



## **Substance Misuse Policy**

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A policy designed to give clear guidance on the management of substance misuse in the workplace

**The Tomato Plant Company Ltd.**



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## Section 1 – Policy Statement

- 1.1 In compliance with the Health & Safety at Work Act 1974 (Section 2) The Tomato Plant Company Ltd. ('the Company') is committed to providing a safe working environment. This includes, as far as is reasonably practicable, promoting the good health and wellbeing of all of our employees.
- 1.2 It is the purpose of this policy to ensure that the use of substances by any employee or any other person(s) associated with The Tomato Plant Company Ltd. does not impair the safe and efficient running of the business or put at risk the health, safety or welfare of its employees, customers, suppliers or members of the general public.
- 1.3 The Tomato Plant Company Ltd. also recognises the importance of balancing respect for individual privacy with the need to maintain a safe, secure and productive working environment free of substance misuse.
- 1.4 The Tomato Plant Company Ltd. is aware that in some instances, substance dependency is defined as an illness. We therefore actively encourage those employees who are experiencing difficulties with any substance to advise the Company of this fact and to seek help. Where appropriate, we will offer assistance in seeking relevant and evidence based treatment. In these cases normal sickness absence procedures will apply. Confidentiality is assured in these cases.

## Section 2 – Definitions of Terms Used in this Policy

- 2.1 **Substances** - Includes but is not limited to alcohol, drugs and solvents.
- 2.2 **Alcohol** - Includes, but is not limited to distilled spirits, liquor, beer, wine, malt liquor, or any other intoxicants used for beverage purposes.
- 2.3 **Drugs** - Any psychoactive substance (those drugs that affect mood, thought process or perception), available both legally and illegally.
- 2.4 **Illegal Drugs** - All those drugs covered by the Misuse of Drugs Act (1971) and amendments.
- 2.5 **Dependency** - Where the user has adapted physically and/or psychologically to the presence of alcohol, drugs or substances and would suffer if they were withdrawn abruptly.
- 2.6 **Company Premises** - To include all premises the Company has responsibility for and includes all Company vehicles. It also includes all Client premises and public areas where employees are deployed to work. This policy also applies to all occasions where The Tomato Plant Company Ltd employees are on Company business, unless suspended with the agreement of a Senior Manager.
- 2.7 **Impaired (Alcohol)–**  
**For employees working in England, Wales and Northern Ireland** - In terms of this policy any person who has Breath Alcohol Concentration that exceeds 35 mcg per 100 millilitres (to be confirmed by an appropriate test) is deemed to be impaired and therefore in breach of this policy.



**For employees working in Scotland** - In terms of this policy any person who has Breath Alcohol Concentration that exceeds 22 mcg per 100 millilitres (to be confirmed by an appropriate test) is deemed to be impaired and therefore in breach of this policy.

- 2.8 **Impaired (Drugs)** - In terms of this policy, any person found to have consumed illegal drugs or used drugs in an unsanctioned or unreported way (to be confirmed by an appropriate test) is deemed to be impaired due to drugs and therefore in contravention of this policy.
- 2.9 **Misuse** - This applies to using alcohol, drugs or substances in an unsanctioned way. For example any illegal drug use, or using drugs for non-medical purposes without proper direction to do so from an appropriately qualified person such as a medical doctor or pharmacist. It also applies to using alcohol, drugs or substances in a way that are harmful / hazardous to the individual or to others and which are likely to distort perception and response when at work.
- 2.10 **Chain of custody**- is the secure process that ensures the sample provided by an individual for drug testing is labelled, tracked, analysed and reported so that on completion of the laboratory analysis the result is specific to the original sample provided by the individual.
- 2.11 **Employee** – This means any person who carries out work for The Tomato Plant Company Ltd. both on and off The Tomato Plant Company Ltd. premises, and includes but is not limited to employees, agency staff, contractors, sub-contractors and visitors.

### **Section 3 – Scope of the Policy**

- 3.1 This policy applies to all employees of The Tomato Plant Company Ltd., regardless of their job function.
- 3.2 This policy is applicable to all Company premises and any other location where Company employees are deployed to work.

### **Section 4 – Guidelines and Rules**

- 4.1 The Tomato Plant Company Ltd's policy is that the working environment should be free from the influence of substances. This policy will help to ensure that the health and safety of our employees, and others with whom they come into contact, to maintain the efficient and effective operation of the business, and to ensure our customers receive the quality service they require. For those reasons the following rules will be strictly enforced.
- 4.2 No employee shall:
- a) Report or try to report to work whilst impaired due to alcohol or drugs (whether illegal or not) or substances.
  - b) Be in possession of alcohol or illegal drugs on Company premises. Unopened containers of alcohol will be permissible where alcohol is purchased offsite for consumption outside of work.
  - c) Consume alcohol, illegal drugs or take any substance in an unsanctioned way whilst at work or whilst representing The Tomato Plant Company Ltd.



- d) Attempt to sell, distribute or supply alcohol whilst on Company premises or whilst representing The Tomato Plant Company Ltd.
- e) Attempt to sell, distribute or supply drugs which contravene the Misuse of Drugs Act 1971 and the Medicines Act 1968, whilst on The Tomato Plant Company Ltd. premises or whilst representing The Tomato Plant Company Ltd. Any contravention of this, without exception, will be reported to the Police.

4.3 Employees may consume alcohol at Company arranged functions where such consumption has been authorised by the Senior Manager. Such functions will, where possible be arranged for times when employee(s) do not have to return to work having recently consumed alcohol. However, if alcohol is consumed they must not drive a vehicle or return to work on any of the Company's premises/sites whilst over the Company limit.

Employees must remember that they are acting as ambassadors of The Tomato Plant Company Ltd. and their behaviour is appropriate, lawful and does not offend, harass or irritate others present, nor does it in any way, bring The Tomato Plant Company Ltd into disrepute or undermine our brands.

4.4 Contravention of these rules is a very serious matter and the Company will take disciplinary action in the event of an infringement under the Company's disciplinary procedures, which may include dismissal.

## **Section 5 – Employer Responsibilities**

5.1 Within this policy, there are specific responsibilities to be undertaken by all managers and supervisors. Action needs to be taken in the event of an incident/accident or an individual showing signs of impairment due to alcohol, drugs or substances. All managers have a responsibility to ensure that the procedures of this policy are properly enforced and followed.

### **5.2 Senior Management**

- a) To ensure that this policy is implemented throughout The Tomato Plant Company Ltd.
- b) To notify contractors and any associated Company employees of this Substance Misuse Policy and supporting procedures.
- c) To monitor the effectiveness of the Policy on an ongoing basis.

### **5.3 Line Managers, Supervisors and Team Leaders**

- a) To ensure that the health and safety of those individuals under their management or supervision is not endangered through the misuse of substances in the workplace.
- b) To take the appropriate action against those individuals whose job capability is impaired due to substances.



- c) To take the appropriate action against those individuals who are in contravention of the Company's Substance Misuse Policy.
- d) To refer to a Manager who will then consult the independent Human Resource Consultant with regards to those individuals who volunteer that they may have an alcohol, drug or other substance dependency.

## **Section 6 – Employee Responsibilities**

- 6.1 Under the Health & Safety at Work Act 1974 (Section 7a), all employees have a duty of care not only for their own health and safety, but the health and safety of others who may be affected by their acts or omissions.
- 6.2 Employees should familiarise themselves with the policy and the implications arising from a contravention of this policy.
- 6.3 It should be recognised that prescribed and over-the-counter medicines may cause impairment to an individual's performance at work. It is therefore the employee's responsibility to seek advice from their GP or pharmacist on any medicines they are taking. They should inform their Line Manager or any other manager they wish, of any possible side effects of their medication. Any medical information will be treated in strictest confidence.
- 6.4 Employees with genuine concerns about any colleague in relation to substance misuse or dependency should be made aware of their responsibility for taking those concerns to their Line Manager who will then consult with the Human Resource Consultant, with the relevant supporting evidence. Such concerns will be taken seriously and mechanisms for dealing with them are in place. Any persons working for The Tomato Plant Company Ltd. should feel able to raise genuine concerns appropriately without fear of victimisation however this must be done with proper regard to principles of veracity and confidentiality.

## **Section 7 – Implementation of the Policy**

- 7.1 This policy shall be implemented by immediately
- 7.2 This policy shall form part of the terms and conditions of employment for all employees of The Tomato Plant Company Ltd. but will not be contractual and may be amended at any time by the Company. However whilst not contractual, employees are expected to adhere to it and will, depending upon the relevant circumstances be disciplined if they fail to do so.
- 7.3 Training will be carried out to ensure that all employees are aware of their responsibilities. The training objectives relating to this policy are:
  - a) To provide managers and supervisors with an awareness of the Company's policy and the implications for them concerning the procedures and protocols.
  - b) To raise general awareness with regard to substance misuse and to recognise signs and symptoms an individual would be expected to display whilst impaired at work.



- c) To raise general awareness with regard to alcohol, drug or substance dependency and how to access help and support if required.
- d) To provide managers and supervisors with the necessary training tools to promote and raise awareness of the policy to their employees.
- e) To ensure all employees are made aware of their responsibilities and the implications of contravening this policy.

## Section 8 – Discipline

- 8.1 Where the rules of this policy are contravened and following a disciplinary investigation, dismissal may result on the grounds of gross-misconduct under the Company’s Disciplinary Procedure. Employees should refer to the Company’s Disciplinary Procedures and the Summary Notes on Substance Misuse in the Employee Company Handbook for information.

## Section 9 – Screening and Testing

- 9.1 Screening and testing applies to all employees and contractors of The Tomato Plant Company Ltd. The purpose of screening and testing is to ensure that due diligence is exercised and to deter and/or detect individuals working on Company premises whilst being impaired due to alcohol, drugs or substances.
- 9.2 Screening and testing will take place in the following circumstances:
- a) **Intervention Testing** - Where it is suspected that an individual is in contravention of this policy or where it is suspected that an individual is impaired due to the use of alcohol, drugs or substances, testing may be used as part of an assessment process.
  - b) **Post Accident/Incident Testing** – As part of an accident/incident investigation, testing may be carried out on those individuals involved, where possible, to determine whether or not alcohol or drugs may have been a contributory factor.
  - c) **Help and Support** - If an individual’s performance is affected through a dependency to alcohol or drugs or where they are being supported by the Company for an alcohol, drug or substance dependency they may be required to undergo monitoring testing.
  - d) **Random Testing**-Employees whose job role involves driving or operating machinery or any other similar such role will be randomly selected and tested at each of the Company’s premises throughout the course of the year. This is to ensure fairness within the policy and give a clear message that the misuse of alcohol or drugs cannot be tolerated by The Tomato Plant Company Ltd.
  - e) The Company will use breath testing for alcohol and urine for drugs but reserves the right to use other approved methods of testing if necessary.
  - f) Should an employee refuse to consent or provide a sample for testing they will be suspended immediately on full pay, pending the outcome of a disciplinary investigation. A refusal by a contractor to provide a sample will result in that individual being removed from the Company premises. Their employer will be notified of this decision.



## Section 10 – Screening and Testing Procedures and Protocols

- 10.1 **Alcohol – Intervention/Post Accident/Incident/Random-**
- 10.2 The test will be carried by an impartial collection agency specialising in alcohol and drug testing
- 10.3 The test will comprise of a breath sample collection using a calibrated digital alcolmeter, similar to those employed by the police.
- 10.4 The procedure for the administration of this test is as follows:
- a) The employee will be removed from their duties and asked to wait in a private area/room, where the nature of the test will be explained and the implications of a positive test result or a refusal to consent to the test.
  - b) Upon the arrival of the impartial collection agency representative, the employee will be asked to complete and sign a consent form to enable the test to take place. Failure or refusal to complete this will be considered to be a disciplinary offence without good reason.
  - c) If the test shows a breath alcohol level of zero, then the alcohol test will be deemed a negative result.
  - d) If the test shows a breath alcohol level above zero, whether over or under the company limit a further test will be performed at least 20 minutes later to validate the first test result.
  - e) If the second test is positive, (over the Company limit) and therefore confirms the first, the employee will be sent home without pay and safely removed from Company premises following which they will be the subject of a disciplinary investigation. They may be permitted to return to work for their next shift.
  - f) If the second test is below the Company limit and not in ascendency or if the second test is below Company limit but is in ascendency, the result will be recorded and the Company will review the test result before determining the next stage of the investigation.

For example, where the employee has been at work for more than one hour the Company reserves the right to use the test result to determine whether the employee would have been above the Company limit when attending work onto determining whether the employee has consumed alcohol whilst at work.

- g) Employees will not be allowed to resume any work which the Company considers to be safety critical or otherwise likely to be affected by the consumption of alcohol but will either be deployed to other work or be sent home without pay. Depending upon the circumstances action may be initiated under the disciplinary procedures for example if it is considered that the employee consumed alcohol either at work or directly prior to coming in to work
- h) In certain circumstances a lower cut-off level for alcohol may be applied, for example, for employees working on contracts where the client/customer requirements or policy specifies a lower level. In these circumstances, employees will be advised of the levels that apply to their particular role or that contract.



**10.5 Drugs – Intervention/Post Accident/Incident/Random-**

10.6 The test will be performed by an impartial collection agency specialising in alcohol and drug testing

10.7 The procedure for the administration of this test is as follows:

- a) The employee will be removed from their duties and asked to wait in a private area where the nature of the test will be explained and the implications of a positive test result.
- b) Upon the arrival of the impartial collection agency representative, the employee will be asked to complete and sign a consent form to enable the test to take place. Failure or refusal to complete this will be viewed as a positive test result and the appropriate disciplinary investigation will be implemented.
- c) The impartial collection agency representative will collect the urine sample in accordance with strict chain of custody procedures. The drug test requires that the individuals provide a fresh sample of their own urine.
- d) The urine sample will be tested on site using an approved rapid urine test cup and where a non-negative reaction is obtained the urine sample will be split into two further samples (A and B) and both will be delivered to an approved laboratory following strict chain-of-custody procedures, where it will undergo confirmation analysis to ascertain the exact identity of the substance(s) found following the onsite test

10.8 The employee will be sent home from work initially on full pay pending the outcome of the laboratory confirmation result.

10.9 If the laboratory confirmation and analysis result is negative, the employee will be informed accordingly and, if appropriate to do so, will return to work.

10.10 If the laboratory confirmation analysis result is positive then the employee shall be the subject of a disciplinary investigation. If an employee fails a test without having declared to the Company that they have a substance dependency, then they will be dismissed for Gross Misconduct.

10.11 If the approved rapid urine test cup is negative the employee will be informed accordingly and, if appropriate to do so, will return to work. However, where impairment is still an issue they will either be referred to Occupational Health if onsite or removed from site safely and arrangements made for them to see Occupational Health at the earliest opportunity.

## **Section 11 – Help and Support**



- 11.1 The Tomato Plant Company Ltd. will endeavour to ensure that advice and specialist help are made available to any employee who feels they have or are developing a dependency problem relating to alcohol, drugs or substances and seeks help from the Company.
- 11.2 Any employee who seeks the assistance of the Company in obtaining help and support for an alcohol, drug or other substance problem is assured of their confidentiality being respected. Those employees who are not directly employed by The Tomato Plant Company Ltd. will be referred to their own employer.
- 11.3 Early identification and treatment is essential to ensure that problems for both the employee and the Company are avoided. It is very important therefore that employees who feel that they may have a problem with alcohol, drugs or substances should come forward and seek assistance at the earliest possible opportunity. Employees should contact their line manager, or the Human Resource department who will arrange for the appropriate course of treatment or rehabilitation programme to be made available.
- 11.4 During any period of absence from work for agreed treatment, the Company's normal sick pay arrangements will apply and absence for treatment will be treated as normal sickness.
- 11.5 If an agreed or recommended course of treatment is not followed by an employee or is ineffective and occurs concurrently with lapses in the employee's performance, conduct or attendance then they will be dealt with in accordance with the Company's normal disciplinary or sickness absence procedures as appropriate. This includes any matter arising prior to the disciplinary procedure being suspended.
- 11.6 Testing may be carried out to ensure compliance with the treatment and recovery programme. This option will be agreed with the employee before the commencement of the treatment and recovery programme.
- 11.7 The aim of treatment and rehabilitation is to ensure optimum recovery and return to work.
- 11.8 Any employee with a dependency to alcohol, drugs or substances who only declares they have a dependency when a serious misconduct issue has arisen or before a test takes place or where they are proven to be in contravention of this policy will be subject to the same disciplinary procedures as any other employee who contravenes this policy.

## **Section 12 – Alcohol/Drugs Appeals Procedure**

- 12.1 An employee may appeal against the positive result of an alcohol or drugs test at any time within 5 days of the initial test date or result. The appeal procedure is available via the Line Manager. The employee may only appeal against a positive result on the grounds either that:
  - They believe the alcohol test result is inaccurate in which case they will be responsible for all costs for the checking of the calibration of the instrument;
  - or
  - They believe the drug test result to be incorrect, in which case they will be responsible for all costs for testing the B sample;
  - or
  - They can demonstrate that they were not aware at the time of the alcohol or drug test that they had consumed alcohol or drugs.



- 12.2 If an employee wants to instigate the appeals procedure against a positive test result, they must request in writing to their Line Manager their intention to appeal. They must include in the appeal letter their reasons for the appeal with any information that they believe could have affected the test result, and any supporting evidence they intend to use as part of the appeal. The Line Manager must receive the letter either in person or by registered post within 5 days of the initial test date or result. Any information contained in the appeal letter, the Company shall ensure that it remains compliant with the scope of all Data Protection and to the employee's sequential rights to confidentiality. Where an employee's application to appeal is over the 5 days allowed, the appeal will be deemed null and void.
- 12.3 **Alcohol** At the employee's expense a written request will be made to the manufacturer of the calibrated digital alcoholmeter to have a calibration check carried out on the instrument to ensure the instrument's result was valid and accurate. A copy of the report will be sent to the employee and another copy sent to the employer.
- 12.4 **Drugs** At the employee's expense the B sample will be sent under strict chain-of-custody procedures directly from the original UK accredited testing laboratory to a second UK accredited testing laboratory where it will undergo analysis. A copy of the result will be sent to the employee and another copy sent to the employer.
- 12.5 You may appeal against disciplinary action taken against you following a contravention of this Policy through the normal disciplinary process.

**Signed**

**Keith Williams**

**Managing Director**

**March 2015.**