

**PMTA-ILA PORT OF PHILADELPHIA,  
WILMINGTON AND NEW JERSEY  
MASTER CONTRACT  
DRUG AND ALCOHOL ABUSE PROGRAM**

Revised Through September 25, 2008

**TABLE OF CONTENTS -DRAFT**

	<b>PAGE</b>
<b>Introduction: Operation of the Program</b> .....	<b>1</b>
<b>Substances for Testing for Job Impairment</b> .....	<b>5</b>
<b>Alcohol</b> .....	<b>6</b>
<b>Prohibited Drugs</b> .....	<b>6</b>
<b>Periods for Testing</b> .....	<b>6</b>
<b>Pre-employment</b> .....	<b>6</b>
<b>On-the job</b> .....	<b>6</b>
<b>Employee conditions which require testing</b> .....	<b>6</b>
<b>Inherently critical equipment</b> .....	<b>6</b>
<b>Pre-Reinstatement and Post-Reinstatement Testing</b> .....	<b>7</b>
<b>Cost of Testing</b> .....	<b>7</b>
<b>Protocol for Requiring Tests</b> .....	<b>7</b>
<b>Random Testing</b> .....	<b>10</b>
<b>Testing Procedures</b> .....	<b>10</b>
<b>Collection Procedures</b> .....	<b>11</b>
<b>Rehabilitation Program</b> .....	<b>16</b>
<b>Grievances and Appeals</b> .....	<b>20</b>
<b>APPENDIX “A”</b>	
<b>Glossary</b> .....	<b>i, ii</b>
<b>APPENDIX “B”</b>	
<b>Drug and Alcohol Screen Consent Form</b> .....	<b>i, ii</b>
<b>APPENDIX “C”</b>	
<b>Post-rehabilitation Testing Consent Form</b>	
<b>Following a First Offense</b> .....	<b>i</b>
<b>APPENDIX “D-1”</b>	
<b>Rehabilitation Program Testing Consent Form</b> .....	<b>i</b>
<b>APPENDIX “D-2”</b>	
<b>Post-Rehabilitation Testing Consent Form</b>	
<b>Following a Second Offense</b> .....	<b>i</b>
<b>APPENDIX “D-3” QUICK TEST</b>	

## **I. Introduction: Operations of the Program**

1. The objectives of the program are to assure a drug and alcohol free workplace in order that cargo-handling work can be performed safely and productively, while safeguarding the longshoremen's rights of privacy, due process, and equal employment opportunity. This program which is administered in a confidential manner includes education, counseling, effective testing controls and provides for rehabilitation and appropriate discipline.

The parties are in agreement that early identification and treatment of alcohol and chemical dependency problems are important for an individual's successful rehabilitation and return to employment in the industry and to reduce the potential for incidents and injuries.

2. (a) It is the policy of this program to bar employees and their immediate or operational supervisors who either possess or use alcohol or prohibited substances as well as lawfully-obtained and proscribed substances from industry premises and work sites.

(b) An employee's or supervisor's possession, use, sale or distribution of alcohol, narcotics or other prohibited substance (*See Glossary, Appendix "A"*) while he is engaged in his work under the collective bargaining agreement will, except where otherwise expressly provided, result in his immediate suspension from work under any PMTA-ILA collective bargaining agreement.\* Except as provided herein, such suspension shall in the first instance be for a period of 60 days or such additional time as may be required for the employee to successfully complete an approved rehabilitation program. The employee's supervisor or any other member of the management on the work site will immediately investigate a report of possession, sale or distribution and, if there appears to be a reasonable basis therefore, he will promptly remove the

---

\* "He" or "his" shall also mean "she" or "hers" wherever stated.

employee pending further proceedings under the grievance procedure. In the event of suspected use, the employee will be required to undergo testing in accordance with the procedures herein.

(c) When it is determined that an employee has been using or is in possession of any substance herein prohibited, including drugs or alcohol, the employee will be given an opportunity to demonstrate that he possesses or is using same pursuant to a direction of a licensed physician or dentist. A management representative or a professional hired for such purposes, will verify the employee's representation and will take appropriate action to determine the conditions under which the employee can continue working.

(d) A second offense involving the use, possession, sale or distribution of alcohol, narcotics or other prohibited substances will result not only in the employee's immediate termination from employment with his employer but also in his being banned from employment under any PMTA-ILA collective bargaining agreement for a minimum period of one-year. A positive test result or a refusal to timely undergo testing during rehabilitation will constitute an offense under the Plan. A failure to timely complete the procedures for reinstatement following a second offense, or the committing of a third offense, will result in the employee's permanent exclusion from industry employment under any PMTA-ILA collective bargaining agreement.

(e) A casual employee under the PMTA-ILA collective bargaining agreements (that is, one who is neither a member of the basic unit nor a member of the secondary work force) who tests positive under the plan, shall be permanently banned from employment under any PMTA-ILA collective bargaining agreement.

(f) A positive test result shall include, among other things, a refusal to execute a consent/waiver form, failure or refusal to submit to a drug and/or alcohol test and submission of an adulterated or a "cold" or "hot" specimen. A positive drug test shall also include a positive

test taken by the employee, while on suspension, upon “return to work drug test”, i.e., reinstatement drug test and during the course of rehabilitation or following his return to work.

(g) During pre-employment testing, a positive result or the submission of an adulterated or a “cold” or “hot” specimen, as hereinafter defined, will be grounds for discontinuing consideration of the individual for employment under the PMTA-ILA collective bargaining agreements.

## **II. Substances for testing for Job Impairment**

A. (1) **Alcohol:** Presumptive abuse at the 0.08 level, per a breathalyzer or a blood test, such blood test to be conducted only if the result of a breathalyzer or saliva alcohol test is positive (equals or exceeds a 0.08 level). In cases where a breathalyzer or saliva alcohol test is 0.02 or greater, but less than 0.08, the employee shall be relieved from his work duties for a 12 hour period.

(2) **Prohibited Drugs:** Nine key classifications of drugs to be tested, usually by urinalysis, at least at the following levels:

<b>Drug</b>	<b>Initial Testing - EMIT (ng/ML)</b>	<b>Confirmation (GC/MS)</b>
Marijuana	50	15
Cocaine	300	150
Opiates	2000	2000
	6 Acetylmorphine Confirmation	
Phencyclidine	25	25
Amphetamines	1000	500
Barbiturates	300	300
Benzodiazepines	300	300
Methaqualone	300	300

Methadone\*

300

300

Any changes to the above adopted by the NYSA and the ILA pursuant to the New York Drug/Alcohol program shall reviewed by the PMTA-ILA Welfare Fund.

**B. Periods for testing:**

**Pre-employment:** negative findings under the above criteria as a condition to obtaining employment.

**On-the job:** from time of reporting, including an Employer's premises or worksite, to time of dismissal, whenever an employee or covered supervisor is engaged on assignment or detail, provided, however, that an employee may be tested thereafter whenever the particular circumstances did not permit testing prior to dismissal. In cases where there is reasonable suspicion, the hiring center would be considered "on the job" if person has been assigned employment.

**C. Employee conditions which require testing:**

- 1) Visible lack of coordination or unsteadiness; poor motor coordination; slurred speech; erratic behavior, detection of alcohol or other prohibited substance on breath, etc.
- 2) Other objective criteria, such as: irrational behavior, extreme mood shifts, etc.
- 3) Post-accident: all persons participating in and whose conduct or job-related decisions could have causally contributed to the event, including, where reasonable, the injured/killed individual(s).

---

\* A positive result from Methadone and Buprenorphine will not be deemed to constitute an offense under the Plan, provided the employee has given prior notice to ATAP-Allied Trades Assistance Program ("Provider") that he is a participant in a recognized rehabilitation program requiring his use of Methadone. The employee will thereupon cooperate with the Provider and Director in monitoring the employee's participation in (including testing under) a recognized rehabilitation program. Should the Provider or Director subsequently be advised that the employee tested positive within the foregoing standards for prohibited drugs, the employee will be found to have committed an offense under the Plan.

4) Holders of safety-critical jobs including, but not limited to, operators of the following equipment:

a) **Inherently critical equipment:**

- i) Container cranes
- ii) Transtainers
- iii) Top-Loaders
- iv) Winches
- v) Bulldozers
- vi) Yard hustlers
- vii) Hazardous material transporters
- viii) Straddle Carrier
- ix) Side Loader
- x) Stacker
- xi) Any motorized vehicle not enumerated in i) through x)
- xii) Operation of any power equipment

b) Individuals engaged in worksite activities in conjunction with the operation of inherently critical equipment, where even minor impairment of faculties can create a hazardous environment, shall also be subject to random testing.

D. **Pre-Reinstatement and Post-Reinstatement Testing:** While undergoing rehabilitation; prior to return to work after completion of rehabilitation; during mandatory random testing periods following return to employment in the industry.

E. **Costs of Testing:** All drug and alcohol testing costs are to be paid by PMTA and/or its members, except pre-employment testing.

### III. Protocol for Requiring Tests

A. As part of the pre-employment physical examination, which will include provision for testing for alcohol and all prohibited drugs under this program.

B. 1) Detecting and reporting an employee's or supervisor's suspicious condition:

(i) A complaint may be made by a co-employee, an employee representative, a foreman, any management representative, or the ship's officer overseeing cargo-handling activity, to the pier superintendent, to the terminal manager or to their superiors. However, if the report is made to a lower echelon supervisor, the supervisor will obtain authority from his pier superintendent, from the latter's designee or from higher management before directing the employee in question to cease his work and to take a test.

(ii) The supervisor or management representative, as the case may be, must promptly investigate the complaint and must *personally* observe the complained-of behavior or appearance of the employee in question before proceeding further. Once confirmed, the employee is to be directed to cease working under the conditions he was working as and when he was observed.

(iii) The employee's shop steward, in the first instance, or another available union representative, will promptly be notified of the proposed action, preferably before the employee is directed to cease his activity, so that he can be given an opportunity to personally observe the employee at work. In the event of a delay in obtaining the presence of a union representative, the employee may be ordered to cease working pending the arrival of a union representative, provided that a clear and present danger to the employee and others exists. The employee will remain in the vicinity in order that he can be interviewed by his representative when the latter arrives.

(iv) Where the suspected individual is an immediate or operational supervisor over rank-and-file longshoremen under a PMTA-ILA collective bargaining agreement, all of the non-employee individuals listed at (i) above shall report to the pier superintendent or higher authority. Non-supervisory employees will report their suspicions and

observations to their shop steward or to another on-site union representative, who will apprise the individual's immediate superior or, if he is not available, then any other of his on-site superiors, who will personally investigate the report and who will take appropriate action, consistent with this program.

(v) In suspected substance abuse and post-accident situations, management representatives may interview the employee(s) in question, provided that a worksite – or other available – union representative is present or given the opportunity to be present during the investigation to represent the employee.

(vi) If the management representative determines that the employee's supervisor's condition or behavior so warrants, or that an accident reasonably could have been caused as a result of physical or judgmental impairment of one or more such persons as are identified by management, such individual(s) will undergo testing. The union representative will be so advised and will be afforded the opportunity to represent the affected employee(s) at all subsequent stages of the testing procedure as set forth hereinafter. In the event that the on-site management and union representatives in a post-accident situation cannot agree that the situation warrants testing and/or on the individual(s) who is/are to be tested, then testing as desired by management will take place, provided that the results of the testing of the specimen(s) taken from the individual(s) in dispute will remain under seal, in the possession of the MRO. The Drug & Alcohol Committee shall meet and agree to further process or destroy the tests results and remaining specimen(s), as the case may be. If the Drug & Alcohol Committee cannot agree, the issue shall be referred to the arbitrator in accordance with the Grievance and Appeals procedure (at Article VI).

2) **Random Testing**

(i) The parties agree to mandatory random testing, effective January 1, 2006 which will be conducted on a computerized program or other practicable basis and be applicable to all crafts. A third party will be engaged to set up the program for random testing.

(ii) The random testing specified in paragraph (i) above, shall be conducted under a method that will insure secrecy and non-discrimination.

**IV. Testing Procedures**

A. 1. As a condition for being tested, the employer's on-site representative or his designee will give an employee who is to be tested a combined consent and release form. (See Appendix "B"). The employee will be told to read the form or, upon request, the form shall be read in its entirety to the employee. In the event that the candidate indicates that he does not understand the requirements and/or undertakings to which he is about to consent – whether due, *e.g.* to a problem of language, comprehension, etc. – then the employer's representative will arrange to have the contents of the form explained to the candidate until he signified his understanding. Before completing and signing the form, the employee, if concerned, may be assured that the results of his test(s) will be kept confidential as provided by this plan.

2. In the event that the employee thereafter refuses to complete and to sign the consent/release form without modification, or whenever testing is to be administered at another location, the employee will be advised, in the presences of his supervisor that his failure to complete and sign the form or timely appear to be tested will result in his immediate discharge from his job and that:

a) if it is his first offense under the plan, he will be suspended from employment under any PMTA-ILA collective bargaining agreement for a minimum of sixty (60) days and must undergo rehabilitation;

b) if it is his second offense under the plan, that he will be terminated from employment under any PMTA-ILA collective bargaining agreement for a minimum of one year and must undergo rehabilitation; and

c) if it is his third offense under the plan, that he will be permanently banned from employment under any PMTA-ILA collective bargaining agreement.

If the employee's failure or refusal persists, the employee will immediately be removed from the payroll.

3. The employer's representative who witnesses an employee's refusal to execute a consent/waiver form or failure or refusal to submit to a drug or alcohol test after an appropriate warning was given to the employee, will be required to confirm the pertinent facts in writing on the reverse of the designated consent form and to sign and date same. The completed document will then be promptly forwarded to the Committee for appropriate follow-up action. The employee will be taken out of the hiring system for the applicable period of time in accordance with the Program and Plan. The Committee will forward a notice of the action so taken to the employee and to the employee's local.

## **B. Collective Procedures**

1. Whenever a urine/blood collection facility is provided at a terminal or other designated site as the particular circumstances may require, the employer will assure that it conforms to all of the equipment, personnel and other standards established by the testing agency ("agency") selected under this Plan, including temporary storage and delivery, and that it is and will remain secure. The facility will periodically be inspected by the agency to verify that it meets its standards and is properly secured.

2. Whenever such a collection facility is not available, then the agency shall furnish an ambulatory facility for collecting, sorting and transporting urine and blood specimens at the site where the employee is then assigned or where he is made available.

3. The procedures shall require that an approved chain of custody form be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory, an appropriate laboratory chain of custody form to account for the specimen or sample aliquots within the laboratory. Chain of custody forms shall, at a minimum, include an entry documenting date and purpose each time that a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody.

4. (a) Prior to giving a specimen, the employee's supervisor and his shop steward or, if either is unavailable, their designees or substitutes, will be notified and will be given an opportunity to be present at the place and time when the specimen is to be taken. They and the employee/supervisor to be tested will be apprised by the agency's representative of the procedures to be followed in taking and securing the specimen. In the event that taking of a urine or blood specimen is not feasible, then such other method as the agency and/or the Medical Review Officer or his designee ("MRO") shall determine will be utilized.

(b) The agency's representative will initially ascertain that the employee has provided an acceptable specimen, that is, one not considered a "cold or hot specimen", to wit: urine at a temperature of less than 90° Fahrenheit or in excess of 100° Fahrenheit. In the event that the agency's representative determines that a "cold or hot" specimen has been provided, the specimen will be deemed unacceptable. The employee will be advised of the rejection of his specimen and that, unless he is agreeable to providing a further, acceptable specimen in accordance with the Plan's procedures, prior to leaving the premises, he

will be found to have committed an offense under the Plan. Should it become necessary, the representative will record in the “Remarks” section of the employee’s Consent form (Appendix B hereto) that the employee provided an unacceptable specimen and was so advised and that the employee provided a second unacceptable specimen or left the premises without providing another specimen and he will sign or initial his entry together with the time and date.

5. The agency shall assure that the specimen is properly and securely obtained in the presence of its representative with due consideration for the individual’s right to privacy. Moreover, it shall require the specimen to be deposited as equally as possible within two containers/receptacles. It shall further assure that the two containers/receptacles are properly sealed before their removal from the premises; that the containers/receptacle and all accompanying and identifying forms are signed or initialed by the individual tested and by his supervisor and shop steward or by such other available employer and union representatives and that logs are properly recorded and maintained. In an emergency situation or in the event that the collecting facility is not on site, then a specimen will be taken with appropriate safeguards consistent with the above guideline and be sealed and initialed. An employer and a union representative will accompany the sealed containers/receptacles and documentation to a pre-designated reception point where they will be turned over to the agency. A receipt will be obtained from the agency for the containers/receptacles which will be initialed by the employer and union representatives, copies of which will be furnished to each of them and to the employee.

6. (a) The designated agency will conduct initial tests of the contents of either one of the containers/receptacles and will continue to properly secure and maintain the remaining container/receptacle in a manner to assure that its contents are not compromised, chemically or

otherwise. Effective June 30, 2008, the Quick Test will be used for the initial test. (See Appendix "D3") If the results of the tested portion of the specimen are within the levels indicated at II A.(2), above, the agency will conduct further confirmatory tests of the specimen. The substances for which the specimens are to be tested for are those set forth in II. A. (2) above. In the event that the initial test indicate(s) the presences of a prohibited substances (*i.e.*, a "positive" result) then the specimen(s) will be further tested by an acknowledged advanced method (currently GC/MS) to confirm or to negate the results. The results will be reviewed by a designated MRO. The MRO will interpret all confirmed positive results and will take into consideration the individual's medical records, if any, and alternate medical explanations that could have led to such a result. He may order further analysis if he deems it so warranted, to be performed by a certified laboratory selected by the MRO.

(b) A specimen which is determined by the designated agency to contain quantities of creatinine at less than 20 mg/dl, or is found through other recognized testing techniques to be otherwise contaminated, will be deemed to have been adulterated. The employee will be required to take another test at a designated laboratory test site. If the results of the second test again indicate adulteration or there is a positive result, the employee will be found to have committed an offense under the Plan.

7. (a) Prior to reporting any positive results, the MRO will give the tested individual an opportunity to discuss the results with him. The MRO shall remind the employee that the employee has the option to request that the untested portion of his specimen be tested for prohibited substances by another certified laboratory designated by the Committee. The MRO will also advise the employee that the failure to then exercise the option will be deemed to be a waiver of the option by the employee. The MRO will then ascertain from the employee whether

he is exercising the option. The MRO's report to the Committee must include a statement specifying the employee's response.

(b) In the event that the employee exercises his option to have the other portion of the specimen tested, then the procedures set forth above at section 5 will be repeated respecting the specimen contained in the second container/receptacle. Pending the results of the testing of the split sample, the employee will be suspended, terminated, or banned, whichever is applicable, from employment under any PMTA-ILA collective bargaining agreement. If the results of the testing of the split sample are positive, the suspension, termination, or bar, whichever is applicable, will continue in effect. If the results of the testing of the second container/receptacle are negative for the presence of prohibited substances, it will be reported to the Committee by the MRO and all test results will be deemed negative and the suspension, termination or bar previously imposed will immediately be lifted.

8. (a) The MRO will render a confidential report on the outcome of the tests, whether they be positive or negative. If positive, the MRO will identify all substances for which the employee tested positive under the criteria of this plan. His report will advise the Committee whether the positive results are consistent with the individual's prohibited use of such drugs.

(b) The Provider which administers the approved rehabilitation program will be directed to provide a treatment program with a view to the employee's safe return to work under a PMTA-ILA collective bargaining agreement.

9. In the event that any individual or entity, not herein authorized, claims a need to know the results of a test or tests administered to a covered employee, then a written request for such information, including the basis therefore, shall be submitted to the Committee which will determine whether the results may be disclosed and under what conditions. The affected

employee shall be advised by the Committee that a “need to know” request was received and the identity of the requesting party. Following the Committee’s action on the request, the employee will be advised of its decision. Except for the foregoing, the results of the tests – whether positive or negative – will *not* be disclosed and they will remain confidential. They will be maintained by the Committee in a file separate from the individual’s personnel file and in a secure manner with restricted access. Following a first offense only, and provided a second offense has not occurred within thirty-six (36) months from the individual’s return to work, the records maintained by the Committee, Director and Provider will, at the end of that period, be destroyed. However, the Committee, its Co-counsel and any other person or entity authorized under this Plan will have access to the records prior to destruction, under an agreed-upon procedure, for the purposes of administering this program and any related grievances. Following the above noted destruction of the individual’s records, the employee will resume the status of an employee who has not been previously suspended for a violation of the provisions of this Plan.

## **V. Rehabilitation Program**

1. It is the declared policy of this program to assist workers who are drug and/or alcohol dependent and who voluntarily submit to rehabilitation and counseling and to encourage treatment and return to the job of those workers who are determined upon testing to be unfit for employment.

2. (a) Whenever an employee is required to be tested and, for the first time, tests positive for any of the substances under this program, he will be advised by the PMTA-ILA Drug & Alcohol Committee, that this suspension from industry employment, pursuant to Article I, Section 2(b) will continue while he undergoes counseling and rehabilitation under a program approved by the Committee, *provided* that one is available for him within the area of the

employee's usual place of employment or his residence (or elsewhere, as maybe agreed upon by the Committee and the employee). The propriety and availability of such programs shall be determined by the Provider. In the event the employee is ineligible under the available contractual or other private or public benefit plans for payment for such treatment, the employee shall be advised that he will have to bear all of the expense of the treatment and required drug and alcohol testing and that he may elect to be referred at his own expense. The employee must immediately enter such a program and execute a testing consent form (Appendix D-1). He must successfully complete the treatment phase of the program within 60 days from entry or such additional time as the Provider determines is necessary for such purpose. The employee will continue under suspension until such time as he shall successfully complete an approved rehabilitation program; provided, however, the employee will be deemed to have elected not to undergo rehabilitation if he fails to enter and complete an approved rehabilitation program within 180 days. In such event, he will thereafter be permanently banned from all further employment under any PMTA-ILA collective bargaining agreements. The medical consultant and/or the Director will monitor the employee's progress under the designated program and for such purposes will have full access to the employee's file maintained by the Committee. If the employee tests positive during rehabilitation or refuses to timely undergo a test, the employee will immediately be terminated or permanently banned, whichever is applicable, from employment in the industry under any PMTA-ILA collective bargaining agreement.

(b) An employee who has been suspended under the Program for "possession, use, sale or distribution of alcohol, narcotics or other prohibited substances" shall, before being permitted to resume industry employment, be required to pass a drug and alcohol test and to sign a post-rehabilitation testing form, and will be subject to random post-rehabilitation drug and

alcohol testing for 18 months following the employee's return to work. Any infraction of this Plan, including a positive test result during rehabilitation or during the 18-month post reinstatement testing period or thereafter, will be treated in the same manner as a first, second or third offense under the Plan, whichever is applicable.

3. Evidence of the employee's completion of the designated rehabilitation program will be certified in a manner acceptable to the Committee for review by the Director. The Director will advise the Committee whether or not the treatment adequately addressed the worker's particular problem, together with his recommendations. The employees' return to work may be upon such conditions as are established by the Committee in consultation with the Director. The employee will then be advised that before his suspension after a first offense – or termination after a second offense – can be lifted, he will be required to adhere to such conditions as may be established and to sign a written agreement to be subject to random testing, upon reasonable notice, for a period of 18 months from his reinstatement as an employee following a first offense, or indefinitely following a second offense. (*See Appendix "C" and Appendix "D-2", respectively.*) He will also be advised that a positive test result during that period will result in his immediate termination or permanent bar, whichever is applicable, from employment under any PMTA-ILA collective bargaining agreements. When the employee executes the agreement, the original will be furnished to the Committee for inclusion in his confidential folder and a copy will be given to the employee. The Committee will take immediate steps to effectuate his prompt reinstatement.

4. (a) If the reinstated employee refuses or fails to take a test when required or again tests positive for a prohibited substance at any time following reinstatement, whether in the course of post-rehabilitation random testing or of other tests required or permitted under this

Plan, then the employee will immediately be terminated or permanently banned, whichever is applicable, from employment in the industry under any PMTA-ILA collective bargaining agreement.

(b) Any individual who is terminated for a second offense shall, no later than 60 calendar days following the date of Notice of Termination, notify the Committee, in writing, that the individual intends to reapply for reinstatement and will promptly enter into a program of rehabilitation treatment as set forth above. The individual must then enter such a program and execute the appropriate testing consent form (Appendix D-1). He must successfully complete the treatment phase of the program within 60 days from entry (or such additional time as the Director certifies is necessary for such purpose). Upon completion of treatment as certified by the Provider, the individual must thereafter regularly attend sessions of a further phase of the Program to be designated by the Provider, in consultation with the Director, so that the individual's participation in such successive phases of the Program is for an uninterrupted period of one year within the fifteen months following the date of the individual's Notice of Termination after a second offense, during which the individual will receive counseling and be randomly tested for alcohol and other prohibited substances, as may be required by the Provider and/or Director. Should the individual fail to attend the established program as required or test positive during such programs, the individual shall have forfeited the right to apply for and shall be permanently banned from employment under any PMTA-ILA collective bargaining agreement.

(c) Upon the individual's receipt of a certification by the Director at the conclusion of the one-year period that the individual has properly participated in the industry Program and has not, at any time, tested positive while attending it, the individual must, within

seven (7) calendar days, apply to the Committee for reinstatement in the manner established by the Committee, and execute a testing consent form (Appendix D-2).

5. (a) The Committee will monitor the employee's post-rehabilitation conditions and, in consultation with his union representative and with the medical consultant and/or the Director will arrange for his random testing, upon reasonable notice to the employee.

(b) All records pertaining to the rehabilitation of individuals and to the administration of this plan will be maintained by the Committee, Director and the Provider in the manner that they shall determine.

## **VI. Grievances and Appeal**

1. A permanent or temporary employee who is or who will be affected by any action or proposed action or determination under this program may, personally or through his union representative, file a written grievance with the PMTA-ILA Welfare Fund for a hearing by the Drug & Alcohol Committee. The grievance must be filed within twenty (20) days of the date of suspension or, other disciplinary action imposed. Failure to timely file a written grievance with the PMTA-ILA Welfare Fund will result in such action or proposed action or determination under this Program being final and binding upon the employee. The Drug & Alcohol Committee, who will have full access to the employee's file maintained by the PMTA-ILA Welfare Fund, will schedule and conduct a hearing on the grievance within 15 days of the filing of the grievance and the grievant will have an opportunity to appear and to present his case in the manner provided for the initial processing of grievances under the PMTA-ILA collective bargaining agreements. The Drug & Alcohol Committee will make a written determination within 15 working days following the close of the hearing, which shall be filed with the PMTA-ILA Welfare Fund and a copy will be furnished to the grievant upon request, provided it is

available. The written determination shall be final and binding and, if reinstatement is ordered, it may also include back pay and related fringe benefit contributions. The employee on whose behalf a grievance is filed shall be conditionally reinstated in the event that a written determination does not issue within 21 calendar days of the hearing.

2. In the event that the Drug & Alcohol Committee deadlock, then the grievance shall proceed to arbitration on an expedited basis, before an arbitrator designated under this program, whose determination will be final and binding on all parties.

## **VII. Amendments**

No changes to this plan may be made except by agreement of the PMTA-ILA Welfare Fund. Requests for changes must be made in writing to the Committee which will render its recommendation thereon to the PMTA-ILA Welfare Fund.