

**SUNSHINE COAST DRY HIRE
HIRE AGREEMENT
ABN 39 661 604 280
Effective 20th August 2022**

This Hire Agreement ("**Hire Agreement**") is made on _____

between

Davcarol Pty Ltd T/as Sunshine Coast Dry Hire of 133 Sunshine Rd, Wolvi, Queensland, 4570 ("**Owner**")

And _____, , Queensland, 4570 ("**Client**")

BACKGROUND

A. The Owner is the proprietor of the equipment listed in the Schedule to this Hire Agreement ("**Equipment**").

B. The Client will hire the Equipment specified in the Schedule from the Owner upon the Terms and Conditions in this Hire Agreement.

TERMS AND CONDITIONS

Sunshine Coast Dry Hire agrees to hire Equipment to the Client subject to the terms and conditions set out in this document. By signing this Hire Agreement, the Client acknowledges that they have read, understand and will follow all requirements set out in the Hire Agreement. In order for the Client to hire Equipment from Sunshine Coast Dry Hire they must complete and sign the Hire Agreement and any other documents Sunshine Coast Dry Hire may require. Sunshine Coast Dry Hire reserves the right to decline hiring Equipment to the Client at any time.

1. DEFINITIONS

Owner – means Davcarol Pty Ltd ABN 39 661 604 280 trading as Sunshine Coast Dry Hire.

Client – means the person or entity hiring the Equipment as named in the Hire Schedule.

Equipment – means any kind of Equipment provided to the Client by Davcarol Pty Ltd t/as Sunshine Coast Dry Hire under the Hire Agreement including any and all machinery and trailers, accessories, tools, attachments and manuals as listed in the Hire Schedule.

Hire Charges – mean the fees and charges payable by the Client under this Hire Agreement for the hire of the Equipment.

Hire Agreement – means the Hire Agreement entered into between Davcarol Pty Ltd t/as Sunshine Coast Dry Hire and the Client hiring the Equipment and the Terms together with the Hire Schedule, and any Special Conditions

Hire Location:- means the Hire location area of the equipment during the hire period as per Schedule A.

Hire Period – means the period described in Clause 3 and in Schedule A

Commencement Period – The date and time the Client picks up the Equipment or the Equipment is delivered and passion is taken.

Hire Schedule – means the document provided by the Davcarol Pty Ltd t/as Sunshine Coast Dry Hire to the Client which includes details of the Equipment hired, the Fees, the Hire Period, Hire Location and other administrative details.

Special Conditions – means any special conditions applicable to certain items of Equipment as determined by the Davcarol Pty Ltd t/as Sunshine Coast Dry Hire.

Terms – means the General Terms of Hire, as amended from time to time.

2. HIRE OF EQUIPMENT

2.1 The Owner agrees to hire the Equipment to the Client subject to the Hire Agreement. The Owner agrees to ensure Equipment is in good working order prior to the Commencement of Hire and ensure the Equipment has a full tank of fuel prior to Commencement of Hire

2.2 The Hire Agreement sets out the terms of the Hire Agreement between the Owner and the Client. The provision or acceptance of a Hire Schedule shall not form a separate agreement, but shall constitute part of this Hire Agreement.

2.3 The Client agrees to return the Equipment to the address of the Owner on or before the end of the Hire Period as outlined in the Schedule.

2.4 The Owner will not refund any hire fee monies if the Client elects to return the Equipment prior to the end of the Hire Period, regardless of reason.

2.5 Unless expressly agreed otherwise by the Owner in writing, these Terms override and supersede any Hire Agreement or understanding between the parties and any other documents, including, without limitation, any terms and conditions contained in a purchase order.

3. HIRE CHARGES & HIRE PERIOD

3.1 Initial Hire Charges are based on the Hire Period in the Hire Agreement and Hire Schedule.

3.2 The Client acknowledges that hire is strictly limited to the agreed hours and return by 6:00 pm, whichever comes first.

3.3 The Client acknowledges and accepts that if the Equipment is not returned to the Owner by conclusion of the Hire Period, then additional charges will apply at the 4 hourly rate until the Equipment is returned.

3.4 The Client accepts that Equipment is not to be used for longer than the agreed period. If you do not return at due time you will be charge additional hours/days.

3.5 The Client is entitled to use the Equipment for the hire period as outlined in Schedule A ("**Hire Period**") and any extension to this period must be agreed by the Owner, either in writing or by email.

3.6 The Hire Period will commence at the earliest of when the Client collects or takes possession of the Equipment or when the Owner delivers the Equipment in accordance with the Clients instructions, as specified in the Schedule and continue for the term specified in the Schedule.

3.7 The Hire Period includes weekends and public holidays.

3.8 The Hire Period ends when the Equipment is in the Owner's possession

3.9 The Equipment must not be moved from the agreed location area as specified in Schedule A.

4. TITLE

4.1 The Client acknowledges that in all circumstances the Owner owns the Equipment and in all circumstances the Owner retains title to the Equipment (even if the Client goes into liquidation or becomes bankrupt during the Hire Period). And that the Client has rights to use the Equipment as a mere bailee only. The Client does not have any right to pledge the Owner's credit in connection with the Equipment and agrees not to do so.

4.2 The Client agrees not to agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the Equipment and not to conceal or alter the Equipment or make any addition or alteration to, or repair of, the Equipment.

4.3 The Client must not, without the Owner's written permission, move the Equipment out of position (as per Schedule A) or move to another site.

4.4 Any expense of delivery will be an additional charge to the Client.

4.5 The Client acknowledges that the Owner may hire or lease Equipment from a third party (Third Party Owner), and if this occurs, title in the Equipment remains with the Third-Party Owner.

5. PAYMENT FOR RENTAL

5.1 The Client agrees to pay the Owner the hire fee specified in the Schedule ("**Hire Fee**") for the Equipment for the Hire Period, which includes any applicable GST. The Client is not entitled to any discount or refund if the Equipment is not used by the Client for any part of the Hire Period. Additional Hire Charges will apply if the Equipment is not returned within the specified time period. The Owner reserves the right to increase the Fees annually to recover any increases to its costs or arising from changes to the law.

5.2 Client will be charged for all cleaning of the Equipment if not returned in the same condition of cleanliness as it was when delivered. All cleaning costs of the Equipment; cleaning of machine is a flat fee of \$50 plus GST.

5.3 All costs incurred by the Owner to recover, clean, repair the Equipment, including loss of Business.

5.4 All tolls, fines, levies, penalties or charges payable in respect of this Hire Agreement or arising from the Client's use of the Equipment; and

5.6 Any legal expenses or legal costs incurred by the Owner, as solicitor and own client basis, for any actions taken whatsoever due to Client's default of these terms and conditions.

5.7 Prior to Commencement, the Client must (unless agreed in writing prior with the Owner):

5.7.1 Make a full payment for hire of Equipment including delivery (if required).

5.7.2 In addition to full payment for Hire of Equipment and delivery costs the Client must provide a valid credit card to the Owner to be used for pre-authorisation of a \$100 bond. If the Client can't supply a valid Credit Card (for pre-authorisation) then a \$100 cash bond will be required.

5.8 The Client agrees to pay for any damage made to the Equipment while in the Clients possession. The Client is liable for all costs of the owner or the owners Insurance.

5.9 The Client must pay for the new listed price of any Equipment which is not returned to the Owner.

5.10 The Client authorises the Owner to charge the nominated credit card of the Client for any additional costs plus bank fees if applicable on top of the initial Hire Charge created pursuant to any clause of these terms and conditions.

5.11 If a Client does not pay the amount of invoiced fees by the payment due date, an administrative fee of 2% per month on outstanding Fees will be imposed to cover the costs to the Owner from the late payment. In addition, the Client will be liable to indemnify the Owner for all expenses and legal costs incurred by the Owner as a result of the Client's failure to pay the Fees by the payment due date.

6. CLIENT RESPONSIBILITIES:

6.1. The Client shall:

6.1.1. Ensure that the operator is not **under the influence of alcohol or any drug** that may impair their ability to operate the Equipment;

6.1.2. The Client agrees that the use of the Equipment carries with it dangers and risks of injury and death, and the Client agrees to accept all dangers and risks.

6.1.3. Client is responsible On a daily basis complete the pre-start safety checklist if hiring for more than a day.

6.1.4. Client must check the Equipment daily for any sign of looseness or wear and check tyre pressures – (where applicable); in accordance with the manufacturer's instructions and any adhesive signage on the equipment.

6.1.5. Ensure persons operating the equipment are deemed competent, suitably trained, or instructed in its safe & proper use. Anyone operating the equipment must be named on Schedule A and their drivers licence recorded.

6.1.6. The Client will Comply with all work health and safety (WHS) laws relating to the Equipment and its operation, display all safety signs and instructions (as required by law) and ensure that the same are complied with by Equipment operators; and signs are not removed or defaced.

6.1.7. The Client agrees that it will operate the Equipment safely, strictly in accordance with all laws, including environmental laws & only for its intended use as designed by the manufacturer and in accordance with any manufacture's instruction whether supplied by the Owner or posted on the Equipment; for the purpose for which it, and in accordance with the manufacturer's instructions & manuals.

6.1.8. Ensure that all reasonable care is taken by the operator in handling and/or parking the Equipment and that the left attached to the Clients vehicle when not in use and securely stored, and protected against acts of theft or vandalism when not in use.

6.1.9. Be liable for any parking or traffic infringement, impoundment, towage and storage costs incurred during the Hire Period and will supply relevant details as required by the Police and/or the Owner relating to any such matters or occurrences;

6.1.10. Not carry any animals, illegal, prohibited or hazardous substances on, or in, the Equipment supplied without the prior written permission of the Owner;

6.1.11. Not exceed the recommended or legal load and capacity limits of the Equipment.

6.1.12. Notify the Owner immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Client is not absolved from the requirements to safeguard the Equipment by giving such notification. The Client shall immediately take all steps to secure the Equipment so as to prevent any potential injury to person or property, and to prevent any potential or additional damage to the Equipment itself;

6.1.13. Satisfy itself at commencement that the Equipment is suitable for its purpose;

6.1.14. On termination of the hire, the client will deliver the Equipment complete with all parts and accessories, thoroughly cleaned, (in the event the equipment is not thoroughly cleaned, the Client will pay for cleaning see Clause 5.2) and in good order as it was delivered, fair wear and tear accepted, to the Owner.

6.1.15. Keep the Equipment in their own possession and control and shall not assign the benefit of the Hire Agreement nor be entitled to sell, sub-let, take a lien, grant any encumbrance, or create any form of security interest over the Equipment, or allow the Equipment to become a fixture (or any part of, a fixture). The Client shall immediately inform any person trying to take possession of, or attempting to seize the Equipment (for any reason), of Davcarol Pty Ltd.'s interest in, and ownership of, the Equipment and must immediately notify Davcarol Pty Ltd of any such event.

6.1.16. Not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment. In the event that any decal on the Owners Equipment has been removed then all costs incurred by the Owner in replacing the same (should the Owner wish to do so) will be charged to the Client.

6.1.17. Use the Equipment solely for the Client's own works and shall not permit the Equipment of any part thereof to be used by any other party for any other work;

- 6.1.18. Immediately notify the Owner should the Equipment become bogged or stuck. The Client shall be liable for all costs.
- 6.1.19. Not move the Equipment from the area where the Equipment was agreed to be used in (as per Schedule A) without the prior written approval of the Owner.
- 6.1.20. Provide to the Owner (upon reasonable notice by the Owner) free access to the Owner's Equipment in order that the Owner may examine or test the Equipment or assess Equipment care and maintenance;
- 6.1.21. Comply with all Environmental laws as in place from time to time and shall immediately rectify any breach of such laws caused by the use of the Equipment.
- 6.2. The Client must:
- 6.2.1. Not use the Equipment off shore, in an area where friable asbestos is present, or move the Equipment over water without the Owner's prior written consent which may be reasonably withheld;
- 6.2.2. Use the Client's endeavours to ensure that the Equipment is not contaminated with any hazardous substance/s (including asbestos). The Client advises the Owner of any risk of hazardous substance contamination to the Equipment as soon as it becomes apparent. Where the Equipment may have been subjected to contamination, the Client must (as soon as is reasonably possible) effectively decontaminate the Equipment, as well as provide the Owner with written details of decontamination processes utilised. If, in the Owner's sole opinion, the Equipment has not been properly decontaminated then the Owner may require the Equipment to be decontaminated by a specialist, or if the specialist advises that the Equipment is unable to be decontaminated then the Client shall be charged for the full replacement costs of the Equipment. All costs incurred by the Owner in engaging the specialist shall be charged to the Client
- 6.2.3. When moving the Equipment comply with any and all safety guidelines advised by either the Owner or the manufacturer of the Equipment to ensure the Equipment's safe loading, handling and transportation;
- 6.2.4. Not at any time attempt to repair Equipment without the prior consent of the Owner. Where such consent is given if the repairs prove to be defective any way whatsoever, rectification to the Owner's satisfaction will be at the Client's expense.
- 6.3 Immediately on request by the Owner the Client will pay:
- 6.3.1. The new list price of any Equipment, accessories or consumables that are for whatever reason destroyed, written off or not returned to the Owner.
- 6.3.2. All costs incurred in Cleaning the Equipment (charged at \$50 per hire) see Clause 5.2;
- 6.3.3. All costs of repairing any damage caused through the Client's use of the Equipment i.e. the amount to restore the Equipment to the Equipment's pre-hire status;
- 6.3.4. The cost of repairing any damage to the Equipment caused by wilful or negligent actions of the Client or the Client's employees or operators;
- 6.3.5. All costs of repairing any damage to the Equipment caused by vandalism, theft or burglary, arson or acts of God, or (in the Owner's reasonable opinion) in any way whatsoever other than the ordinary use of the Equipment by the Client;
- 6.3.6. Any lost hire fees the Owner would have otherwise been entitled to for the Equipment, under this, or any other Hire Agreement;
- 6.3.7. Any insurance excess payable in relation to a claim made by either the Client or the Owner in relation to any damage caused by, or to, the hire Equipment whilst the same is hired by the Client and irrespective of whether charged by the Client's insurers or the Owner's;
- 6.3.8. Where the Equipment has been lost or stolen any costs incurred by the Owner in recovering the Equipment;
- 6.3.9. Any levies, tolls, penalties, or other government charges arising out of the Client's use of the Equipment.

7. TAXES

- 7.1 The Client will report and pay all taxes, fees and charges associated with the Equipment, with the use of the Equipment, and with revenues and profits arising out of the use of the Equipment, including, but not limited to, sales taxes, property taxes, and licence and registration fees.
- 7.2 The Client will pay any and all penalties and interest for failure to pay any tax, fee or charge on or before the date on which the payment is due. The Client will pay any and all penalties and interest for failure to report required information to any taxing authority with jurisdiction over the Client or the Equipment. If the Client fails to perform the obligations in this clause, the Owner may, but is not obligated to, do so at the Client's expense.
- 7.3 Notwithstanding any other provision of this Agreement, the Client will not be required to pay any tax, fee or charge if the Client is contesting the validity of same in the manner prescribed by the legislation governing the imposition of same, or in the absence of a prescribed form, in a reasonable manner. However, the Client will indemnify and reimburse the Owner for damages and expenses incurred by the Owner arising from or related to the Client's failure to pay any tax, fee or charge, regardless of whether the Client is contesting the validity of the same or not.
- 7.4 If the Client fails to pay any and all taxes, fees, and charges mentioned in this Hire Agreement and the Owner, on behalf of the Client, pays the same, the Client will reimburse the Owner for the cost upon notification from the Owner of the amount.

8. INDEMNITY

8.1 It is the Client's responsibility to ensure the Equipment is operated within the manufacturer's specifications by a competent person.

8.2 It is the Client's responsibility to ensure the Equipment is loaded and unloaded safely by a competent person and will supervise all Equipment operations where required.

8.4 It is the Client's responsibility to ENSURE CHILDREN & OTHER PEOPLE DO NOT HAVE ACCESS & ALSO KEEP A DISTANCE OF 10 METERS from work area or the EQUIPMENT.

8.5 The Client acknowledges that use of the Equipment comes with dangers and risk of injury and the Client accepts all dangers and risks associated with the use of the Equipment.

8.6 The Client assumes all risk and liabilities for, and in respect of, the use of the Equipment including, but not limited to:

8.6.1 Any injury or death of any persons or animals.

8.6.2 Any damage to property or claim by a third party howsoever arising from the possession, use, maintenance, repair or storage of the Equipment.

8.6.3 Transport of the Equipment, including damage or injuries caused by incorrect transport of the Equipment in any way.

8.7 The Client is liable to, and indemnifies and forever keeps indemnified the Owner against any and all damage, loss, claims, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against the Owner and any environmental loss, cost, damage or expense) resulting from the use of the Equipment by any person or a breach of any of these terms and conditions. Such liability may be limited by a damage waiver if one has been provided.

8.8 No delay or "omission" by the Owner of its rights under the Hire Agreement or these terms and conditions will impair any such right, power or remedy, nor will it be construed to be a waiver of any rights to take action or make a claim in respect of a continuing breach or default.

8.9 Where the Owner gives advice, information, assistance and/or service to the Client regarding the suitability or purpose of the Equipment, or in connection with the design, delivery times, dimensions, installation or use of the Equipment, then it is given in good faith and the Owner shall not be liable in any way for any damages, losses or costs however arising resulting from the Client relying on any such advice, information, assistance and/or service.

9. LOSS, DAMAGE OR BREAKDOWN OF EQUIPMENT

9.1 The Client will be responsible for any loss or damage to the Equipment Irrespective of how the loss or damage occurred (normal wear and tear excepted) during the Hire Period.

9.2 If there is a breakdown or failure of the Equipment, then the Client must return the Equipment to the Owner at the Client's expense and the Client must not attempt to repair the Equipment.

10. INSURANCE

10.1 The Client is responsible for any excesses and any other costs associated with any Insurance. The Client is responsible for any shortfall in repair or replacement of the Equipment following payment of any amount received under the Insurance.

11. LIABILITY

11.1 The Client will assume all risks and liabilities for and in respect of the Equipment and for all injuries to or deaths of persons and any damage to property howsoever arising from the Client's possession, use, maintenance, repair or storage of the Equipment.

12. DISCLAIMER

12.1 To the extent permitted by law the Owner disclaims all liability for and does not give any warranties to the Client as to the condition of the Equipment.

13. REPOSSESSION

13.1 The Owner may retake possession of the Equipment if the Client breaches any provision of this Agreement, notwithstanding anything else contained in this Agreement.

13.2 If repossession occurs, the Owner will only charge the Hire Fee up to and including the time of repossession.

14. COMPLETION OF THE HIRE PERIOD

14.1 The Hire Period is completed when the Equipment has been returned to the Owner:

14.1.1 in the same condition as when it was hired; and

14.1.2 on or by the date and time outlined in the Schedule.

15. DEFAULT

15.1 The occurrence of any one or more of the following events will constitute an event of default ("**Event of Default**") under this Agreement:

15.1.1 The Client fails to pay any amount provided for in this Hire Agreement when such amount is due or otherwise breaches the Client's obligations under this Agreement.

165.1.2 The Client becomes insolvent or makes an assignment of rights or property for the benefit of creditors or files for or has bankruptcy proceedings instituted against it under the bankruptcy law of Australia or another competent jurisdiction.

15.1.3 A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 days.

16. REMEDIES

16.1 On the occurrence of an Event of Default, the Owner will be entitled to pursue any one or more of the following remedies ("**Remedies**"):

16.1.1 Declare the entire amount of the Rent for the Term immediately due and payable without notice or demand to the Client.

16.1.2 Commence legal proceedings to recover the Rent and other obligations accrued before and after the Event of Default.

16.1.3 Take possession of the Equipment, without demand or notice, wherever same may be located, without any court order or other process of law. The Client waives any and all damage occasioned by such taking of possession.

16.1.4 Terminate this Hire Agreement immediately upon written notice to the Client.

16.1.5 Pursue any other remedy available in law or equity.

17. NON-MERGER

17.1 The covenants, agreements and obligations contained in this Hire Agreement will not merge or terminate upon the termination of this Hire Agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

18. SEVERANCE

18.1 If any provision of this Hire Agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this Hire Agreement must be construed as if that provision or part of a provision had been severed from this Hire Agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

19. GOVERNING LAW

19.1 This Hire Agreement will be construed in accordance with and governed by the laws of Queensland. Each party submits to the non-exclusive jurisdiction of the courts of Queensland there in connection with matters concerning this Agreement.

20. INTERPRETATION

20.1 In this Agreement, unless the context otherwise requires:

20.1.1 A reference to the singular includes the plural and vice versa;

20.1.2 A reference to any party to this Hire Agreement includes the party's executors, administrators, successors or permitted assigns, and where applicable, its servants and agents;

20.1.3 A reference to an individual will include corporations and vice versa; and

If a word or expression is defined, its other grammatical forms have a corresponding meaning.

20.1.4 Headings are for convenience only and do not affect interpretation.

You are not buying the Equipment. Do not sign this Hire Agreement before you read it. You are entitled to a completed copy of this Hire Agreement when you sign it.

Executed as an agreement

For and on behalf of Davcarol Pty Ltd T/as Sunshine Coast Dry Hire

Carolyn Long	
Authorised Person Name	Client Name
Signature	Signature
Date	Date

SCHEDULE A

Equipment:

Car, Flatbed or Tipper Trailer (cross out whichever is not applicable)

Hire Fee:

Car, Flatbed or Tipper Trailer: \$55 for 4 hours, \$104.50 for 8 hours or \$126.50for overnight

Hire Fee (including Hire Period & Delivery cost (if required)): \$ _____

Credit Card Pre-authorisation Amount \$ _____ **\$100** _____ **or Cash** \$ _____

Hire Period: From _____ to _____

Location Area (Area where equipment is to be used): _____

Name of Equipment Operator _____ **Drivers Licence #** _____

Conditions of use specific to the Equipment:

1. The Client will assume all risks and liabilities for and in respect of the Trailer and for all injuries to or deaths of persons / animals and any damage to property howsoever arising from the Client's possession, use, maintenance, repair or storage of the Trailer
2. Trailer must NOT BE USED by anyone under 18 years of age.
3. Trailer must be parked on Client's property, (NOT ON PUBLIC ROAD),
4. Trailer must be in secure area when not in use.
5. Trailer's must remain attached to clients vehicle when not in use.
6. Client is responsible for all fuel used and must grease machine (as shown) every 8 hours.
7. Trailer must be returned clean. Or you will be charged a cleaning fee of \$50