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## 1.0 Policy

Archer Mechanical employees shall comply with all applicable federal, state, and local drug and alcohol policies.

## 2.0 Purpose

Archer Mechanical, Inc. is committed to providing a workplace environment, which ensures the safety and encourages the personal health and productivity of its employees. The Company recognizes that substance abuse in the workplace is a threat to the safety, health, and job performance of its employees. The Company, as well as our clients, expects the highest standards of our employees and we will strive to exceed their expectations. The goal of this policy is to balance the Company's respect for individuals, with the need to maintain a safe, productive, alcohol and drug-free environment. The Company has established this policy to detect and remove abusers of alcohol and controlled substances from the workplace and encourage them to seek assistance for any substance abuse problems.

The purpose of this policy is to convey to employees the Company's policy on alcohol and drug use in the workplace. These policies and procedures are not intended to create or alter any existing contract, written or verbal, between the Company, and its employees, contractors, or job applicants. This policy does not change the at will employment status of employees.


## 3.0 Scope

This policy applies to all departments, all employees, and all job applicants. As a condition of employment, employees are required to abide by this policy.

The Designated Employer Representatives (DER) responsible for implementing, maintaining, and answering questions regarding this policy are the President, Vice President, Safety Director, and Human Resources Manager. The DER will receive test results and is authorized to take immediate actions to remove employees from duties and make required decisions in the testing and evaluation process.

## 4.0 Definitions

**Actual knowledge** means actual knowledge by an employer that a employee has used alcohol or controlled substances based on the employer's direct observation of the employee, or an employee's admission of alcohol or controlled substance use, unless the employee has voluntarily reported their violation of drug or alcohol prohibitions and

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has sought assistance from a medical provider. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing.

**Adulterated** means a specimen, which contains a substance, not expected to be present in human urine, or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine.

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

**Alcohol use** means the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication), containing alcohol.


**Alcohol Testing** means to be tested by a certified breath-alcohol technician, using a DOT approved breath testing device or a DOT approved initial screening device. Blood and urine alcohol testing may also be used at the discretion of the employer when breath alcohol testing is not available. "Controlled Substance or drug" means any prescribed drug or controlled substance including those assigned by 21 U.S.C. 802 and includes all substances listed on Schedule I, through Schedule V., as they may be revised from time-to-time (21 CFR 1308), including but not limited to:

- Marijuana
- Cocaine
- Amphetamines
- Benzodiazepines
- Barbiturates
- Opiates and other narcotics
- Phencyclidine (PCP) & other hallucinogens

**Drug Testing or Drug Test** means the scientific analysis for the presence of drugs or their metabolites in specimens from the human body. Analysis will include separate screening and confirmation tests.

**Employee** means, for purposes of this policy only, any person or officer in the service of the employer for compensation.

"Medical Review Officer (MRO)" means a licensed physician with knowledge of drug abuse disorders, who is used by the Employer or a third-party testing agency to determine and verify if a legitimate or medical explanation exists for a positive, adulterated, substituted or invalid drug test result.

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**Medical Cannabis** refers to treatment and (controlled) substances prescribed by medical professionals for employees of Archer Mechanical. Related areas include but are not limited to behaviors, reasonable suspicion, intoxication, and test results related to medical cannabis.

**On Duty** means all working hours including meal or break periods, regardless of whether the employee is on the Employer premises, and at any time the employee represents the Employer in any capacity, including operating Employer equipment or vehicles.

**Positive Alcohol Test** means test levels on both the initial test and the confirmation test are 0.04 percent or greater (0.04 gm/210 liters of breath or 0.04 gm/deciliter of blood or 0.04 gm/dl of urine). “

**Positive Drug Test** means the drug test levels on both the screening test and the confirmation test are at or above the level recognized as positive by the U.S. Department of Health and Human Services, in its Mandatory Guidelines for Federal Workplace Drug Testing Programs, or the standard cutoff levels set by the laboratory; and the MRO has verified the test result as positive.


**Prospective Employee** means any person who has made a written or oral application to become an employee of the Employer.

**Reasonable Suspicion or For-Cause Testing** means an articulated belief, based on recorded specific facts and observations, and reasonable inference drawn from those facts and observations that an employee is in violation of this policy. The company and the employee must understand that suspicion alone does not create an accusation, instead, it is the trigger for testing to gain understanding, promote safety, and to answer questions related to the workplace inquiry.

**Sample or specimen** typically means any sample of urine or breath; the Employer reserves the right to use blood, oral fluid or hair for drug or alcohol testing.

**Substituted** means a specimen with creatinine and specific gravity values that are so diminished or divergent that they are not consistent with human urine.

**Use** means to illegally consume, sell, purchase, manufacture, distribute, or be under the influence of, report to work under the influence of, or be in the possession of drugs or alcohol. The term use shall also include the presence of drugs or alcohol in the body of an employee, including the presence as a metabolite, the use of a prescription drug without a valid prescription from a health care provider and not using a prescription drug as prescribed by the authorizing health care provider.


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## 5.0 Prohibited Activities

It is, therefore, the policy of the Company that the following activities are strictly prohibited during working hours by all employees and that illegal use of controlled substances is prohibited at any time.

### 5.1 It is against company policy:

1. For an employee to work with the presence of a controlled substance or Alcohol in his/her body (as determined by a drug or alcohol test), including their presence as a drug metabolite, unless the substance is legally prescribed.
2. For an employee to sell, use, purchase, manufacture or be in possession of an illegal controlled substance or drug paraphernalia while on Company time, conducting Company business or on Company property or while not on Company time, business, or property.
3. For an employee to sell, use, purchase, manufacture or be in possession of controlled substances, including prescription medications which are controlled substances, on Company time, business, or property, unless the prescription medication is legally prescribed to the employee and taken as prescribed.
4. For an employee to operate any vehicle or machinery while under the influence of any drug, including prescription or over the counter medications, including medical cannabis which render the employee incapable of safely and adequately operating a vehicle, machinery or performing any other job duties.
5. For an employee to use alcohol, in any form, while on Company time or business, or to report to work under the influence of alcohol. An employee is in violation of this policy when he or she is working and has a breath, blood, or urine alcohol result greater than or equal to .04.
6. For an employee to consume or use alcohol in any form, within four hours of a scheduled work period, including when "on call".
7. For an employee who has a legally obtained medical cannabis patient card to consume medical cannabis within 6 hours of the start of scheduled work period, including when "on call".
8. For an employee who has a legally obtained medical cannabis patient card to have medical cannabis and/or related paraphernalia while on company property, at or on projects for the company, and/or any premises during a regularly scheduled work period where the employee may be performing duties for the company.

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9. For an employee to refuse to submit a specimen for controlled substances or alcohol testing.
10. For an employee to have a verified positive drug test.
11. For an employee to tamper with, substitute or adulterate any specimen collected for drug or alcohol testing. Any sample reported by the laboratory or Medical Review Officer as Substituted or Adulterated will be considered a “refusal to test” or a refusal to submit a valid sample.
12. For an employee to obstruct or not fully cooperate with specimen collection or testing procedures.
13. For Company Supervisors to allow an employee to work, if they have actual knowledge that the employee has violated this policy or has reasonable suspicion.

## 6.0 Actions Required of Employees

**6.1** If an employee suspects that they have a substance abuse problem or have been diagnosed as such, the employee is encouraged and expected to contact an acceptable medical provider or counselor for appropriate evaluation and treatment. Any employee who voluntarily seeks assistance or rehabilitation for drug or alcohol misuse, prior to being subject to testing, shall not be subject to disciplinary action for violation of the policy if the employee continues to participate satisfactorily in the counseling or rehabilitation program. The employee must obtain a work release from the counselor or treatment provider before returning to work. Cost of any treatment or counseling will be at employee expense. Following a successful treatment program, the company reserves the right to conduct immediate drug or alcohol testing as part of the ongoing work requirements. The employee may carry the burden of the cost of this testing.

**6.2** Any investigation by law enforcement or conviction for Controlled Substance or Alcohol activity may be cause for dismissal from employment. Failure to report any conviction for illegal drug use or alcohol misuse to the Company, within five calendar days of the conviction, may result in disciplinary action including immediate termination from employment.

**6.3** The use of prescription or over the counter medications that may impair the employee's ability to perform his/her duties safely and competently must be reported to the employee's supervisor. Employees should read any warning label on a medication (prescription or over the counter medication) and report the use to his/her supervisor if the label warns of possible impairment. The use of some medications may require reassignment or temporary leave of absence without pay. Employees must take all medication as **directed on the label and must heed any warnings listed on the medication's label.**

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**6.4** Employees who have been prescribed medical cannabis as a means of treatment shall immediately notify those who comprise the DER within Archer Mechanical.

- The employee shall submit a copy of their state issued medical cannabis patient card.
- The employee’s name, ID #, issue date, address, expiration date, and DOB shall be clearly visible.
- When a new card or active dates have been issued, the employee shall submit updated card/information to the DER within 3 business days of issuance.

## **7.0 Disciplinary Action**


**7.1** A new hire employee who has a positive test or “refusal to test” will not be further considered for employment and is not eligible to reapply for at least 30 days.

**7.2** A new hire employee that has a positive test must pay for another test and pass before being eligible to reapply.

**7.3** Employees injured on the job whose post-accident drug or alcohol test results are positive, adulterated or substituted or a refusal to test may result in loss of some or all workers compensation benefits, as permitted by Utah State law.

**7.4** A valid and legally obtained medical cannabis patient card & Archer Mechanical’s Drug & Alcohol policy does not provide a guarantee of employment if an employee is required to take a drug test under the policy and process requirements of the managing client, customer, and/or general contract that Archer Mechanical is sub-contracted to.

**7.5** If an employee cannot return to a project or jobsite due to a marijuana/THC positive drug test, and the employee has a valid and legally obtained medical cannabis patient card, Archer Mechanical reserves the right and discretion to reassign the employee to another project or to furlough, lay-off, and/or terminate the employee in question.

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## 8.0 Drug Testing Circumstances

### 8.1 Pre-employment Tests

All prospective employees will be asked to submit to a drug test at the Company's designated collection facility as part of a potential job offer. Employment with the Company will be offered to those who test negative on the pre-employment drug test. Refusal to consent to a pre-employment drug test, or positive, adulterated or substituted test results will terminate any action towards employment until a prospective employee can provide a negative sample at their cost.

### 8.2 Post-Accident Tests

The Company may require drug &/or alcohol testing of any employee involved in an on-the-job accident/injury where the following occurs:

- A fatality,
- An injury to the employee or other individual that requires medical attention away from the workplace or accident scene; or
- Damage to the Company or other's vehicles or property.


Testing is required of any individual whose actions or inaction could have reasonably contributed to the cause of the accident.

Employees involved in motor vehicle accidents, in Company vehicles, that meet the above post-accident criteria shall be tested.

### 8.3 Reasonable Suspicion

Reasonable suspicion drug &/or alcohol testing will be done in cases where there is a reasonable belief by a supervisor that an employee may be using a Controlled Substance, using alcohol while at work, or reporting to work under the influence of Alcohol or a Controlled Substance, using prescription drugs illegally or any other violation of Company policy. Reasonable suspicion or For-Cause tests will be required when there is any of the following:

1. Observable phenomena (actual use, possession, odors, etc.).
2. Abnormal behavior or physical characteristics; or
3. A drug-related investigation, arrest or conviction or an investigation of theft.

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#### **8.4 Random Testing**

Unannounced random drug &/or alcohol testing may be conducted on all employees and selection will be administrated by the Company DER or Company's third-party administrator. Selection for random testing will be computer generated. Option a: All employees will have an equal chance of selection in each selection period (or Option b) All employees will be selected for testing by using a method uninfluenced by any personal characteristics or behavior.

Employees will be notified by a supervisor of the requirement to take a random drug test and should then proceed immediately to the collection site designated by the supervisor.

#### **8.5 Unit or Blanket Testing**

Drug &/or alcohol testing of all Company employees or all employees in one location or job category. Unit testing may be performed as part of an investigation of accidents, an investigation into whether a group of employees has violated the alcohol and drug use prohibitions listed in this policy or for other investigations conducted at the discretion of the Company. Unit testing may also be performed to test all employees at the implementation of this program.

#### **8.6 Follow-up Testing**


After a violation of this policy and return to duty, an employee is subject to unannounced drug &/or alcohol testing, the schedule of follow-up testing will be determined by the employer. The employee shall also be subject to all other required types of testing including random testing. Follow-up testing may be extended for up to five years after return to duty and may include drug &/or alcohol tests.

#### **9.0 Specimen Collection Procedures**

All specimens collected will be done in conformity with Company policy and shall be conducted in accordance with the requirements of Title 34, Chapter 38 of the Utah Code Annotated or in accordance with any other applicable state.

Urine and breath alcohol samples will be collected by individuals trained to follow Department of Transportation (DOT) collection and testing procedures, and in accordance with specific laboratory collection procedures not covered by DOT procedures.



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All drug tests, alcohol tests and sample collection procedures shall be performed under reasonable and sanitary conditions and in such a manner as to respect the privacy of the individual being tested, as well as prevent tampering or misidentification of the sample.

**OPTION 1:** When the Company or collector has reasonable cause to believe the donor has tampered with his/her sample, a new sample will be immediately recollected. Direct observation collection of urine specimens is not allowed under this policy.

**OPTION 2:** Direct observation collections will be required when the Employer or collector has reasonable cause or clear evidence to believe the donor has tampered with or will try to tamper with their specimen. The DER must be informed and concur with the decision to do an observed collection before it is performed.

## 10.0 Testing Methods

All specimens tested will be done in conformity with Company policy and shall be conducted in accordance with the requirements of Title 34, Chapter 38 of the Utah Code Annotated or in accordance with any other applicable state.

All drug tests will use a screening test (typically an immunoassay test) and confirmation test by gas chromatography/mass spectrometry if the screening test is positive.


Alcohol testing will typically be done with an evidential breath testing device. An initial screening alcohol test will be conducted, if that result is greater than or equal to .02, a confirmation test will be conducted using an evidential breath testing device. The confirmation test is the result.

## 11.0 Dilute Specimen Procedures

Specimens which the laboratory reports as “dilute,” specific gravity less than 1.003, & creatinine level less than 20 mg/dL may be considered invalid, and the employee/applicant may be required to give second specimen. The second specimen will be considered the result.

## 12.0 Confidentiality

All Drug & Alcohol test results will remain confidential to the extent required or allowed by law. The DER will determine which persons within the company need to know which test results.

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Test and other records will be maintained in a secure manner so that disclosure of confidential &/or medical information to unauthorized persons does not occur.

### **13.0 Designated Employer Representative**

The current Designated Employer Representatives (DER):

Director of Operations/Safety Manager  
Human Resources Manager  
Vice President of Operations  
President

The DER priority order to receive test results from the MRO and/or the third-party administrator is as listed above. If the DER changes employment the employee assuming the job title listed above will assume the duties of the DER.


A DER is required to take immediate action to remove employees from duties and to make required decisions in the testing and evaluation process whenever there is a non-negative test result.

### **14.0 Drug and Alcohol Testing Procedures**

Drug tests, sample collections, alcohol test and reporting of results will be done in conformity with Company policy and shall be conducted in accordance with the requirements of Title 34, Chapter 38 of the Utah Code Annotated or in accordance with any other applicable state.

In general, Federal Department of Transportation urine and breath alcohol collection/testing procedures will be used. The most current copy of these procedures can be found at [www.dot.gov/ost/dapc/](http://www.dot.gov/ost/dapc/), or from the third-party administrator (DFW-IDT).

All drug tests, alcohol tests and sample collection procedures shall be performed under reasonable and sanitary conditions and in such a manner as to ensure the privacy of the individual being tested.

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The Company has designated the following trained and certified urine collectors and breath alcohol technicians.

Designated Occupational Health Clinics:

**Utah:**

Concentra - Salt Lake City, Facilities  
 Work Med - Salt Lake City, Facilities

**Wyoming:**

Big Horn Urgent Care and Occupational Medicine, 1453A Dewar Dr,  
 Rock Springs, WY 82901-5812 Local :( 307) 382-2466

**Nevada:**

Northern Nevada Regional Hospital, 2001 Errecart Boulevard, Elko, NV 89801  
 Local: (775) 738-5151

Authorized Safety Representative: Q Selin

Other Collection Sites:


The Company has designated IDT as the third-party administrator who will assist the Company in setting up and administrating this program.

**15.0 Payment for Tests**

All drug & alcohol tests required by the Company will be paid for by the Company except for assigned, yet random testing for an employee who has successfully completed a company recognized and documented treatment program. All tests conducted on employees will be considered compensatory time by the Company.

Pre-employment tests will be conducted on prospective employees on their own time. The Company will pay the cost of pre-employment tests.

Exception, re-analysis of non-negative samples will be paid for by the employee or prospective employee. See Contesting a Drug Test section of this policy for complete details.

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## 16.0 Medical Review Officer Review

The MRO will receive all test results directly from the laboratory. Negative results (those detecting a controlled or illegal substance) will be reported to the designated company representative and will receive only an administrative or quality assurance review by the MRO office.

Any person with a positive, adulterated, substituted or invalid test result will be contacted by the MRO and given the opportunity to present medical or other information, which might provide a legitimate explanation for the non-negative test result. If the MRO can verify a legitimate explanation, such as, a valid prescription for the drug found, the MRO would then reverse the test result to negative, and report it as negative to the employer.

Alcohol tests with a result greater than or equal to .04 will be reported immediately to the designated employer representative by the technician or the third party administrator (DFW). No MRO review will be done on breath or blood alcohol tests. Urine alcohol positive results will be reviewed by the MRO.


Intermountain MRO Services, Inc. is the current provider of MRO services.

## 17.0 Controlled Substance Screening Cut Off Levels

Screening and Confirmation Test Cut-off Levels for the Controlled Substances testing in urine are as follows:

	Screening	Confirmation
Marijuana	50 NG/ML	15 NG/ML
Cocaine	300 NG/ML	150 NG/ML
Opiates	2,000 NG/ML	2,000 NG/M
Amphetamines	1,000 NG/ML	500 NG/ML
Phencyclidine	25 NG/ML	25 NG/ML

The Company reserves the right to test for other controlled substances, use specimens other than urine & breath for testing and to change cut-off levels.

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## 18.0 Disciplinary Actions

Upon receipt of a verified positive drug test or alcohol test result greater than or equal to 0.04, or a refusal to test, the collector, MRO and/or third-party administrator will immediately notify the Company DER.

The Company DER must immediately remove the employee from the workplace & notify the employee of the policy violation & the consequences for violating this policy.

Any employee that refuses to take the following actions when required is in violation of Company policy, which will result in termination of employment:

1. Take a drug or alcohol test,
2. Appear for testing,
3. Fully cooperate with collection procedures and reasonable collector requests, or
4. Not tamper with, adulterate, or substitute a specimen for testing.

A positive drug or alcohol test may result in the Company terminating all company provided employee benefits for a period of no less than 6 months.

1st violation: the employee will be sent home until a negative test can be provided and paid for by the employee at an approved employer location. For the 1st time violators, the minimum action taken will be probation for 6 months but could include up to termination at the employer's discretion when considering the gravity of the situation. If put on probation, during the 6 months the DER reserves the right to random test the violator at any time at the violator's expense.


2nd Violation: will result in immediate termination and the employee will not be eligible for rehire for 1 year. If an employee is rehired after 1 year and violates the policy again they are not eligible for rehire.

### EMPLOYEE DISABILITY (ADA)

Diagnosed alcoholism is considered a disability under the Americans with Disability Act (the "ADA").

The Company will make reasonable accommodations under the ADA for employees who suffer from alcoholism, including encouraging an employee to participate in rehabilitation programs. However, the Company will hold an alcoholic employee to the same performance standards as other employees and will discipline an employee, up to and including termination. This includes instance where the employee's alcohol use adversely affects the employee's job performance or is a safety hazard.

Pursuant to Utah Code Annotated Title 34-38-14 (1953), as amended from time-to-time,

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an employee or prospective employee whose Controlled Substance or Alcohol (except as modified by the Americans with Disabilities Act) tests are confirmed and verified positive in accordance with the provisions of this program, shall not, by reason of those results alone be defined as a person with a "Handicap" or "Disability" for purpose of Utah Code Annotated Chapter 35, Title 34, known as the Utah Anti- Discriminatory Act.