

Drug and Alcohol-Free Workplace Policy

September 1, 2021

Drug and Alcohol-Free Workplace Program

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1 Document Approvals

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2 Revision History

Revision Number	Revision Reason	Author	Approver
2	Compliance		Kellie Anderson
Issue Date: September 1, 2021		Effective Date: September 1, 2021	
This document has been reformatted with the additional changes noted below:			
<u>Reorganize Order of Sections</u>			
<u>Section 3- PURPOSE AND SCOPE</u>			
1. Added (and alcohol) in the beginning of third paragraph			
<u>Section 4- APPLICABILITY</u>			
1. Deleted first sentence (all Keolis job applicants and employees will be subject to the terms of this Policy)			
2. Added (and alcohol) in the beginning of the new first sentence			
<u>Substances</u>			
1. Moved to definitions			
<u>Section 8- Definitions</u>			
1. Added definition Injury or illness			
<u>Section 9- TYPES OF TESTING PERFORMED AND WHEN PERFORMED</u>			
1. Added Sleeping to Drowsiness and Sleepiness			
2. Employee must be medically evaluated before being dismissed			
3. Employee must not perform duties until medically cleared and a negative test result has been produced			
<u>Section 11- TEST RESULTS</u>			

1. Re-Written

Section 12- WHO IS SUBJECT TO TESTING AND WHEN

1. Added testing table
2. Merged old section 12 (Employee Classification)

Section 15- PROHIBITED CONDUCT

Added:

The provisions set forth in this Policy are not intended to prevent the responsible and moderate consumption of alcohol by employees who are not on duty, or subject to duty, while at a work-related event or function if such event or function has been specifically authorized by the General Manager such as a company dinner or stakeholder event,

IT IS THE EMPLOYEE'S RESPONSIBILITY TO KNOW AND UNDERSTAND IF ANY MEDICATION, INCLUDING THOSE AVAILABLE OVER-THE-COUNTER, MAY IMPAIR THEIR ABILITY TO SAFELY PERFORM THEIR JOB DUTIES. IF AN EMPLOYEE IS NOT CERTAIN, THEY MUST ASK FOR GUIDANCE AND/OR APPROVAL AS OUTLINED ABOVE.

Section 17- EMPLOYEES MAY BE SUBJECT TO TERMINATION UNDER THE FOLLOWING CIRCUMSTANCE

1. Added: An employee is immediately prohibited from performing duty once notified of a positive test result by the MRO or Keolis manager.

Section 19- OFF-DUTY MISCONDUCT

Re-Written

Section 20- REPORTING OF ARRESTS, CONVICTIONS, LOSS OF DRIVER'S LICENSE

Re-Written

Section 22- DRUG AND ALCOHOL CONTACT INFORMATION

1. Updated contact information
2. Added Keolis Employee Assistant Advisor contact information

3 PURPOSE AND SCOPE

Keolis Commuter Services (“Keolis” or “Company”) is committed to protecting the safety, health, and well-being of all employees and other individuals in the workplace. Keolis recognizes that alcohol abuse and drug use pose a significant threat to our safety and goals. As a result, a drug and alcohol-free workplace program has been established that balances respect for individuals with the need to maintain an environment free of illegal drugs, alcohol, controlled substances, and other prohibited substances. Keolis conducts alcohol and drug testing of job applicants and employees.

Keolis requires all employees to abide by the terms of this Policy as a condition of employment. Employees who violate this Policy may be subject to disciplinary action, up to and including termination.

This Policy does not supersede the applicability and enforceability of other agreements, rules, policies, and regulations. Employees must comply with all agreements, rules, policies, and regulations applicable to their employment and must at all times satisfy the performance standards applicable to their employment.

Keolis encourages all employees to voluntarily seek help with drug and alcohol-related problems and provides a qualified Employee Assistance Program for all employees.

4 APPLICABILITY

Keolis’ Drug and Alcohol-Free Workplace Policy applies to all job applicants in the pre-employment screening process as well as employees and whenever any employee or contractor is representing or conducting business for Keolis in the normal course of their daily duty. This Policy applies during all working hours, whenever conducting business or representing Keolis, while subject to duty, on paid standby, and while on the railroad property and facilities or at Keolis or MBTA sponsored events whether on or off the property.

5 SHARED RESPONSIBILITY

A safe and productive drug and alcohol-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs, including prescription or over-the-counter drugs or marijuana/cannabis.

In addition, employees are encouraged to:

- Be alert to the need to maintain a safe working environment.
- Support fellow workers in seeking help to address issues that may impact workplace safety.
- Use the Employee Assistance Program (EAP).
- Immediately report dangerous behavior to their supervisor.

It is the supervisor’s responsibility to:

- Inform employees of the Policy.
- Observe employee performance.
- Investigate reports of dangerous practices or conditions.
- Document negative changes and problems in employee performance.
- Counsel employees as to expected performance improvement.
- Refer employees to the Employee Assistance Program (EAP).
- Clearly state consequences of policy violations.

6 COMMUNICATION

Communicating our Drug and Alcohol-Free Workplace Policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug and alcohol-free workplace program:

- All new employees will receive a written copy of the Policy.
- The Policy will be reviewed in orientation sessions with new employees.
- The Policy and assistance programs will be reviewed at safety meetings.
- All employees will receive an update of the Policy annually.
- Posters and brochures will be available at employee reporting locations.
- Employee education about the dangers of alcohol and drug use and the availability of help will be provided to all employees.

- Every supervisor will receive specific training to help him/her recognize and manage employees with alcohol and other drug problems.

7 POLICY UPDATES

The Drug and Alcohol-Free Workplace Policy will be updated annually no later than August 1st of each year. It is the employee's responsibility to ensure they have reviewed and understand the most current Policy in effect.

DRUG AND ALCOHOL TESTING

8 DEFINITIONS

Adulterated/Substituted Specimen: A specimen that contains substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human.

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

Alcohol Confirmation: A subsequent test using an evidential breath testing device following a screening test with a result of 0.02 or greater in human urine.

Breath Alcohol Technician: A person who is qualified and trained to perform Breath Alcohol Tests.

Commercial Motor Vehicle Drivers ("Commercial Drivers"): Employees who perform service requiring a commercial driver's license ("CDL") issued by a state authorizing operation of a commercial motor vehicle described in 49 CFR Part 382.107. These employees are required to comply with this Policy and with the alcohol and drug prohibitions and provisions in 49 CFR Part 382 of the Federal Motor Carrier Safety Administration ("FMCSA") regulations. This category includes non-agreement employees performing service as Commercial Drivers.

Controlled Substances: All substances listing in Schedules I to V set forth in 21 CFR 802 § 1301-1316, or as the Schedules may be revised from time to time by publication in the Federal Register. Controlled Substances include, but are not limited to:

- **Narcotics/ – Opium, Morphine, Codeine, Heroin, Hydromorphine, Meperidine (Demerol), Methadone, Oxycodone , Suboxone**
- **Depressants – Chloral Hydrate, Barbiturates, Benzodiazepines, Methaqualone (Quaaludes), Glutethimide (Doriden)**
- **Stimulants – Cocaine, Amphetamines, Phenmetrazine (Preludin), Methylphenidate (Ritalin), Methamphetamine**
- **Hallucinogens – LSD, Mescaline and Peyote, Amphetamine Variants, Phencyclidine (PCP), Phencyclidine Analogies**
- **Cannabis – Marijuana, Tetrahydrocannabinol (THC), Hashish and Hashish Oil**

Designated Employer Representative ("DER"): An employee authorized by Keolis to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives and sends other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 219.

Dilute Specimen: A specimen with creatinine and specific gravity values that are lower than expected in human urine.
Diluted Results:

- Dilute Negative: Re-test in accordance with MRO instructions
- Dilute Positive: Remove From Service

Drugs: Any substance other than alcohol that has known mood or function-altering effects on humans, including but not limited to, controlled substances

Employee Assistance Program (“EAP”): A type of benefits program intended to help employees deal with personal problems that might adversely impact their work performance, health and well-being.

Hours of Service Employees: Employees who perform service subject to the Hours of Service Act (“Regulatory Service”) and who are required to comply with this Policy and with the alcohol and drug prohibitions and provisions in 49 CFR Part 219 of FRA regulations. This category includes, but is not limited to, the following positions; Locomotive Engineer, Conductor, Assistant Conductor, Dispatcher, Yardmaster (while performing work covered by the Hours of Service Act), Signal Worker, and Mechanical Department positions performing work covered by the Hours of Service Act. This also includes non-agreement employees performing work subject to the Hours of Service Act.

Injury or illness: An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illness includes both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning.

Intoxicant: Any agent that produces intoxication, such as a drug or toxic substance or alcoholic beverages.

Invalid Result: Result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing the test.

Medical Review Officer (“MRO”): A licensed physician who receives laboratory results produced by the laboratory retained by Keolis to evaluate drug and/or alcohol tests, who has knowledge of substance abuse disorders, and who has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Non-Safety-Sensitive Employees: Employees who perform low or no risk tasks where non-performance of those tasks would not present immediate danger to the employee or others.

Over-the-Counter (“OTC”) Drugs: Medications that do not require a prescription and that can be purchased from pharmacies or other retail establishments.

Positive Result: The result reported by a HHS certified Laboratory when a specimen contains alcohol (as that term is defined in this Policy) or drug or drug metabolite equal to or greater than the cutoff concentrations.

Prescription Drugs: Medication prescribed or authorized by licensed medical personnel or dentists for a specific course of treatment including, but not limited to, marijuana/cannabis

Regulated Employees: Employees whose employment is subject to FRA regulations such as Hours of Service Employees and Roadway/Maintenance-of-Way Employees.

Roadway/Maintenance-of-Way Employees: Employees of a railroad, or of a contractor to a railroad, whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track or with the potential of fouling a track, and flagmen and watchmen/lookouts.

Safety-Sensitive Employees: Are those employees defined as follows:

- A. Railroad employees who are assigned to perform service subject to the Hours of Service Act.
- B. Railroad employees or agents who:
 - a. Inspect, install, repair or maintain track and roadbed;
 - b. Inspect, repair or maintain locomotives, passenger cars, and freight cars; and/or
 - c. Conduct training and testing of employees when the training or testing is required pursuant to FRA regulations;
- C. Railroad managers, supervisors or agents when they direct, supervise and/or perform the safety sensitive functions listed in A. and/or B above.

Based on the above, Keolis will designate the following positions as Safety-Sensitive for purposes of this Policy:

Management Employees:

- Chief Executive Officer/General Manager
- VP of Safety, Security and Environment
- VP of Service Delivery
- VP of Asset Management
- Chief Transportation Officer
- Chief Engineering Officer
- Chief Mechanical Officer
- Director of Methods, Compliance and Security
- Director of Engineering Safety
- Director of Mechanical Safety
- Director of Transportation Safety
- Occupational Safety Officer
- Contract/Reporting Officer
- Audit Manager/Lead Investigator
- Manager of Operating Rules
- All Transportation Managers
- All Engineering Managers
- All Mechanical Managers

Union Employees:

- All Transportation Department Employees, including Engineers, Conductors, Assistant Conductors, Train Dispatchers, Block Operators and Crew Dispatchers;
- Engineering Department Employees, including Track Inspectors, All Track Department Employees, Drawbridge Operators (include Crossing Tenders), All Signal Maintenance Employees, and All Qualified Flagging Employees; and
- Mechanical Department Employees—those employees subject to testing under Federal regulations

Substance Abuse Professional (“SAP”): A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning each such employee’s education, treatment, follow-up and/or return-to-duty testing, and aftercare. The SAP must meet the requirements of 49 CFR part 40.281.

Supervisor: An officer, manager, or other employee of Keolis who is responsible for supervising or monitoring the conduct or performance of one or more employees. This definition includes both agreement and non-agreement supervisors.

Verified Positive Test Result:

- Drug Test: A positive drug test result on an initial immunoassay test, confirmed by a gas chromatography/mass spectrometry assay and reviewed and verified as positive by an MRO in accordance with the procedures set forth in 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs).
- Alcohol Test: An initial breath test performed on a Department of Transportation approved “Evidential Breath Testing” device, with a result of .02% or higher, confirmed by a second breath test conducted with the same device

9 TYPES OF TESTING PERFORMED AND WHEN PERFORMED

Each employee, as a condition of employment, will be required to participate in Company and/or Federal drug and alcohol tests, which may include the following testing, upon selection or request of Keolis, where applicable:

Fitness for Duty Testing: A drug and/or alcohol test with a physical assessment may be performed when an employee indicates or when the manager/supervisor observes that they are unable to perform their essential job duties related to a medical condition or treatment.

Follow-Up Testing: An unannounced drug and/or alcohol test performed under applicable Company or Federal regulations and at the direction of the SAP, after an employee has engaged in conduct in violation of the CFR, and/or this Policy. “Direct Observation Procedures” will apply to employees in a DOT follow-up testing program. The observer will be of the same gender as the employee being tested.

Periodic Testing: Requirements specified by Keolis for DOT Drivers

Pre-placement/Pre-employment Testing: The Human Resources Department will schedule a pre-placement drug and alcohol test for job applicants who have received conditional offers of employment to perform services for Keolis and for employees transferring into FRA regulated positions. No job applicant or employee may perform services for Keolis before successfully passing a drug and alcohol test, and physical when applicable.

Post-Accident/Incident Testing: A toxicology test performed after an accident that meets specific criteria set forth in 49 CFR Parts 219 and 382.

Random Testing: A drug and/or alcohol test performed randomly under Company authority or applicable Federal regulations and in accordance with the procedures set forth in Keolis' random selection plan. Employees in Hours-of-Service positions; roadway/maintenance-of-way positions; safety-sensitive salaried positions; safety-sensitive union positions which are required to be in the random selection pool under Federal regulations; Commercial Drivers; and employees who operate Company Vehicles as defined by Keolis' Company Vehicle Use Policy, are included Keolis' random selection pools and subject to random drug and/or alcohol testing.

Reasonable Suspicion Testing: A drug and/or alcohol test that must be based on specific, current, articulable observations of the appearance, behavior, speech, or body odors that are usually associated with drug and/or alcohol use that leads the supervisor to believe that the employee is impaired. Drug and/or alcohol testing may be performed under either Federal or Company guidelines.

Reasonable Suspicion – Company Policy or Authority:

- All employees are subject to drug and/or alcohol testing where Reasonable Suspicion exists.
- For all employees, the decision to conduct the test must be based on specific, current, articulable observations of the appearance, behavior, speech, or body odors of the employee. Testing should occur when the Supervisor is able to document one or more of the following criteria (these criteria are applicable as well to the direct observation necessary for a Supervisor to corroborate and investigate a co-worker report):
 - Staggered gait, difficulty walking
 - Slurred speech
 - Drowsiness/sleepiness/sleeping
 - Odor of an intoxicant
 - Disorientation (time/place/person)
 - Rapid mood swings for no apparent reason
 - Poor coordination or body control
 - Bizarre behavior
 - Direct observation of use of an intoxicant or controlled substance
- At least one Supervisor who has completed the Signs and Symptoms Training must make the required observations before sending an employee for alcohol testing.
- At least two Supervisors who have completed the Signs and Symptoms Training must make the required observations before sending an employee for drug testing.
- Employee must be medically evaluated before being leaving the property/ performing service
- Employee must not return to perform duties until medically cleared and a negative test result has been produced
- *Documentation:* Shall be provided within a reasonable time (in most cases, the time for completion and submission of the documentation should not exceed 24 hours) following a Supervisor's determination of Reasonable Suspicion, the Supervisor must document the date, time, and place, as well as a description of the observed behavior, and send a copy of such documentation to the Drug and Alcohol Compliance Manager.

Reasonable Suspicion – FRA or FMCSA Regulations:

- When Reasonable Suspicion exists, drug and/or alcohol testing is mandatory under 49 CFR Part 219.
- *Alcohol Test:* At least one Supervisor who has completed the Signs and Symptoms Training must make the required observations before sending an Hours of Service or Roadway/MOW employee for an alcohol test.
- *Drug Test:* At least two (2) Supervisors, including one who has completed the Signs and Symptoms Training, must make the required observations before sending an employee for a drug test.
- Keolis must make diligent efforts to conduct a drug and/or alcohol test within two hours of the initial observation of all employees. If testing is not conducted within two hours, the Supervisor must provide the Drug and Alcohol Compliance Manager with documentation as to the reason why the test was not promptly conducted. **Absolutely no testing may be performed after the expiration of eight hours from the time of observation.**
- Employees may not be tested after they have been removed from service.

Reasonable Cause Testing (Work-Related Accidents, Injuries, and/or Rules Violations): Where Reasonable Cause exists, employees must submit to Company drug and/or alcohol testing as described herein.

- All employees who are directly involved in any accident, incident, injury, and/or operating rule violation are required to submit to a Company drug and/or alcohol test.
- Any employee reporting an injury must be tested, even if the employee refuses medical treatment.
- If an employee is on duty and reports the accident, incident, injury he/she must be tested as soon as it is possible to do so.
- If an illness occurs on the job that is work-related, the individual must be tested in accordance with Company authority. Otherwise, no test should be administered.
- All Reasonable Cause testing must be administered within eight (8) hours of the supervisor's notification of the event.

Return-to-work Testing: A physical examination with a Company drug and/or alcohol test will be performed if any employee has been absent from work for any reason for more than thirty (30) consecutive calendar days. The exception will be previously scheduled vacations.

Return-to-Duty Testing: All Return to Duty tests are to be scheduled by Keolis' DER after evaluation by the SAP. A Directly observed DOT drug and alcohol test will apply, as mandated and described in 49 CFR Part 40 ("Direct Observation Procedures"), to employees Returning to Duty after having previously failed a drug and/or alcohol test. The observer will be of the same gender as the employee being tested.

10 SUBSTANCES TESTED

Keolis 10 Panel (substances tested in drug tests performed in accordance with Company authority)

- AMPHETAMINES
 - MDA-ANALOGUES
 - MDA
 - MDA- Analogues
 - MDEA
 - MOMA
- BARBITURATES
 - Amphetamine
 - Methamphetamine
 - Amobarbital
 - Barbiturates
 - Butalbital
 - Pentobarbital
 - Phenobarbital
 - Secobarbital
- BENZODIAZEPINES
 - Alprazolam Metabolites
 - Benzodiazepines
 - Oxazepam
- BUPRENORPHINE
- COCAINE
- MARIJUANA
- METHADONE
- METHAQUALONE
- OPIATES
 - Codeine
 - Hydrocodone
 - Hydromorphone
 - Morphine
 - Oxycodone
 - Oxycodone

- Oxymorphone
- Propoxyphene
- PHENCYCLIDINE

Federal 5 Panel (substances tested in drug tests performed in accordance with applicable federal regulations)

- Marijuana (THC)
- Cocaine
- Amphetamines
 - Amphetamine
 - Methamphetamine
 - MDMA 4. MDA
- Opiates
 - Codeine
 - Morphine
 - 6-AM (heroin)
 - Hydrocodone
 - Hydromorphone
 - Oxycodone
 - Oxymorphone
- Phencyclidine (PCP)

11 TEST RESULTS

Drug and Alcohol test results are determined in the following manner:

- Positive Drug Test: A positive drug test result on an initial immunoassay test, confirmed by a gas chromatography/mass spectrometry assay and reviewed and verified as positive by an MRO in accordance with the procedures set forth in 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs).
- Positive Alcohol Test: An initial breath test performed on a Department of Transportation approved “Evidential Breath Testing” device, with a result of .02% or higher, confirmed by a second breath test conducted with the same device within the prescribed time limit (15 minutes), with a reading of .02% or higher.

Other than negative results may be categorized as Dilute Negative, Dilute Positive or Invalid Results; if so, the following actions are required:

- **Dilute Negative**: Job applicants and employees tested under Company authority who have negative-dilute **results** will be required to take another test immediately. Job applicants tested under Federal authority who have negative-dilute results must re-test within 72 hours. Employees tested under Federal authority who have negative-dilute results must re-test the next time the employee is on duty or working.
- **Dilute Positive**: If an employee has a positive–dilute test under Company authority, the employee will be removed from service and may be subject to disciplinary action, up through and including termination. Employees tested under Federal authority who have a positive-dilute test result will be removed from service and may be subject to disciplinary action, up to and including termination or may be required to seek professional assistance.
- **Invalid Result**: Result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing the test. Re-test is required in accordance with MRO instructions.

12 WHO IS SUBJECT TO TESTING AND WHEN

All job applicants who have received conditional offers of employment and all employees are subject to drug and/or alcohol testing as required by this Policy and/or applicable Federal regulations in accordance with the following chart:

	49 CFR Part 219 Hours of Service	49 CFR Part 219 Roadway Worker/MOW	49 CFR Part 382 FMCSA Commercial Drivers	Company Authority [All employees]	Company Authority Safety Sensitive Positions	Company Authority Employee Operating Company Vehicle
Pre-Employment				Y		
Pre-Placement (Including Transfers to Regulatory Service)	Y	Y	Y		Y	Y
Return to Work (if out longer than 30 days)	Y	Y	Y	Y	Y	Y
Return to Duty	Y	Y	Y	Y	Y	Y
Reasonable Suspicion	Y	Y	Y	Y	Y	Y
Reasonable Cause (On-duty Accident/Incident/ Rules Violation)	Y	Y	Y	Y	Y	Y
Post Accident (FRA)	Y	Y	Y			
Random	Y	Y	Y		Y	Y
Follow Up	Y	Y	Y	Y	Y	Y
Periodic			Y			

To ensure the accuracy and fairness of Keolis' testing program, all testing will be conducted according to Company or Federal Railroad Administration (FRA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by an MRO, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug-testing information will be maintained in separate confidential records.

Testing for the presence of alcohol pursuant to Federal regulations will be conducted by analysis of breath, swab, urine, and/or other legally permitted and/or required methods. Testing for the presence of alcohol under Company authority will generally be conducted by analysis of breath, swab, urine and/or other legal means.

Testing for the presence of the metabolites of drugs pursuant to Federal regulations will be conducted by the analysis of urine, unless other means of testing are legally required. Testing for the presence of metabolites of drugs under Company authority will generally be conducted by analysis of urine, unless other means of testing are necessary.

Any employee who tests positive for drugs and/or alcohol for a test performed under Federal authority will be immediately removed from duty and referred to a substance abuse professional for assessment and recommendations. The employee may be required to successfully complete recommended rehabilitation including continuing care, may be required to pass a Return-to-work test and sign a Return-to-Work Agreement and may be subject to ongoing, unannounced, follow-up testing for a period of up to five (5) years. Employees who test positive for drugs and/or alcohol for tests performed under Company authority may be removed from service and subject to disciplinary action, up to and including, termination.

Employees tested for drugs and/or alcohol under Federal authority may be subject to the same consequences of a positive Federal authority test above if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter or refuses to cooperate in the testing process in such a way that prevents completion of the test. At a minimum, for tests performed under Federal authority, these actions will result in an employee being removed from service for a minimum of nine (9) months. For tests performed under Company authority, these actions may result in an employee being removed from service and subject to disciplinary action up to and including termination.

Union employees who test positive for drugs and/or alcohol or refuse drug and/or alcohol testing following an accident or incident will not be able to work in any union position for a minimum of nine (9) months and employees holding positions requiring federal certification will be de-certified.

In addition, failure of any drug and/or alcohol test may result in disciplinary action up to and including termination.

In accordance with 40.193 (Shy Bladder), if the individual fails for any reason to provide 45 ml of urine within three (3) hours the test shall be discontinued and the collector shall contact the Designated Employer Representative. The DER will contact the MRO, who will direct the employee to obtain within five (5) days an evaluation from a licensed physician. Per Company policy, the employee is medically disqualified from service until the MRO medically qualifies them to return to work. The MRO-referred physician may conduct an evaluation to determine whether the employee's failure to provide a specimen was genuine or constituted a refusal to cooperate with a drug test. Based on the MRO-referred physician's medical evaluation to the MRO, the MRO shall report their conclusions to Keolis in writing. Employees tested under Company authority who fail to provide a specimen may be required to submit to a different drug and/or alcohol testing method such as hair or blood.

13 CONFIDENTIALITY

All information received by Keolis through the drug and alcohol-free workplace program is confidential communication. No supervisor or employee may disclose to any individual any drug or alcohol use or testing information concerning any employee, unless such disclosure is necessary for compliance with this Policy, federal law or regulation or unless the employee whose records are at issue executes a release specifically authorizing the disclosure of such information.

All records maintained during carrying out the procedures described in this Policy and under federal drug and alcohol testing laws must be maintained in a separate, dedicated, locked file as appropriate with the Employee Assistance Program (EAP), Medical Department, or Random Testing Program.

If any employee discloses the information or records described above to any other individual for any reason, that employee may be subject to disciplinary action, up to and including termination.

14 ASSISTANCE

Keolis recognizes that alcohol and drug abuse and addiction are treatable illnesses. Early intervention and support measurably improve the chances for success of rehabilitation. To support employees, this Policy:

- Encourages employees to seek help if they are concerned that they, or their family members, may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Ensures the availability of a current list of qualified community professionals.
- Offers all employees and their family member's assistance with alcohol and drug problems through the Employee Assistance Program (EAP).
- If applicable, allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

ALCOHOL AND/OR DRUG-RELATED CONDUCT AND CONSEQUENCES

15 PROHIBITED CONDUCT

All sites at which Company business is conducted are to be drug and alcohol-free workplaces.

1. All employees and subcontractors of Keolis are prohibited from using alcoholic beverages, intoxicants or controlled substances, including recreational marijuana, while subject to duty or while on-duty.
2. All employees are prohibited from possessing alcoholic beverages and/or controlled substances while subject to duty or while on-duty.
3. All employees are prohibited from possessing drug paraphernalia in the workplace.
4. If an employee is: (a) prescribed medication(s) by a medical practitioner; and/or (b) is using or seeking to use over-the-counter medication(s), that impair the employee's ability to safely perform their job duties, this Policy requires that the employee and their personal health care provider complete and submit an "Authorization to Work With Medication" form

to Keolis' third-party Medical Review Officer ("MRO") to determine whether the employee can safely perform the duties of their position while taking those medications. The employee may only use the medication if:

- a. Keolis' MRO has made a good faith judgment that use of the substance as prescribed is consistent with the safe performance of the employee's duties. The determination of the third-party MRO is final and binding; and
 - b. Such use of the medication does not violate applicable Federal Railroad Administration ("FRA") and/or Department of Transportation ("DOT") regulations.
 - c. To the extent that the determination of the employee's health care provider differs from that of the MRO, Keolis will rely on the determination of the MRO for any employment-related decisions
5. The provisions set forth in this Policy are not intended to prevent the responsible and moderate consumption of alcohol by employees who are not on duty, or subject to duty, while at a work-related event or function if such event or function has been specifically authorized by the General Manager such as a company dinner or stakeholder event,

IT IS THE EMPLOYEE'S RESPONSIBILITY TO KNOW AND UNDERSTAND IF ANY MEDICATION, INCLUDING THOSE AVAILABLE OVER-THE-COUNTER, MAY IMPAIR THEIR ABILITY TO SAFELY PERFORM THEIR JOB DUTIES. IF AN EMPLOYEE IS NOT CERTAIN, THEY MUST ASK FOR GUIDANCE AND/OR APPROVAL AS OUTLINED ABOVE.

6. All employees are prohibited from refusing to cooperate or from intentionally interfering with Keolis' efforts to enforce this Policy or related federal regulations, including, but not limited to, refusing to submit to a drug and/or alcohol test conducted under this Policy or federal regulations, or tampering with the integrity of a breath or urine sample in connection with such tests.

16 CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT

One of the goals of our Drug and Alcohol-Free Workplace Policy is to encourage employees to voluntarily seek help with alcohol and/or drug related problems. If, however, an individual violates this Policy, the consequences are serious and they may be subject to discipline, up to and including, termination.

2. Under Reasonable Cause, an employee must take a breath, and/or urinalysis test, and/or other tests if necessary, in accordance with Company authority.
3. Under Reasonable Suspicion, an employee suspected of having used alcohol, intoxicants or a controlled substance while on-duty may be required to take a breath, and/or urinalysis test (and/or other tests if tested under Company authority), in accordance with Company policy or FRA regulations. Employees who are requested to submit to a drug and/or alcohol test and refuse may be subject to disciplinary action, up to and including, termination. The detection of a prohibited substance, resulting from any required toxicological test, will constitute a violation of this Policy.
4. Any Keolis employee who has a confirmed positive result that is proven on a first offense for the use of alcohol and/or controlled substances in violation of this Policy shall be suspended for a minimum of forty (40) working days without pay and shall comply with all terms and requirements of the Company's Employee Assistance Program ("EAP").
5. Past or present involvement in a rehabilitation program, the EAP, or with other treatment practitioners cannot serve as a defense nor mitigate the circumstances of alleged violations of Company rules, policies, regulations or laws.

17 EMPLOYEES MAY BE SUBJECT TO TERMINATION UNDER THE FOLLOWING CIRCUMSTANCES

1. Refusal to submit to a requested drug and/or alcohol test pursuant to this Policy.
2. Any employee who tests positive on a Post-Accident alcohol and/or controlled substances test.
3. Any employee who tests positive for a second time within ten (10) years of the original positive test for the use of alcohol or controlled substances, regardless of whether the original positive test occurred while the employee was employed by a prior carrier or employer
4. Any employee who fails to report a drug-related and/or alcohol-related Drug or Alcohol arrest within five (5) calendar days of the incident.
5. Failure to maintain maximum participation in an EAP mandated rehabilitation program.
6. Providing an adulterated specimen at the time of a drug and/or alcohol test.
7. Failure of an employee to immediately report the cancellation, revocation, or suspension of a driver's license, including a Commercial Driver's License, for operating a vehicle under the influence of drugs and/or alcohol.

In the case of job applicants being considered for employment, if they violate this Policy, the offer of employment will be withdrawn.

If an employee violates this Policy, he or she will be removed from service and may be subject to disciplinary action, up to and including termination, or may be required to seek professional assistance. An employee who fails to successfully complete the recommended program and/or violates this Policy a second time within ten (10) years of the original positive test, regardless of whether the original positive test occurred while the employee was employed by a prior carrier or employer, will be terminated from employment. An employee is immediately prohibited from performing duty once notified of a positive test result by the MRO or Keolis manager. This Policy does not prohibit the employee from being disciplined or discharged for other violations and/or performance problems.

All cases of positive drug and/or alcohol test results will be immediately reported to the MBTA within 24 hours of the suspected violation by the Keolis' Safety & Security Department DER.

18 RETURN-TO-WORK AGREEMENTS

Except where an employee has a confirmed positive result under a Post-Accident drug and/or alcohol test, following a violation of this Policy, an employee may be offered an opportunity to participate in rehabilitation. In such cases, the employee must voluntarily sign and abide by the terms set forth in a Return-to-Work Agreement (or Rule G Waiver, where applicable) as a condition of continued employment, and must maintain maximum participation in, and successfully complete, said plan. Failure to maintain maximum participation will be cause for termination.

19 OFF-DUTY MISCONDUCT

Employees may be subject to disciplinary action, including termination, if Keolis is notified of off-duty misconduct relating to alcohol and/or drug use (e.g., a drug and/or alcohol related arrest or conviction) or the employee's illegal manufacturing, distribution, dispensing, or possession of controlled substances.

20 REPORTING OF ARRESTS, CONVICTIONS, LOSS OF DRIVER'S LICENSE

- a. Arrests. Within five (5) calendar days of an employee's arrest for violation of any criminal drug and/or alcohol infractions, the employee must both (i) notify Human Resources of the arrest at HumanResources@keoliscs.com; and (ii) provide a copy of all criminal charging documents to Keolis' Human Resources Department at HumanResources@keoliscs.com and the Safety and Security Department. Keolis will take appropriate action within 30 days of notification or within the parameters set forth in the applicable collective bargaining agreement. Federal agencies will be notified as appropriate. Failure to report a drug and/or alcohol-related arrest will result in termination from employment.
- b. Driver's Licenses. Employees must immediately report to the Human Resources Department the cancellation, revocation, or suspension of a driver's license, including a Commercial Driver's License, for operating a vehicle under the influence of drugs and/or alcohol.
- c. Convictions. Within five (5) calendar days of an employee's conviction for violation of any criminal drug and/or alcohol infractions, the employee must both (i) notify Human Resources of the conviction at HumanResources@keoliscs.com; and (ii) provide a copy of all related documentation to Keolis' Human Resources Department at HumanResouces@keoliscs.com and the Safety and Security Department.

Employees who fail to report within the above timeframes: (1) arrests; (2) convictions; and/or (2) the cancellation, revocation, or suspension of their driver's licenses for operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance, will be terminated.

21 SEARCHES

Entering Keolis/MBTA Commuter Rail property and facilities constitutes consent to searches and inspections. If an individual is suspected of violating the Drug and Alcohol-Free Workplace Policy, they may be asked to submit to a search and/or inspection at any time. Searches and inspections may include, but are not limited to: lockers, desks, workstations, vehicles and equipment.

22 DRUG AND ALCOHOL CONTACT INFORMATION (Annex A)

ANNEX A

DRUG AND ALCOHOL CONTACT INFORMATION

Company:

Name: Keolis Commuter Services
Address: 470 Atlantic Avenue
Boston, MA 02210
Phone: (617) 222-8001

Medical Review Officer (MRO)

Name: Dr. Terri Hellings
Address: University Services/DISA
2800 Black Lake Place, Suite A
Philadelphia, PA 19154
Phone: (800) 624-3784
Fax: (215) 637-6998

Program Manager

Name: Jacqueline Saunders
Phone : (617) 222-8061
Fax : (617) 222-8575
E-Mail : jacqueline.saunders@keoliscs.com

Designated Employer Representative (DER)

Name: Jacqueline Saunders
Phone: (617) 222-8061
Fax: (617) 222-8575
E-Mail: jacqueline.saunders@keoliscs.com

Employee Assistance Program

Name: All One Health
Address: 200 Ballardvale Street, Suite 301
Wilmington, MA 01887
Phone: (800) 451-1834
Fax: (339) 645-2558

Keolis Employee Assistance Manager

Name: Richard McKinnon
Phone: (857) 939-9169