


US BU Motors and Generators HUMAN RESOURCES POLICY	PREPARED BY: Merrill Bradley	NUMBER
		PAGE: 1 OF 6 (Plus attachments)
SUBJECT Substance Abuse	APPROVED BY: 	DATE: 8/01/16 ABB Branded 4/25/18
	SUPERSEDES: 2/06/15	ALL U.S. LOCATIONS

Purpose

In order to achieve our mission, ABB must have a skilled, conscientious and alert workforce. It is the intention of ABB to provide our employees with a safe, healthy and productive workplace. The objective of the *Substance Abuse Policy* is to communicate the position of ABB on alcohol and drugs in the workplace and to provide guidance to all employees regarding the Company's expectations related to such substances.

Scope

This policy applies to all ABB employees, applicants for employment and persons regularly assigned to the premises by contracted services. This policy also encompasses the use, distribution, dispensing, possession, purchase or sale of drugs and establishes a program to determine whether employees are engaged in substance abuse in order to prevent its risks and ill effects.

ABB has operations in North Carolina and Oklahoma, both have workplace testing statutes. Applicants of and employees working in and reporting to operations in either of these states should refer to Attachment A to this Policy, which modifies this Policy to the extent required for compliance with the respective state laws.

Definitions

Drug means a controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. § 812, including but not limited to cocaine, opiates, marijuana, amphetamines and phencyclidine (PCP).

Illegal drugs means all drugs the use or possession of which is prohibited by federal, state, or local law, including medical and recreational marijuana as well as prescription medication which is used in a manner inconsistent with the prescription or for which the individual does not have a valid prescription.

Under the influence of alcohol means: (1) the presence of alcohol in the individual's system which equals or exceeds an alcohol concentration of 0.04; or (2) behavior, appearance, speech, or bodily odors that lead a supervisor to reasonably suspect that the employee is impaired by alcohol during working time or on Company premises.

Under the influence of drugs means: (1) the presence of any detectable amount of a drug or its metabolites demonstrated by a verified confirmed positive drug test result, or (2) behavior, appearance, speech, or bodily odors that lead a supervisor to reasonably suspect that the employee is impaired by drugs.

General Provisions

1. This policy supersedes and revokes any prior drug and alcohol testing and substance abuse policies, as well as any policy administrative practices or interpretation thereof.
2. This *Substance Abuse Policy* prohibits:
 - the manufacture, use, distribution, dispensing, possession, purchase or sale of illegal drugs;
 - use, possession, purchase, sale or distribution of alcohol on Company property or Company time;
 - being under the influence of alcohol or illegal drugs while on Company property or on Company time.
3. Employees and assignees (from contracted services) are expected to report to work and remain at work in a condition to perform assigned duties free from the presence of illegal drugs and without impairment by alcohol.
4. ABB will maintain compliance with all provisions of the Drug Free Workplace Act of 1988 ("DFWA"), the Department of Defense drug-free workplace rules, and the illegal drug and alcohol use regulations of the Department of Transportation; and
 - a. Employees are required to report any conviction under a criminal drug statute for violations occurring on or off Company premises while conducting Company business. A report of such a conviction must be made to the Company within five (5) days after the conviction; and
 - b. The Company will notify the appropriate federal agency of reportable employee convictions; and
 - c. The Company will take appropriate personnel action within thirty (30) days against the convicted employee, which may range from discharge to a requirement of satisfactory participation in a substance abuse assistance or rehabilitation program.
5. Impairment due to alcohol while conducting Company business will not be tolerated either on or off premises. Any employee with a DUI/DWI conviction who drives for ABB must notify his/her HR Business Partner within five days of the conviction, but in no event shall the employee drive for ABB prior to notifying his/her HR Business Partner about the conviction. Driving for ABB includes driving an ABB owned vehicle, a leased ABB vehicle, a rental car paid for by ABB, or a personal car where mileage is reimbursable.
6. The Company reserves the right to test employees for illegal drugs and/or alcohol for the following reasons:
 - a. Pre-employment – ABB requires drug testing and a negative drug test result:

- i. by all applicants for employment who have been made a conditional offer of employment; and
 - ii. by temporary services contractors or assignees before they are assigned to a temporary position within ABB.
- b. Reasonable suspicion – ABB may require an employee to submit to drug or alcohol testing when the management has a belief that the employee is using or has used drugs or alcohol in violation of this policy. ABB's belief will be based on specific, objective, and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:
 - i. Documented or observed impairment of job performance which could reasonably be attributed to the use of drugs or alcohol; or
 - ii. A pattern of abnormal conduct or erratic behavior; or
 - iii. Habitual and/or erratic absences or tardiness; or
 - iv. Direct observation by management or co-employees during working hours, or while on ABB premises, of an employee's use or possession of illegal drugs, drug paraphernalia or alcohol; or
 - v. Involvement in a work-related accident or incident where the employee or another person has sustained a work-related injury or there is property damage to ABB or an ABB customer. (Note: Work related pain caused by physical workload, work intensification, and ergonomic problems do not justify drug testing. Injuries from a bee sting, repetitive strain, lack of machine guarding, or machine or tool malfunction or other similar incidents that are not the fault of the employee or likely caused by the employee's lack of attention or coordination may not justify a drug test.); or
 - vi. An employee's involvement in a near-miss incident that management reasonably believes could have resulted in injury and/or the medical treatment of the employee or co-employee(s) or damage to the property of ABB or others, except that for an alcohol test, the employee must have caused or contributed to the near-miss incident; or
 - vii. Physical symptoms indicative of drug or alcohol use (e.g., slurred speech, tremors, drowsiness, dilated pupils, constricted pupils, irritability, hyperactivity, general motor impairment, disorientation and/or alcohol on the breath); or
 - viii. Subject to applicable law, arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking.
- c. Return to work - An employee may, as part of a return to work agreement, be required to submit to periodic substance testing for a period of time up to two years following their return to work.
- d. Customer Request - Customer policies may require screening before an ABB employee can enter a customer site. ABB will require employees or assignees to comply with customer's drug testing policies and screening requirements if these customer requirements have been agreed to by ABB. Agreement to these screening requirements should not be made without the advice and consent of

the Vice-President – Human Resources. Note: ABB will not conduct Customer Request testing for work performed within the state of Oklahoma or for employees who work or reside in Oklahoma and are assigned to other states.

- e. Disciplinary action – An employee will be required to submit to a drug test when they receive disciplinary action at any level for which they are required to sign disciplinary action documentation. A negative test result will not alter or eliminate the disciplinary action.
- f. All powered vehicle operators (including pilots) will be required to undergo drug testing at least two times per year. This testing is independent of all other testing such as reasonable suspicion testing.

7. Consent/Collection Procedures

- a. Employees who are required to take a drug and/or alcohol test are expected to cooperate by consenting (by signature on Attachment B) to the drug/alcohol screening and also to cooperate in the testing process.
- b. Refusal to cooperate with any provision of this policy, including attempts to adulterate, substitute, delay, tamper with, or in any way interfere with the testing process will subject the employee to discipline up to and including termination of employment.
- c. All employees and applicants have a right to refuse to submit to testing. However, an applicant's refusal to test will result in a withdrawal of the offer of employment. An employee's refusal to test will result in termination of employment.
- d. Only samples deemed appropriate for drug and alcohol testing will be collected.
- e. The collection of samples shall be performed under reasonable and sanitary conditions, with due regard for the privacy of the individual being tested. In instances of urinalysis, no representative, agent, or designee of ABB shall directly observe an employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
- f. ABB has selected a qualified testing laboratory ("Testing Laboratory," including Affiliates and Agents), certified by the Health & Human Services National Laboratory Certification Program (or other recognized certifying institution), to conduct all testing.
- g. Sample testing shall conform to scientifically-accepted analytical methods and procedures.
- h. Collection and shipment of all samples must follow a strict chain of custody procedure. All confirmed positive drug test samples must be retained for a period of at least one year. At all times ABB reserves the right to require, subject to applicable law, alternative specimens in conducting testing under this Policy (samples may include breath, urine, blood, saliva, hair and sweat).

8. Drug Testing

- a. Drug testing will generally be a multiple-step urine test but may be, where not prohibited by law, another type of test such as hair or saliva which involves an immunoassay screening method approved by the Food and Drug

Administration and/or the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Administration. Testing shall include confirmation of any positive result by gas chromatography – mass spectroscopy (GC/MS), or an alternative scientifically accepted method of equal or greater accuracy. If the initial screen for drug testing is a urine sample, it should be a split sample assuring a portion of the sample, sufficient for re-testing, should remain at the testing site for possible subsequent verification of a positive result. A confirmatory test will be performed on any sample producing a positive result. In the event that an employee wants to challenge the results of a positive test, the employee may request a test of the split urine specimen. The request must be made in writing, to ABB, within three days of the employee's receipt of confirmed positive test, or otherwise as required by state law.

- b. Samples (urine, saliva, hair, blood, etc.) shall be tested for drugs and/or alcohol.
- c. To be considered positive for drugs for any purpose under this policy, the test results must reflect that the specimen tests positive at or above the cut-off levels established by applicable state law or regulation for workplace testing, or, in the absence of such law or regulation, by Substance Abuse and Mental Health Services (SAMSHA) levels.
- d. A Medical Review Officer (MRO) will receive and evaluate confirmed positive drug test results in light of each individual's medical history and other medical information before final action is taken on the test result. An individual's failure to cooperate with the MRO in providing timely information, including documentation to substantiate a statement, will result in a positive test result.

9. Alcohol Testing

- a. Alcohol testing should not be conducted except in those situations falling in the circumstances outlined in this policy (e.g., reasonable suspicion).
- b. Alcohol testing will usually be via a breathalyzer but ABB reserves the right to require a blood or other alternative specimen test. Breath alcohol testing shall be conducted through the use of an Evidential Breath Testing (EBT) device that appears on the National Highway Transportation Safety Administration's (NHTSA) Conforming Products List (CPL) and shall be conducted by Breath Alcohol Technicians (BAT) or others trained in the operation of the EBT. Where required by statute, confirmation of an EBT may be an additional EBT on the same or other device.
- c. To be considered positive for alcohol for any purposes under this policy, the test result must reflect that the specimen tests at or above an alcohol concentration of 0.04.

- 10. Untestable Specimen – In the event that a specimen cannot be tested (e.g., diluted, insufficient sample), the employee will be notified and will be required to submit a new or alternative sample for testing within 24 hours. If the test is not retaken within 24 hours of notice, or if a second untestable specimen is produced without an explanation acceptable to the reviewing Medical Review Officer (MRO), the test will be considered positive.

11. Medication – The legal use of prescribed drugs or over-the-counter medication is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and safely. Use of marijuana, including medical or recreational marijuana, does not constitute legal use of prescribed drugs under this Policy and ABB reserves the right, within any statutory obligation, to take adverse action on the basis of such use (including on the basis of a positive test result) to the fullest extent permitted under law. Further, employees in safety sensitive positions and who are taking any medication with a warning similar in substance to the following: "May impair mental or physical performance," must report the use of such medication to their supervisor or HR Business Partner. The employee need not disclose the identity of the medication, the reason for its use or the underlying condition. However, ABB may ask the employee to discuss this information in order to determine when the employee is in need of a reasonable accommodation. ABB may restrict the employee's work assignment when using such medication.
 - a. Before or after being tested, an employee, assignee or applicant may be required to confidentially report to the testing agency and/or the Medical Review Officer (MRO), his or her use of prescription or non-prescription medications if requested as part of the review of results. Such reporting, however, may not delay or prevent the timely and accurate testing of such individual.
12. In reasonable suspicion events, an employee should not be allowed to drive to the collection site, rather, a supervisor or other authorized person should drive the employee to the collection site and make arrangements for an employee's transportation from the collection site to home or back to the work site. If an individual refuses to accept transportation, ABB reserves the right, in reasonable suspicion scenarios, to inform law enforcement of the referral.
13. Test Result Notice - Any person who receives a positive drug test result may obtain a copy of the test report and may submit written documentation to ABB or the MRO if so designated by ABB, to explain the positive result. Furthermore, any employee receiving a positive confirmed drug test result may request, at his or her own expense, a retest of the original sample (see Attachment C). This request must be made within three (3) days of the employee's receipt of notice of a failed test.
14. Disciplinary Action
 - a. A confirmed, positive test result for a current employee shall be grounds for disciplinary action up to and including termination, even for the first offense. A confirmed, positive test result for an applicant shall be grounds for withdrawing an offer of employment.
 - b. Providing an adulterated sample or tampering with a sample for drug and/or alcohol testing purposes, or stalling in order to avoid the providing of a sample for drug or alcohol testing purposes will result in disciplinary action up to and including termination of employment or withdrawing an offer of employment.
 - c. Nothing in this policy shall be interpreted to prevent ABB from imposing discipline, up to and including termination of employment, for violations of any other work rules or standards of conduct when that violation occurred in

conjunction with conduct that resulted in the employee being subject to a drug or alcohol test (e.g., a negative test will not insulate an employee from discipline arising from underlying conduct, misconduct, or poor performance).

15. Employee Assistance Programs (EAP) – Early recognition and treatment of substance abuse are critical to successful rehabilitation and to the minimization of business, personal, family and social disruption. Therefore, ABB encourages early diagnosis and treatment for substance abuse and supports sound rehabilitation efforts. It is the responsibility of each employee to seek assistance before drug or alcohol problems lead to a violation of this, or other, ABB policies (especially before a referral for testing is imminent under this Policy) and before the failure to satisfy Company standards of performance and behavior. An Employee Assistance Program (EAP) is available for employees who need confidential assistance with substance related problems. Employees may also discuss these matters confidentially with their supervisor or HR Business Partner.
16. Reservation of Rights - The Company reserves the right to interpret, change, modify, or rescind this policy in whole or in part with or without prior notice. In addition, changes to the applicable federal, state, or other laws may require ABB to modify or supplement this policy. This policy does not create a binding employment contract or modify an existing contract.
17. Inspection - ABB reserves the right to inspect, without notice, any desk, office or work area on ABB property (owned or leased), or any motor vehicle, briefcase, backpack, locker, purse, lunch box, package, or other item, brought into or taken from ABB property.
18. Confidentiality
 - a. Information obtained through administration of the Company's *Substance Abuse Policy*, including test results, will be handled in a confidential manner, to the extent possible and to the extent under applicable law. The fact that a test was conducted, and the results of the test, as well as related disciplinary action (if any), will only be discussed or disseminated on a need-to-know basis. Company officials/managers who violate the confidentiality requirements of this policy are subject to appropriate discipline.
 - b. ABB will maintain test results and all drug and alcohol test related information as confidential records, separate from other personnel records. The records are the property of ABB and shall be made available for inspection and copying to the applicant.

Attachment A (Oklahoma and North Carolina)

Oklahoma Overview

This Attachment modifies and/or amends the Substance Abuse Policy ("Policy") to comply with the law in the State of Oklahoma. For ABB operations in Oklahoma, to the extent of any inconsistency between this Attachment and the Policy the provisions of this *Attachment* control with respect to applicants to and employees working in and reporting to ABB's Oklahoma operations.

Accordingly, per the requirements of the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, 40 Ok. St. § 551-563; and the Act's implementing regulations, Ok. Admin. Code §§ 310:638-1 - 310:638-7-11, the Policy is modified as follows:

1. **Pre-Employment Testing.** ABB will conduct pre-employment drug testing of applicants in accordance with the terms of its Substance Abuse Policy.
2. **Reasonable Suspicion Testing.** The Company requires employees to submit to alcohol and/or drug testing at any time it reasonably believes that employees may be under the influence of drugs or alcohol.
3. **Post-Accident Testing.** The Company requires an employee to submit to alcohol and/or drug testing if the employee or another person has sustained an injury while at work or property has been damaged while at work, including damage to equipment.
4. **Post-Rehabilitation Testing.** The Company requires an employee to submit to alcohol and/or drug testing for up to two (2) years after an employee's return to work following a positive test or following participation in a drug or alcohol dependency treatment program. The Company will not otherwise conduct Return-to-Duty or Follow-Up tests as set forth in its Policy.
5. **No Other Workplace Testing.** The Company will not conduct drug or alcohol testing in any other circumstances except as outlined above for its Oklahoma operations. E.g., ABB will not conduct post-accident or near-miss testing absent reasonable suspicion, nor will it conduct return from leave of absence testing, return to duty testing (follow-up testing), or customer request testing relative to its Oklahoma operations.
6. **Right to Explain.** Applicants and employees have the right, in confidence, to explain test results.
7. **Right to Copies of Information/Records.** Each applicant and employee has the right to obtain copies of all information and records related to the individual's testing.
8. **Appeal Procedures.** There are no appeal procedures with respect to action taken under the Company's Policy or this Attachment except those that may be provided under any general personnel policies and procedures. There are no appeal procedures with respect to drug and alcohol testing of applicants and employees except, as to employees, procedures if any that exist under current policies/procedures.

9. **Confidentiality.** Test results records and related information obtained through testing under the Company's Policy and this Attachment are confidential and will not be released to any person other than the applicant, employee or the Company's Medical Review Officer except that records/information may be released as follows:

- as admissible evidence by the Company or the individual tested in a case or proceeding before a court of record or administrative agency if either the are named parties in the case or proceeding; or
- in order to comply with a valid judicial or administrative order; or
- to the Company's employees, agents and representatives who need access to such records in the administration of Oklahoma's Standards For Workplace Drug and Alcohol Testing Act; or
- to another employer with whom the Company contracts with respect to test results of any tested person who works pursuant to such contractual agreement.

North Carolina Overview

Overview.

The following summarizes pertinent provisions of North Carolina law pertaining to, affecting or imposing requirements relative to workplace drug testing, including under the North Carolina Controlled Substances Examination Regulation statute and its implementing regulations found at N.C. GEN. STAT. Article 20, §§ 95-230 – 239 and N.C. ADMIN. CODE Title 13, Rules 20.0101 – 20.0602.

1. **Alcohol Not Covered.** The North Carolina Controlled Substance Examination statute and implementing regulations do not regulate applicant or employee alcohol testing so the requirements listed below do not apply with respect to applicant or employee alcohol testing.

2. **North Carolina Law Imposes Only Drug Testing Process Procedural/Reliability Safeguards.** The North Carolina testing statute focuses mainly on setting standards to ensure reliable and adequate examinations in connection with screening for controlled substances, and that employers who test employees for controlled substances use reliable and minimally invasive examinations and screenings, and afford the opportunity to select from a range of cost-effective and advanced drug testing technologies. The purpose of the statute is to establish procedural and other requirements for the administration of controlled substance examinations. The statute does not, then, generally regulate testing circumstances or types of testing or speak specifically to written policy requirements; rather, the statute is focused primarily on the testing process itself.

3. **Collection of Samples.** The collection of samples for examination or screening must be performed under reasonable and sanitary conditions. Individual dignity must be preserved to the extent practicable. Samples must be collected in a manner reasonably

calculated to prevent substitution of samples and interference with the collection, examination, or screening of samples. Samples for applicants or current employees may be collected on site or at an approved laboratory.

"Sample" means the applicant's or employee's urine, blood, hair or oral fluids obtained in a minimally invasive manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance of drug testing.

4. **Screening tests of samples.**

Applicants (On-Site Testing Permitted). The Company may conduct on-site testing utilizing a preliminary screening procedure that utilizes a single-use test device may be used for applicants, provided that provided that samples which demonstrate a positive drug test result are sent to an approved laboratory for confirmation by a second examination of the sample utilizing gas chromatography with mass spectrometry or an equivalent scientifically accepted method, unless the applicant signs a written waiver at the time or after they receive the preliminary test result. All North Carolina laws relating to collection and handling of samples apply whenever an on-site screening test is performed.

"On-site" means any location, other than an approved laboratory, at which a screening test is performed on applicants. For example, "on-site" locations include, but are not limited to, the Company's place of business or a hospital, physician's office, or third-party commercial site operated for the purpose of collecting samples to be used in controlled substance examinations.

"Preliminary screening procedure" means a controlled substance examination that uses a single-use test device that:

- Is portable and can be administered on-site;
- Meets the requirements of the U.S. Food and Drug Administration for commercial distribution contained in Title 21, Part 807 of the Code of Federal Regulations; and
- Meets the generally accepted cutoff levels contained in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration in 69 FR 19644.

• **"Single-use test device"** means the reagent-containing unit of a test system that:

- Is in the form of a sealed container or cartridge that has a validity check, a nonresealable closure, or an evidentiary tape that ensure detection of any tampering;
- Is self-contained and individually packaged;
- Is discarded after each test; and

- Does not allow any test component or constituent of a test system to interact between tests.

Current employees (On-Site Testing Not Permitted): a screening test of samples for current employees must only be performed by an approved laboratory.

5. **Chain of custody.** The Company or its agents must establish procedures regarding chain of custody for sample collection and examination to ensure proper record keeping, handling, labeling, and identification of examination samples. In collecting and transporting samples an approved laboratory, the Company may:

- Collect and transport the sample itself; or
- Send the applicant or employee to the approved laboratory for the collection; or
- Contract with a third party to collect and transport the sample.

6. **Confirmation test of samples.** If a screening test for an applicant produces a positive result, an approved laboratory must confirm that result by a second examination of the sample utilizing gas chromatography with mass spectrometry or an equivalent scientifically accepted method, unless the applicant or employee signs a written waiver at the time or after they receive the preliminary test result. All screening tests for current employees that produce a positive result must be confirmed by a second examination of the sample utilizing gas chromatography with mass spectrometry or an equivalent scientifically accepted method. For confirmation of positive results or for retesting of confirmed positive results, the approved laboratory must use gas chromatography with mass spectrometry (GC/MS) or the Company bears the burden of proof to show that the substitute testing method used is an equivalent scientifically accepted method.

7. **Retention of samples.** A portion of every sample that produces a confirmed positive examination result must be preserved by the laboratory that conducts the confirmatory examination for a period of at least 90 days from the time the results of the confirmed positive examination are mailed or otherwise delivered to the employer.

8. **Retesting of positive samples.** The applicant or employee has the right to retest a confirmed positive sample at the same or another approved laboratory. The Company, through the approved laboratory, must make confirmed positive samples available to the affected applicant or employee, or a designated agent, during the time which the sample is required to be retained. The applicant or employee must request release of the sample in writing specifying to which approved laboratory the sample is to be sent. The applicant or employee incurs all reasonable expenses for chain of custody procedures, shipping, and retesting of positive samples related to any such request. If the applicant or employee chooses to have the confirmed positive sample retested, the Company and, where applicable, the Company's agent (the original testing laboratory) must follow the retesting laboratory's instructions in facilitating the retest of the positive sample.

9. **Initial Notice to Applicants/Employees Subject to Test for Controlled Substances.** North Carolina regulations require all individuals subject to a test for controlled substances

(applicants and employees) be provided, at the time of sample collection, with an initial written notice of their rights under the North Carolina Controlled Substance Examination Regulation Act (North Carolina Forms, *Initial Notice to Individual Subject to Test for Controlled Substances*).

10. Post Testing Written Notice to Applicant/Employees Subject to Test for Controlled Substances. North Carolina regulations also require post-testing written notice in the event of a positive drug test result (for both applicants and employees). Within thirty (30) days from the time the test results are mailed or otherwise delivered to the Company, the Company must give written notice to the individual tested of: (1) any confirmed positive drug test result, and (2) the individual's rights and responsibilities with respect to confirmatory retesting as described in Paragraph 6 of this North Carolina Specific Requirements document relating to workplace drug testing under North Carolina law.

In computing the above period of time the day of the triggering act or event is counted. If the last day of the period falls on a Saturday, Sunday or a legal holiday, it is counted and the period ends at the close of the next day which is not a Saturday, Sunday, or a legal holiday. The State uses Rule 6 of the NC Rules of Civil Procedure, G.S. 1A-1, Rule 6(a), as a guide in interpretation of this Rule. "Legal holiday" means the legal holidays observed by the Superior Courts of North Carolina. A list of legal holidays is available from the Administrative Office of the Courts and each local Clerk of Superior Court in North Carolina.

11. Confidentiality of Information Relating to Drug Testing. In order to preserve individual dignity and privacy, the Company and its agents must keep information confidential relating to applicants' and employees' drug testing, unless otherwise authorized by law. Examples of confidential information include: controlled substance examination results or information provided by examinees about their medical histories and lawful prescription drug use. The Company and its agents may release information which would otherwise be confidential under North Carolina law in the following circumstances: (a) to the applicant or employee or to any other person upon written authorization signed by the examinee; (b) to laboratories performing screening, confirmation tests, or retests of confirmed positive results; (c) for employment-related reasons. Examples of employment-related reasons include: performance evaluations, discipline and provision of references; or (d) to a government agency, court or other tribunal having jurisdiction over any claim or proceeding involving the examinee and the examiner.

12. Payment of Expenses. The Company must pay expenses related to all controlled substance examinations except applicant or employee-requested retests. The applicant or employee must pay all reasonable expenses for retests of confirmed positive results. "Reasonable expenses for retesting," means: (a) the actual cost of the retest charged by the approved laboratory; (b) fees assessed by the approved laboratory for expenses associated with the retest (examples of laboratory expenses include chain of custody procedures and shipping); (c) a maximum of fifteen dollars (\$15.00) for the Company's expenses, if any, to comply with chain of custody procedures related to the retest. The amount of fifteen dollars (\$15.00) for the expenses described is a reasonable amount. The Company may charge more than fifteen dollars (\$15.00) for the expenses described if the Company proves the actual

cost of expenses greater than fifteen dollars (\$15.00); and (d) the actual cost of any shipping expenses the Company incurs related to the retest.

13. Laboratory Instructions. The Company must follow procedural instructions of the approved laboratory regarding drug tests, unless the Company follows equally reliable procedures which it has previously adopted in writing. The Company bears the burden of proof to show these alternative procedures are equally reliable. Examples of procedural instructions include, but are not limited to, instructions regarding:

- collection of samples;
- reasonable and sanitary conditions for collection;
- chain of custody;
- preservation of examinees' individual dignity;
- prevention of substitution or adulteration of samples;
- prevention of interference with the collection, examination, or screening of samples;
- on-site screening;
- confirmation of positive tests;
- any other action to be taken with regard to the collection, labeling, packaging, screening, transportation, documentation, or preservation of samples used for controlled substance examinations.

Contractor Procedures. If the Company contracts with a third party for collection, screening, or confirmation testing, the Company must ensure that the contractor's procedures comply with requirements of North Carolina's General Statutes 95, Article 20 and implementing regulations at 13 N.C.A.C. 20. Compliance with the requirements of the United States Department of Health and Human Services (DHHS), 59 Federal Register No. 110, pages 29908 through 29931 (June 9, 1994), for all aspects of the controlled substance examination meets the requirements of G.S. 95, Article 20 and its implementing regulations. Compliance with the requirements of the College of American Pathologists' (CAP) Forensic Urine Drug Test Inspection Checklist meets the requirements of G.S. 95, Article 20 and this it's implementing regulations for screening, confirmation and retesting of confirmed samples. If the Company adopts alternative procedures, the Company must ensure that the alternative procedures meet the requirements of G.S. 95, Article 20 and its implementing regulations. However, nothing in the DHHS or CAP requirements is interpreted to:

- require the Company to use the services of a medical review officer; or
- allow the Company to conduct on-site screening for current employees.

14. Disability Discrimination. Under North Carolina disability discrimination laws, "disabled person" does not include individuals who are active alcoholics, drug addicts or drug abusers. N.C. GEN. STAT. § 168A-3.

15. Drug Test Falsification. Under North Carolina law, it is unlawful to: a) sell, give away, distribute, market, or transport urine with intent to defraud a drug/alcohol test; b) attempt to defraud a drug/alcohol test through substitution or adulteration of a urine sample, or advertise substitute urine samples/adulterants; c) possess or sell adulterants intended to

defraud a test; or d) possess or sell adulterants intended to be used to adulterate a sample for purposes of defrauding a test. Violation of these prohibitions is a Class 1 misdemeanor for a first offense, and a Class 1 felony for subsequent offenses. N.C. GEN. STAT. § 14-401.20.

16. Workers' Compensation. If intoxication is the proximate cause of an injury, workers' compensation benefits are denied to employees killed or injured in an accident if under the influence of illegal drugs or alcohol so long as the intoxicant was not provided by the Company. N.C. GEN. STAT. § 97-12

17. Unemployment Compensation. Individuals who report to work significantly impaired by alcohol, illegal drugs and consuming alcohol or illegal drugs on Company premises or who have been convicted of a drug offense have committed misconduct under North Carolina unemployment compensation laws and are ineligible for unemployment compensation benefits. N.C. GEN. STAT. § 96-14(2). Additionally, individuals are disqualified from such benefits in any week in which the individual tests positive for a controlled substance if: a) the test is required as a condition of employment; b) the job is suitable work for the individual; and c) the test is conducted in accordance with North Carolina testing procedural requirements. N.C. GEN. STAT. § 96-13(a)(3).

18. Department of Transportation/Federal Motor Carrier and Safety Administration Covered Drivers. An employer of any employee or applicant who tests positive or of any employee who refuses to participate in a drug or alcohol test required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 must notify the Division of Motor Vehicles in writing within five (5) business days following the employer's receipt of confirmation of a positive drug or alcohol test or of the employee's refusal to participate in the test. The notification must include the driver's name, address, driver's license number, social security number, and results of the drug or alcohol test or documentation from the employer of the refusal by the employee to take the test. N.C. GEN. STAT. § 20-37.19.

Attachment B

**US BU MOTORS AND GENERATORS
CONSENT TO DRUG/ALCOHOL TESTING**

I consent to drug and alcohol testing as outlined in the Company Substance Abuse Policy.

I also consent to the release of test results to ABB or its authorized Agent.

I further agree at the time of testing (or afterwards if requested) to provide ABB's Affiliates or designated agents, with, if requested, a list of all medications which I have used within the past thirty (30) days, which I believe may be relevant to or provide an explanation for test results.

I understand that refusal to consent to such testing will be considered grounds for termination of my employment with or my assignment to ABB, or will be considered a withdrawal of my application for employment (if testing is pre-employment) and any related employment offer will be thereby withdrawn, or may affect my eligibility for workers' compensation coverage.

I understand that if the result of my test is positive for drugs or alcohol, ABB may discipline me up to and including termination of my employment (or assignment to ABB), and will deny my application for employment and withdraw an offer of employment. Positive results may also affect my eligibility for workers' compensation coverage.

I understand that if I interfere or attempt to interfere with the testing process or test results, ABB may discipline me, up to and including termination of my employment (or assignment to ABB), or may deny my application for employment and withdraw an offer of employment. Such interference may affect my eligibility for workers' compensation coverage.

AGREED:

Signature

Date

Witness

Date

REFUSED:

Signature

Date

Witness

Date

**US BU MOTORS AND GENERATORS
REQUEST FOR RETEST**

By signing below, I acknowledge that the result on a drug test performed under ABB's (US BU M & G) Substance Abuse Policy was confirmed as positive by the Company's Medical Review Officer (MRO). As provided in the Policy, I hereby request a retest, at my expense, of the original sample collected from me. I further agree to the release of the retest test results to the Company's *MRO*. I understand that if the result of my retest is positive for drugs the Company may discipline me up to and including termination of employment or may withdraw an offer of employment. I further agree and understand that this retest may exhaust my sample and no further retest will be possible, and any final decision as to my employment will be based upon this test and any information provided or received by the Company to date.

AGREED:

Signature

Date

Witness

Date