

# **Apex Building Company, LLC**

## **Drug Testing Policy**

(888) 581-1783

info@apexbuildingco.com

January 1, 2009

TO ALL EMPLOYEES

The illegal use of drugs and the abuse of alcohol are problems that invade the workplace, endangering the health and safety of the abusers and those who work around them. This Company is committed to creating and maintaining a workplace free of substance abuse without jeopardizing valued employees' job security.

To address this problem, our Company has developed a policy regarding the illegal use of drugs and the abuse of alcohol that we believe best serves the interest of all employees. Our policy formally and clearly states that the illegal use of drugs or the abuse of alcohol or prescription drugs will not be tolerated. As a means of maintaining our policy, we have implemented pre-employment and active employee substance abuse testing. This policy was designed with two basic objectives in mind: (1) employees deserve a work environment that is free from the negative effects of drugs and alcohol and the problems associated with their abuse, and (2) this Company has a responsibility to maintain a healthy and safe workplace.

To assist us in providing a safe and healthy workplace, we maintain a resource file of information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to use this resource file. A copy for your confidential use is attached to this letter. In addition, we will distribute this information to employees for their confidential use.

An employee whose conduct violates this Company's Substance Abuse Policy will be subject to discipline up to and including termination.

I believe it is important that we all work together to make this Company a drug-free workplace as part of our continual efforts to provide a safer and more rewarding place to work.

Sincerely,

Michael Fitzgerald Jr  
President

# Apex Building Company, LLC

## Drug Testing Policy

(888) 581-1783

info@apexbuildingco.com

January 1, 2009

Apex Building Company, LLC (referred to as the Company from this point forward) is committed to providing a safe work environment and to foster the well-being and health of its employees. That commitment is jeopardized when any MDi employee illegally uses drugs on or off the job, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore, MDi has established the following policy, pursuant to T.C.A. Section 50-9-100 et. Seq.:

1. It is a violation of company policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
2. It is a violation of company policy for any employee to report to work under the influence of or while possessing in his or her body, blood or urine, illegal drugs in any detectable amount.
3. It is a violation of company policy for any employee to report to work under the influence of or impaired by alcohol.
4. It is a violation of the company policy for any employee to use prescription drugs that have not been illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.
5. Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of the company's supervisors to identify changes in performance or behavior that suggests an employee has a drug problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at Apex Building Company.

As a condition of employment, employees must abide by the terms of this policy and must notify the Company in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

The Company offers resource information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to use this resource file: a copy of which is located at the back of this policy statement. Additional copies are available upon request.

### **General Procedures**

Any employee reporting to work visible impaired will be deemed unable to perform required duties and will not be allowed to work. If possible the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next, the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative-depending on the determination of the observed impairment-and accompanied by the supervisor or another employee if necessary. A drug or alcohol test may be in order. An impaired employee will not be allowed to drive.

### **Opportunity to Contest or Explain Test Results**

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer; if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the Company; a person may contest the drug test result pursuant to rules adopted by the Tennessee Department of Labor.

### **Confidentiality**

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.

### **Job Applicant Drug Testing**

All job applicants at this Company will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result will be denied employment.

Applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by this Company, and by signing a consent agreement will release this Company from liability.

If the physician, official, or lab personnel have reasonable suspicion to believe that the job-applicant has tampered with the specimen, the applicant will not be considered for employment.

This Company will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of al-

cohol, preventing employees from performing their jobs properly, that this Company will not tolerate.

### **Employee Drug Testing**

This Company has adopted testing practices to identify employees who illegally use drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances.

1. When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. 'Reasonable suspicion' is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:
  - (A) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms of manifestations of being impaired due to substance abuse;
  - (B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
  - (C) A report of substance abuse provided by a reliable and credible source;
  - (D) Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;
  - (E) Information that an employee has caused or contributed to an accident while at work;
  - (F) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
2. When employees have caused or contributed to an on-the-job injury that resulted in a loss of work-time, which means any period of time during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider. An employer will send employees for a substance abuse test if they are involved in on-the-job accidents where personal injury or damage to company property occurs.
3. As part of a follow-up program to treatment for drug abuse.
4. Routine fitness-for-duty drug or alcohol testing. A covered employer must require an employee to submit to a drug or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination where the examinations are required by; law, regulation, are part of the covered employer's established policy, or one that is scheduled routinely for all members of an employment classification group.
5. Random drug testing may be implemented at company discretion.

### **Alcohol Testing**

The consumption or possession of alcoholic beverages on this Company's premises is prohibited. (Company sponsored activities which may include the serving of alcoholic

beverages are not included in this provision.) An employee whose normal faculties are impaired due to alcoholic beverages, or whose blood alcohol level test .10% by weight for non-safety sensitive positions, or .04% for safety sensitive positions, while on duty/ company business shall be guilty of misconduct, and shall be subject to discipline up to and including termination.

### **Refusal to Submit**

Failure to submit to a required substance abuse test also is misconduct and also shall be subject to discipline up to and including termination.

### **Important Information for Job Applicants and Employees.**

When an employee or job applicant submits to a drug and/or alcohol test, they will be given a form by the specimen collector that contains a list of common medications and substances which may alter or affect the outcome of a drug or alcohol test. This form will also have a space for the donor to provide any information that he/she considers relevant to the test, including the identification of currently or recently used prescription or non-prescription medication or other relevant information. The information form should be kept by the job applicant or employee for their personal use. If the job applicant or employee has positive confirmed test result a medical review officer will attempt to contact the individual in order to privately discuss the findings with that person. The job applicant or employee should keep the form as a "reminder" to discuss this information at that time. The medical review officer will take this information into account when interpreting any positive confirmed test results. The information provided shall be treated as confidential and will not be given to the employer. Employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and nonprescription medicine.

It is the responsibility of every employee or job applicant to notify the testing laboratory of any administrative or civil action brought pursuant to TCA Section 50-9-100 et. Seq., Drug-Free Workplace Programs.

The provisions of this policy include the right of appeal to the applicable court.

Substance abuse testing for job applicants and employees will include a urinalysis screen for the following drugs:

Alcohol: (not required for job applicant testing) Any "Alcoholic Beverage", all liquid medications containing ethyl alcohol (ethanol). Please read the label for content. For example: Vicks Nyquil is 25% (50 proof) and Listerine is 26.9% (54 proof) alcohol.

Amphetamines: "speed", "uppers", etc.

Cannabinoids: THC, marijuana, hashish, "pot, grass, hash", etc.

Cocaine: "coke, crack", etc.

Phencyclidine: PCP, "angel dust."

Opiates: Narcotics, Heroin, Codeine, Morphine, "smack, dope, etc.