

DRUG-FREE WORKPLACE PROGRAM (Feb 2009)

(a) Program Requirements.

(1)(A) Except as provided in subparagraph (B) below, the Seller and its subcontractors working on the project site must maintain a drug-free workplace program that conforms with Title 50, Chapter 9, of the Tennessee Code and applicable rules adopted pursuant to Chapter 9.

(B) If the Seller is an out-of-state entity, the Company may upon request allow a drug-free workplace program that conforms with Seller's state law.

(2) No employee of the Seller or its subcontractors may work on the project site unless the employee's most recent test under the drug-free workplace program was within the past 12 months and the results of that test were negative.

(3) The Seller must immediately remove from the site any employee who receives a confirmed positive test result. Such employees may not return to the project site earlier than 90 days from the date of the positive test and only after receiving a negative follow-up test result. (The 90-day bar will not necessarily apply to employees who after receiving a confirmed positive test result voluntarily enter an employee assistance program for drug-related or alcohol-related problems or a drug or alcohol rehabilitation program; these employees may return to the project site before the end of the 90-day bar if they complete the program and receive a follow-up negative test result.)

(4) The Seller must require employees who have not received a confirmed positive test result but who voluntarily enter an employee assistance program for drug-related or alcohol-related problems, or a drug or alcohol rehabilitation program, to submit to follow-up drug and alcohol tests within three days after they leave the program.

(b) Reports.

(1) Before beginning work on the project site, the Seller and each of its subcontractors must provide to the Company a copy of its most recent Tennessee Drug-Free Workplace Application Form submitted to and certified by the Tennessee Commissioner of Labor and Workforce Development. The required form is available at the State of Tennessee Drug Free Workplace Program web site at <http://tennessee.gov/labor-wfd/dfwp.html>. (Out-of-state entities must submit evidence sufficient to establish that their programs are in effect.) The Seller and its subcontractors must also provide a copy of any certified renewal application forms submitted during the period of this Agreement.

(2) Before the fifth day of each month of performance, the Seller must certify to the Company that every employee working on site has been tested as required by the drug-free workplace program and this clause and that the test results were negative.

(c) Audit. The Company may audit any drug-free workplace program required by this clause and shall have access to all relevant records of the Seller and its subcontractors for this purpose, provided such access does not violate requirements for confidentiality of records.

(d) Hold Harmless. The Seller shall defend and hold the Company harmless from any suits or claims by its or its subcontractors' employees relating to enforcement of this clause.

(e) Subcontracts. The Seller shall include this clause, including this paragraph (e), in all subcontracts hereunder involving work on the project site.