

**ALL PREPARATION EQUIPMENT
TERMS AND CONDITIONS OF HIRE**

1. In this document references to:
 “the owner” shall mean ARCHQUIP PTY LTD ACN 114 946 253 ATF The P & P Archer Family Trust trading as All Preparation Equipment ABN 57 877 629 930 and its employees, servants and agents.
 “the hirer” shall mean the person, firm or corporation referred to in the execution provisions of this document with the proviso that the person signing this document or arranging for the supply of equipment is in fact authorised and has the power to do so and in the event that such person is not authorised that person shall be deemed to be “the hirer”.
 “equipment” shall mean all of the items listed on the “Agreement to Hire” together with additional items supplied at the request or instigation of the hirer and shall include all accessories, parts, containers and consumables supplied with the equipment.
2. The owner is responsible for supplying the equipment. The equipment will be clean and in good working order at the commencement of the hire. It is the hirer’s responsibility to ensure that the equipment meets these criteria and is suitable for the purposes of the hirer. The owner gives no warranty that the equipment is suitable for the hirer’s proposed use;
3. Hire charges shall commence from the time the equipment is collected by the hirer from the owner’s premises and will continue until returned to the said premises. In the event of the hirer requesting the owner to make delivery and collection of the equipment, hire will commence from the time the equipment leaves the owner’s premises until the hire controller of the owner is notified that the equipment is available for collection. In the absence of a prior arrangement, the owner is not obliged to collect the plant from the hirer;
4. The hirer shall be responsible for all freight and other charges incurred in respect to the delivery and return of the equipment and these will be added to the cost of the hire. The hirer must return the equipment to the owner using the owner’s specified carrier;
5. The minimum hire period is one (1) day and in the event of the hirer failing to return the equipment to the owner’s premises until after 8:00am on the morning of the day following the day of hire, the hirer will be charged an additional day’s hire. If the equipment is hired on a Friday, the one day hire period will end at 8:00am on the following Monday morning. The owner makes no provision for half day hire unless by prior arrangement with the owner;
6. The hirer must pay to the owner any deposit prior to the equipment leaving the owner’s premises;
7. Hiring charges shall be as set out on the front of this document or as otherwise advised. In the event that there is any variation to the charges set out it is the hirer’s responsibility to ensure that such variation is clearly noted on this document;
8. Consumables – In addition to the hire charge a consumable rate will apply based on wear of any parts of the equipment at current trade cost per mm of wear. All items will attract charges for replacement of damaged parts or accessories;
9. The hirer shall:
 - (a) Satisfy themselves as to the suitability of the equipment for the intended purpose;
 - (b) Use the equipment in a skilful and proper manner having regard to statutory and other regulations in force in relation to the equipment, including where applicable, the requirement for operation or use of the equipment by a properly certified or licensed person;
 - (c) The hirer shall note all instructions and notices regarding the safe and proper use of equipment, and if the hirer is unfamiliar with the particular equipment, the hirer shall be responsible for ensuring that the necessary information and instruction is obtained for the safe and proper use of the equipment;
 - (d) Ensure that the equipment is not overloaded and is used with an appropriate power source;
 - (e) Accept responsibility for the safekeeping of the equipment and will indemnify the owner for any loss suffered by the owner by reason of misuse, theft or otherwise of the equipment;
 - (f) Accept all responsibility for and will keep the owner indemnified against all loss or damage arising howsoever from the hire or the equipment and shall accept all responsibility for any injury or damage caused during the period of hire to any person or property and shall indemnify and hold the owner free from all liabilities and costs (including but not limited to legal costs on an indemnity basis, and the owner’s costs incurred in enforcing its rights under this document) in respect of all claims in connection herewith;
 - (g) At the hirer’s own expense service (using suitably qualified tradesmen approved by the owner), clean and maintain the equipment in good and substantial repair and condition, reasonable fair wear and tear excepted, and shall supply all fuel, oil, grease, filters or lubricants as may be necessary for the operation, servicing and maintenance of the equipment during the period of hire;
 - (h) Insure the equipment for the full value for the entire duration of the hire;
 - (i) Ensure the equipment is not operated by any person under the age of 18 years or otherwise not qualified; and
 - (j) Ensure the equipment is not used upon any materials containing asbestos or carcinogenic products.
10. Upon completion of the hire the equipment must be properly cleaned by the hirer and all dust collectors free of concrete dust or other materials otherwise a cleaning fee will be deducted from the deposit or charged to the hirer;
11. The owner may with sufficient cause – such as failure on the part of the hirer to pay the hire charges or a breach of the terms and conditions, - terminate the hire and re-possess the equipment at any time and may enter upon any premises for this purpose. The hirer shall indemnify the owner against any claims damages or expenses arising out of such action;
12. In the event of breakdown or failure of the equipment the hirer shall immediately notify the owner and, if requested, return the equipment to the owner’s premises. The hirer shall under no circumstances repair or attempt to repair the equipment without the prior consent of the owner;

13. The equipment remains the property of the owner at all times. The hirer is not entitled to sell, transfer, mortgage, charge or encumber in any way the equipment nor part with possession of the equipment or assign the benefit of this document. If the hirer commits an act of bankruptcy, enters into any form of administration or liquidation, makes any composition or arrangements with his creditors, ceases to carry on business or breaches any fundamental terms of this document, then the owner may exercise all of the owner's rights in relation to the equipment granted under the *Personal Property Securities Act 2009* (Commonwealth) without the need for service of any notice required under that act by the owner on the hirer. For the avoidance of doubt, the hirer agrees that the owner may enter upon the premises where the equipment is located to repossess the equipment in these circumstances;
14. The hirer authorises the owner to collect, retain, record and use commercial and/or consumer information about the hirer in accordance with the *Privacy Act 1988* (Commonwealth) as amended from time to time. The owner may disclose this information to professionals engaged by the owner including, but not limited to, legal professionals, debt collection professionals or other organisations which maintain credit references and/or default listing. The owner may give information about the hirer to a credit reporting agency for the purposes of obtaining consumer and commercial credit reports and/or lodging consumer and commercial defaults on the hirer's credit file. This may be given for during or after the provision of credit to the hirer and will be in accordance with the above Act as amended from time to time;
15. The parties acknowledge that:-
- (a) Under the *Competition and Consumer Act 2010 (Cwlth)* certain conditions and warranties may be implied in these terms and conditions and there are rights and remedies conferred on the hirer in relation to the provision of the equipment which cannot be excluded, restricted or modified by this document ("non-excludable rights");
 - (b) The owner disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the hirer by statute, common law, equity, trade custom usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any non-excludable rights. To the extent permitted by the Act, the liability of the owner for a breach of a non-excludable right is limited, at the owner's options, to the supplying of the equipment again, all payment of any cost of having the equipment supplied again;
 - (c) The owner is in no circumstances liable in contract, tort (including without limitation negligence or breach of statutory duty) to compensate the hirer for:-
 - (i) Any increased costs or expenses;
 - (ii) Any loss of profit, revenue, business, contracts or anticipated savings;
 - (iii) Any loss or expense resulting by claim by a third party; or
 - (iv) Any special, indirect or consequential loss or damage of any nature whatsoever caused by the owner.
16. The hirer hereby charges all property, both equitable and legal, present or future, of the hirer in respect of any monies that may be owing by the hirer to the owner under this document or otherwise, and hereby appoints any director of the owner as the attorney of the hirer for the purposes of executing and registering any caveat or mortgage over any real property owned by the hirer or any director of the hirer from time to time.

DATED THIS DAY OF 2018

SIGNED ON BEHALF OF THE OWNER

SIGNED BY THE HIRER

PRINT NAME:

NAME:

SIGNED:

SIGNATURE: