal to submit to a test, the SAP must ask and the individual must answer whether he or she holds or would be required to hold an airman medical certificate issued under 14 CFR part 67 to perform a safety-sensitive function for the Company. If the individual answers in the affirmative, the individual must obtain an airman medical certificate issued by the Federal Air Surgeon dated after the verified positive drug test result date or refusal to test date. After the individual obtains this airman medical certificate, the SAP may recommend to the Company that the individual may be returned to a safety-sensitive position. The receipt of an airman medical certificate does not alter any obligations otherwise required by 49 CFR part 40 or this subpart.

## **C. Employer SAP Notice Responsibilities**

- i. The Company must forward to the Federal Air Surgeon within 2 working days of receipt, copies of all reports provided to the Company by a SAP regarding the following:
  - a. An individual who the MRO has reported to the Federal Air Surgeon under 14 CFR part 120.113 (d)(1); or



- ## **XIX. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

- ## B. EAP Education Program

- i. Display and distribution of informational material;
- ii. Display and distribution of a community service hot-line telephone number for employee assistance; and
- iii. Display and distribution of the Company's policy regarding drug use in the workplace.

### C. EAP Training Program

- i. The effects and consequences of prohibited drug use and/or alcohol misuse on individual health, safety, and work environment;
- ii. The manifestations and behavioral cues that may indicate drug use and abuse; and
- iii. Documentation of training given to covered employees and the Company's supervisory personnel.



The Company's supervisory personnel who will determine when an employee is subject to testing based on reasonable cause must receive specific training on specific, contemporaneous physical, behavioral, and performance indicators of probable drug use in addition to the training specified in 14 CFR part 120.115 (c).

The Company will ensure that supervisors who will make reasonable cause determinations receive at least 60 minutes of initial training.

The Company will implement a reasonable recurrent training program for supervisory personnel making reasonable cause determinations during subsequent years.

## **XX. REGISTRATION/FAA OPERATIONS SPECIFICATION**

The Company has registered its drug and alcohol program with the FAA or obtained an Operations Specification as required by 14 CFR 120.

## **XXI. DRUG AND ALCOHOL MISUSE INFORMATION, TRAINING, AND REFERRAL**

### **A. Obligation to Promulgate a Policy on Drug Use and Misuse of Alcohol**

The Company will provide educational materials that explain the FAA drug and alcohol testing requirements and the Company's policies and procedures with respect to meeting those requirements.

- i. The Company has ensured that a copy of these materials was distributed to each covered employee prior to the start of drug and alcohol testing under this Policy. The Company will ensure that these materials are distributed to each person subsequently hired for or transferred to a covered position.
- ii. Company will provide written notice to representatives of employee organizations of the availability of this information.

### **B. Required Content**

The materials to be made available to employees must include detailed discussion of at least the following:

- i. The identity of the individual designated by the Company to answer employee questions about the materials.
- ii. The categories of employees who are subject to the FAA Testing Regulations.
- iii. Sufficient information about the safety-sensitive functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance.
- iv. Specific information concerning covered employee conduct that is prohibited by FAA Regulations.



- v. The circumstances under which a covered employee will be tested for prohibited drugs and/or alcohol.
- vi. The procedures that will be used to test for the presence prohibited drugs and/or alcohol, protect the employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.
- vii. The requirement that a covered employee submit to testing in accordance with FAA Regulations.
- viii. An explanation of what constitutes a refusal to submit to drug or alcohol test and the attendant consequences.
- ix. The consequences for violation including removal from safety sensitive positions and referral for treatment.
- x. The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.
- xi. Information concerning the effects of prohibited drug use and alcohol misuse on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem; available methods of evaluating and resolving problems associated with the use of drugs and misuse of alcohol; and intervening when a drug or alcohol problem is suspected, including confrontation, referral to any available employee assistance program, and/or referral to management.
- xii. Optional provisions. The materials supplied to covered employees may also include information on additional employer policies with respect to the use or possession of drugs or alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the Company's authority independent of FAA regulations. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

#### **C. Training for Supervisors**

The Company will ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **D. Original Certificate of Receipt of Above Information**

Supervisors must certify completion of the required training. The certification must be retained in a secure file.

### **XXII. COVERED EMPLOYEES LOCATED OUTSIDE THE UNITED STATES**



- A. No part of the testing process (including specimen collection, laboratory processing, and MRO actions) shall be conducted outside the territory of the United States.
- B. Each covered employee who is assigned to perform safety-sensitive functions solely outside the territory of the United States will be removed from the random testing pool upon the inception of such assignment.
- C. Each covered employee who is removed from the random testing pool under this paragraph will be returned to the random testing pool when the employee resumes the performance of safety-sensitive functions wholly or partially within the territory of the United States.
- D. The provisions of this Policy will not apply to any person who performs a safety-sensitive function by contract for an employer outside the territory of the United States.

### **XXIII. PREVIOUS DRUG/ALCOHOL TESTING HISTORY**

#### **A. Obligation to Disclose Previous Positive Pre-Employment Tests**

As a condition of employment, or of transferring into a safety-sensitive position, the Company will ask applicants and covered employees whether they have tested positive, or refused to test, on any pre-employment drug or alcohol test for a DOT-regulated employer during the two years before the date of the individual's application or transfer.

#### **B. Consent to Obtain Past Drug and Alcohol Test Results**

As a condition of employment, or of transferring into a safety-sensitive position, the Company requires applicants and covered employees to authorize inquiries into drug and alcohol testing conducted through previous employers regulated by the DOT. If the applicant or covered employee refuses to provide written consent, the Company will not permit the applicant/employee to perform safety-sensitive functions.

#### **C. Past Information Requested**

The Company will request the following information from DOT-regulated employers who have employed the applicant or covered employee during the two years before the date of the individual's application or transfer:

- i. Alcohol tests with a result of 0.04 or higher alcohol concentration
- ii. Verified positive drug tests.
- iii. Refusals to be tested (including verified adulterated or substituted drug test results)
- iv. Other violations of DOT agency drug and alcohol testing regulations; and
- v. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have



information about the Return-to-Duty process, the covered employee must provide this information to the Company.

- vi. The information from a previous employer may contain any alcohol and drug information the previous employer obtained from other previous employers after January 1, 1995.

#### **D. Previous Violations**

If an applicant/employee admits to a prior positive or refusal for pre-employment drug test, or a previous employer reports a violation of a DOT drug/alcohol regulation, the Company will not permit the applicant or covered employee to perform safety-sensitive duties. The applicant or covered employee must document completion of all DOT requirements for return to duty and follow-up testing have been completed before the Company permits the applicant or covered employee to perform safety-sensitive duties.

#### **E. Written Record of Inquiries**

The Company will maintain a written, confidential record with respect to each former employer contacted for no less than three years after the date the covered employee first performed safety-sensitive functions for the Company.

### **XXIV. DISCIPLINARY CONSEQUENCES OF PROHIBITED CONDUCT**

#### **Immediate termination with possible denial of any benefits.**

In addition, Aviation Consulting Experts, Inc will notify the FAA within 2 working days of any covered employee who holds an airman medical certificate issued under Part 67 who tested positive on a test or violated this policy.

### **XV. CONSEQUENCES FOR COVERED EMPLOYEES ENGAGING IN PROHIBITED CONDUCT**

- A. Covered employees who are known to have engaged in prohibited conduct, regarding alcohol misuse or use of prohibited drugs, are subject to the following consequences as further described in Part 40:
  - ii. Shall be immediately removed from the performance of safety-sensitive functions and shall not be permitted to perform such functions again unless and until the covered employee has successfully completed the post-violation/return-to-duty procedures required by Part 40.
  - iii. Shall be advised by the employer of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol or use of prohibited drugs.
  - iv. Shall be evaluated by a SAP who shall determine what assistance or intervention is required for the covered employee associated with alcohol misuse and/or prohibited drug use.



- v. Each covered employee must be re-evaluated by a SAP to determine that the covered employee has followed the rehabilitation program prescribed.
- vi. Before returning to duty requiring the performance of safety-sensitive functions, the covered employee shall undergo a Return-to-Duty test for alcohol and/or prohibited drugs (as determined by the SAP) and must provide a verified/confirmed negative test result.
- vii. The covered employee shall also be subject to unannounced Follow-Up drug and/or alcohol testing, and the number and frequency of such tests shall be determined by the SAP.

Notwithstanding the foregoing, a covered employee with an alcohol test result indicating an alcohol concentration of 0.02 or greater but less than 0.04 may not be returned to a safety-sensitive function until (i) the employee's alcohol concentration measures less than 0.02; or (ii) the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

#### **B. Permanent Disqualification from Service**

In addition to the Part 40 requirements described above, the FAA Testing Regulations provide that there are circumstances under which covered employees who engage in the prohibited use of drugs or have violated the alcohol misuse prohibitions are **ABSOLUTELY BARRED** from the performance of the same duties performed before the determination of such prohibited conduct. The circumstances that result in permanent disqualification are as follows:

- i. **Drugs**  
Two Verified Positive Drug Tests: If any employee is determined to have two verified positive drug tests on FAA-required drug tests (both occurring after September 19, 1994) then he/she is permanently precluded from performing the safety-sensitive function he/she performed before the second drug test.
- ii. **On-Duty Use of a Prohibited Drug**  
If an employee is determined to have used a prohibited drug while performing a safety-sensitive function after September 19, 1994, then he/she is permanently precluded from performing that safety-sensitive function for the Company.
- iii. **Alcohol**  
On-Duty Use of Alcohol: If a covered employee is determined to have violated the on-duty use of alcohol prohibition (including use of over-the-counter medicine with alcohol content) while performing safety-sensitive duties, he/she is permanently precluded from performing the safety-sensitive duties he/she performed before such violation.
- iv. **Two Violations of Another Alcohol Misuse Prohibition**  
If a covered employee is determined to have two violations of another alcohol misuse prohibition under the FAA regulations (e.g., pre-duty alcohol use, reporting for duty or on duty with an alcohol concentration of 0.04 or greater, or





post-accident alcohol use), he/she is permanently precluded from performing the safety-sensitive duties he/she performed before such violation.

### **C. Notice to the Federal Air Surgeon**

For covered employees who hold an air medical certificate (14 CFR Part 67) in connection with the performance of safety-sensitive functions, employers and their service agents must provide certain information to the Federal Air Surgeon as set forth in the FAA Testing Regulations, including the following.

- i. The Company is required to notify the Federal Air Surgeon within two (2) working days of any covered employee who holds an air medical certificate and who has engaged in alcohol use that violates applicable FAA alcohol misuse provisions. The Company must also forward to the Federal Air Surgeon within two (2) working days of receipt a copy of any alcohol evaluation and/or written report prepared by a SAP pursuant Part 40 and the FAA Testing Regulations
- ii. As part of the MRO verification process and SAP evaluation process, the MRO and SAP must make certain inquiries to determine whether the covered employee holds or is required to hold an air medical certificate; and, if so, the MRO and SAP must forward certain information to the Federal Air Surgeon as set forth in the FAA Testing Regulations. The Company is required to forward to the Federal Air Surgeon within two (2) working days of receipt a copy of any drug evaluation and/or written report provided by the SAP regarding an individual previously reported to the Federal Air Surgeon by the MRO or the Company.
- iii. The required notices and reports to be submitted by employers must be sent to the following address:

Federal Air Surgeon  
Federal Aviation Administration  
Office of Aerospace Medicine  
Attn: Drug Abatement Division (AAM-800)  
800 Independence Avenue, SW  
Washington DC 20591

- iv. Aviation Consulting Experts, Inc will not permit a covered employee who is required to hold an air medical certificate to perform a safety-sensitive duty to resume that duty unless and until (i) the covered employee has received clearance from the Federal Air Surgeon to perform such duties, and (ii) Aviation Consulting Experts, Inc has ensured that the employee meets the post-violation/return-to-duty procedures in accordance with Part 40.

### **D. Refusal of Test**

- i. "Refusal to take a drug test" – means that the covered employee engages in the conduct specified in 49 CFR Part 40.191 as follows:
  - a. Fails to appear for any test (except a Pre-Employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the





employer. This includes the failure of a covered employee (including an owner-operator) to appear for a test when called by a C/TPA (see Section 40.61(a)).

- b.** Fails to remain at the testing site until the testing process is complete; provided that a covered employee who leaves the testing site before the testing process commences (see Section 40.63 (c)) for a Pre-Employment test is not deemed to have refused to test.
- c.** Fails to provide a urine specimen for any drug test required by Part 40 or FAA Testing Regulations; provided that a covered employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see Section 40.63 (c)) for a Pre-Employment test is not deemed to have refused to test.
- d.** In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the covered employee's provision of a specimen (see Sections 40.67(l) and 40.69(g)).
- e.** Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see Section 40.193(d) (2)).
- f.** Fails or declines to take an additional drug test the employer or collector has directed the covered employee to take (see, for instance, Section 40.197(b)).
- g.** Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Section 40.193(d). In the case of a Pre-Employment drug test, the covered employee is deemed to have refused to test on this basis only if the Pre-Employment test is conducted following a contingent offer of employment.
- h.** Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- i.** For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the covered employee has any type of prosthetic or other device that could be used to interfere with the collection process.
- j.** Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.



- Federal Aviation Administration  
Office of Aerospace Medicine  
Drug Abatement Division (AAM-800)  
800 Independence Avenue, SW  
Washington DC 20591

No covered employee who has engaged in conduct prohibited under this Policy will perform safety-sensitive functions unless the employee has met requirements of 49 CFR part 40. The Company will not permit a covered employee who has engaged in such conduct to perform safety-sensitive functions unless the employee has met the requirements 49 CFR part 40.

- i. No covered employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 will perform or continue to perform safety-sensitive functions for the Company, nor will the Company permit the employee to perform or continue to perform safety-sensitive functions, until:
  - a. The employee's alcohol concentration measures less than 0.02; or
  - b. The start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test.
- ii. The Company will not take any action under this rule against an employee based solely on test results showing an alcohol concentration less than 0.04. However, this does not prohibit the Company with authority independent of the FAA regulation from taking any action otherwise consistent with law.

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DISA Global Solutions, Inc.  
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### **IN SAFETY SENSITIVE POSITIONS**

A subcontractor performing safety-sensitive functions for Aviation Consulting Experts, Inc is also subject to the FAA's Drug and Alcohol Testing Program requirements. For any subcontractor performing safety-sensitive functions for the Company, the Company will confirm with the subcontract vendor that the subcontract vendor maintains a drug and alcohol policy in compliance with DOT/FAA regulatory requirements as outlined in 49 CFR Part 120 and 49 CFR Part 40 and that the subcontractor is qualified to be placed in a safety-sensitive function with (Insert Company Name) in accordance with the subcontractor vendor's policy and the DOT/FAA regulations.



## **Attachment to FAA Drug Free Workplace Policy Signs and Symptoms of Drugs and Alcohol Misuse**

Drugs and alcohol can result in such work-related problems as absenteeism and tardiness, lower productivity, missed deadlines, poor work quality, unsafe driving, and increased injuries and accidents. Problems relating to or communicating with supervisors, co-workers or customers, following directions, concentrating or remembering things may also indicate a drug or alcohol problem.

Drugs and alcohol slow reaction times, cause confusion, harm coordination and motor skills and can impair decision-making and memory. People misusing alcohol and using illegal drugs may be withdrawn, lethargic, depressed, erratic, “hyper” or unusually anxious, hostile or paranoid.

Drug and alcohol misuse can also result in health problems like chronic gastritis, headaches, chronic respiratory infections and liver problems. They may also show up as poor hygiene, a sloppy appearance, financial problems, DUIs or family problems.

Evidence of use can include paraphernalia such as pipes, syringes, foil packets, pills, powders and empty alcohol containers. Physical symptoms of use can include:

1. Marijuana and alcohol odors
2. Puffy or droopy eyelids, bloodshot eyes, dilated or pinpoint pupils
3. Nosebleeds, excessive sniffing, chronic sinus problems, nasal sores
4. Needle tracks or blood spots on clothing
5. Tremors, racing or irregular heartbeats
6. Slurred or incoherent speech
7. Confusion, anxiety, paranoia
8. Coordination problems
9. Lethargy and sleepiness

## **Effects of Drugs and Alcohol**

Drugs and alcohol can harm health and the workplace in a variety of ways.

### **Alcohol**

Alcohol is a central nervous system depressant that acts like a poison if used in large quantities. Each year the lives of tens of thousands of Americans are shortened or ended by alcohol misuse.

Alcohol quickly reaches the brain after drinking. It impairs self-control and other learned behaviors. This loss of self-control can lead to aggressive driving (or overly cautious driving), as well as the other kinds of aggressive behaviors associated with drinking. Even small doses of alcohol, i.e. a single drink, can harm driving performance. In large doses, alcohol significantly impairs coordination, memory and judgment.

Over time, alcohol misuse damages the liver, the heart, the digestive system and can cause permanent brain damage. On average, alcoholics shorten their life span by about 10 years.



Alcohol misuse harms the ability to think clearly, harms judgment and can affect the ability to get along with and work constructively with co-workers and customers. Alcoholics often have attendance and work performance problems and get fired because of the consequences of alcohol misuse. Because of its adverse effects on coordination, reflex time, vision, driving ability, judgment and the ability to evaluate and quickly process information, alcohol is especially dangerous for employees.

A small glass of wine, a can of beer and a one and one-half ounce shot of liquor all contain about the same amount of alcohol. It takes the body about one hour to metabolize and eliminate each "drink" of alcohol. Coffee, exercise and cold showers do not speed up this process or magically produce sobriety. While individuals differ greatly, each drink on an empty stomach by an average-sized adult male may lead to an alcohol concentration of about .02. Thus, drinking more than two drinks raises a serious risk of having an alcohol concentration more than DOT rules, especially for people with low body weights. Any drinking while on duty or during the 4 hours before working violates DOT rules.

### **Cocaine**

Cocaine is a powerful stimulant that can be inhaled up the nose, injected or smoked. It greatly increases heart rate and blood pressure. Partly because of its effects on the circulatory system, cocaine use can lead to seizures. Every time cocaine is used, there is some unquantifiable risk of a fatal stroke or heart attack. Cocaine can also cause tremors, convulsions, vomiting and raises body temperature to dangerous levels. Repeated snorting damages nasal tissues, sometimes permanently. Needle use carries risks of infection and overdose.

Initially, cocaine use brings a rush of euphoria and exaggerated overconfidence. Sometimes these effects are so strong that safe driving is impossible. Cocaine wears off in about an hour after it is snorted and in just a few minutes after it is smoked. When it wears off, the user may become depressed, anxious, paranoid and exhausted.

Cocaine users may exhibit rapid mood swings and changes in activity level. They may grind their teeth, repeatedly wash their hands or engage in other compulsive behaviors.

### **Amphetamines/Methamphetamine**

Amphetamines, also known as "speed," are powerful stimulants that are often abused by employees because they make it easy to stay awake. Amphetamines, however, are dangerous drugs with a high potential for abuse. Amphetamines may also be known as uppers, black beauties, white crosses or dexies.

Use brings feelings of alertness and a loss in appetite. The user may also become very talkative or physically active or feel very strong after ingesting amphetamines. In a few hours however, the amphetamines wear off and restlessness, anxiety, paranoia and headaches set in.

In large doses, amphetamines can produce serious toxic effects. The user's blood pressure can rise to the point where strokes or heart attacks occur. Long-term users often have acne, tooth problems and may exhibit symptoms of permanent brain damage.

Methamphetamine is a dangerous stimulant that is double synthesized from amphetamine and is not used for any medical purposes. Unlike amphetamines, which does have a potential for causing tolerance and abuse but only with time, methamphetamine use can quickly lead to



tolerance and addiction. Abusers who use meth will often require higher dose of the drug, more often with only a couple of use.

### **Marijuana**

Marijuana is a hallucinogen that alters the user's sense of time and reduces the user's ability to perform tasks requiring coordination, swift reactions and concentration. Taken in large quantities, marijuana can act like a depressant.

While some people may regard marijuana as harmless, there is evidence its use is unhealthy and dangerous for the driver. Marijuana causes significant increases in blood pressure and pulse rate and, thus, can aggravate or cause heart disease. Marijuana smoke also contains several known carcinogens. Many experts believe that marijuana is unhealthier to smoke than tobacco.

Studies have shown that smoking marijuana affects the ability to perform tasks like driving, which require both thinking and motor skills, for at least 24 hours. Users, however, often believe that all the impairing effects of smoking have worn off after 4 to 6 hours. Marijuana significantly impairs short-term memory and can harm the user's ability to concentrate or plan for and achieve long-term goals. There is also significant evidence that marijuana harms the reproductive systems of men and women and is dangerous for children and non-smokers who live with the user.

### **Opiates/Opioids**

An opiate is a narcotic analgesic that directly depresses the central nervous system and the processes associated with the entire central nervous system. There are three types of opiates: natural, synthetic and semi-synthetic. While some of these drugs are used for medicinal purposes, others are illegal and highly dangerous. However, all opiates can become addictive when abused.

Natural opiates are substances that occur naturally within the poppy plant. While they are often thought to be less harmful than synthetics, they can still become addictive and cause dangerous respiratory depression. The natural opiates include opium, morphine and codeine.

Synthetic opiates are drugs that are completely manmade in a "chemical laboratories" with a similar "chemical structure" to the natural opiates. These drugs are widely used and cause the same basic effects that natural opiates produce. Some examples of synthetic opioids include, methadone, fentanyl.

Semi-synthetic opiates are derived from natural opiates to make other substances. They have a combination of natural opiates and synthetic opiates. Semi-synthetic opiates were developed in the early 20<sup>th</sup> century. They were meant to be safer and more effective than the use of natural opiates for medical purposes but can still have the same side effects as opiates.

Heroin is a semi-synthetic opiate and is the strongest opiate and the most abused opiate drug derived from morphine. Heroin use has been increasing in recent years because of the availability and is rather inexpensive. This new stronger heroin can be smoked or snorted. Heroin can also be injected using needles. There is no medicinal use for this drug. Other common semi-synthetic opiates include meperidine, oxycodone, oxymorphone, hydrocodone and hydromorphone.



Opiates and opioids are not the same thing, although many people use the terms interchangeably. Opiates or opiate drugs originate from naturally-occurring alkaloids found in the opium poppy plant. Whereas opioids are synthetic or partly-synthetic drugs that are manufactured to work in a similar way to opiates.

All types of opiate drugs alter the way that pain is perceived, thus making the individual who has taken the drug experience less pain. The drugs may also calm anxiety, cause relaxation and induce a pleasant sense of euphoria. Opioids are among the most commonly prescribed drug in the world and are highly addictive. Therefore, it may not come as a surprise that abuse and addiction of opioids has increased in the recent years.

### **PCP**

Phencyclidine, or PCP, is also called angel dust or dust. PCP is an extremely dangerous hallucinogen that has unusual and unpredictable side effects. It was developed as an anesthetic in the late 1950's and used for a while as a tranquilizer both for humans and animals. Because of its dangers, it now has no legal uses and is no longer legally manufactured. Rather, PCP is manufactured in underground laboratories. It often contains dangerous adulterants but is very dangerous all by itself.

PCP can produce violence and bizarre behavior in anyone who uses it. Occasionally, PCP users attack nurses and policemen or jump out of windows because they believe they can fly. PCP somehow scrambles the brain's internal stimuli and seriously changes how users feel, see and deal with their environment.

In low doses, PCP produces a feeling of numbness. Increased doses produce excitement, confusion and delirium. The user's body may become rigid or go into convulsions. Routine activities like driving become dangerous and unpredictable.

Users may walk with strange uncoordinated steps. PCP users may have a blank stare, sweat heavily, have thick slurred speech or engage in some of the violent and bizarre behaviors mentioned above.





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## Aviation Consulting Experts, Inc. Acknowledgement of Receipt of Policy

I hereby acknowledge that I have received, read, and understand my Company's Drug-Free Workplace Program Policy required by Department of Transportation (DOT) regulations. I understand that I am subject to and must adhere to the DOT regulations and must abide by terms of the Company's Policy as a condition of employment with Aviation Consulting Experts, Inc.

I understand that:

1. I may be required to submit to drug and/or alcohol tests based on Department of Transportation regulations as directed by the Company;
2. Laboratory test results will be released in accordance with the Policy and based on Department of Transportation regulations to the Medical Review Officer (MRO) selected by Aviation Consulting Experts, Inc and I authorize the release of the results of a saliva or breath alcohol test by a certified technician to Aviation Consulting Experts, Inc;
3. The Company's Policy on drugs and/or alcohol and understand failure to comply is grounds for disciplinary action, up to and including termination of employment, in addition to any action required by DOT regulations; and
4. Refusal to submit to a drug and/or alcohol test in accordance with the Policy is a violation of DOT regulations and the Policy, and may result in disciplinary action, including but not limited to suspension (with or without pay) or termination of employment, in addition to action required by DOT regulations.

---

**THE UNDERSIGNED STATES THAT HE OR SHE HAS READ THE FOREGOING  
ACKNOWLEDGEMENT AND UNDERSTANDS THE CONTENTS THEREOF.**

Employee Name: \_\_\_\_\_

Date: \_\_\_\_\_

Employee Social Security Number: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Company Name: Aviation Consulting Experts, Inc.

**NOTE:** *This certificate should be retained in a secured file.*



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## Appendix A

### DRUG PERSONNEL AND SERVICES

#### 1.D ESIGNATED EMPLOYER REPRESENTATIVE (DER)

Angela Wesley

1949 Golden Heights Rd, Suite 112

Ft. Worth, TX 76177

(817) 785-7063

#### 2.T HIRD-PARTY ADMINISTRATOR (TPA)

DISA Global Solutions, Inc.

10900 Corporate Centre Drive, Suite 250

Houston, Texas 77041

281-673-2400

#### 3. MEDICAL REVIEW OFFICER (MRO)

University Services-Terri Hellings, MD

2837 Southhampton Road

Philadelphia, Pennsylvania 19154

800-624--3784

#### 4. COLLECTION FACILITIES

Will be designated on Authorization Form

#### 5. SUBSTANCE ABUSE PROFESSIONAL (SAP)

Will be provided at time of notice, Aviation Consulting Experts, Inc will attempt to find a local SAP to the employee.