

# Waiver of Liability

## For User

As an essential part of the consideration for the use of the Lamartek, Inc. (dba Dive Rite (herein "Dive Rite") Closed Circuit Rebreather Underwater Breathing Apparatus, and/or Shearwater Research (herein "Shearwater") Shearwater Dive Can Electronics to the User, \_\_\_\_\_, the User, for him / herself, his / her executors, heirs, successors, and assigns, and Manufacturer / Seller, Dive Rite, Shearwater, agree to the following terms and provisions:

1.0 User **VOLUNTARILY RELEASES, DISCHARGES, WAIVES AND RELINQUISHES ANY AND ALL ACTIONS, CLAIMS, OR CAUSES OF ACTION** for injuries or damages to his / her person or property whether arising as a result of or based on any **NEGLIGENT ACT OR OMISSION OF THE MANUFACTURER / SELLER OR OTHERWISE** in connection with the design, materials, assembly, structural integrity, performance, instructions for operating, or use, or for operation of the Dive Rite O2ptima Rebreather, Shearwater Research Dive Can electronics or any of its component parts.

\_\_\_\_\_ Read and Understood (user to initial)

2.0 User voluntarily **ASSUMES ALL RISK OF INJURY, DEATH, OR DAMAGE** to his / her person or property arising from or in conjunction with the use or operation of the Dive Rite Optima Rebreather, Shearwater electronics, or any of its component parts.

\_\_\_\_\_ Read and Understood (user to initial)

3.0 User understands and is aware that SCUBA / Rebreather diving is an inherently dangerous and hazardous activity, and **VOLUNTARILY ASSUMES ALL RISKS OF INJURY, DEATH, DAMAGE, OR LOSS OF ANY KIND** occurring while SCUBA / Rebreather diving or working with the Dive Rite Optima Rebreather, Shearwater electronics, or while relying on the Dive Rite O2ptima Rebreather, Shearwater electronics, or components data, prior, during, or subsequent to SCUBA / Rebreather diving.

\_\_\_\_\_ Read and Understood (user to initial)

4.0 User agrees that he / she will not make a claim against or sue the Manufacturer / Seller or its principals, employees, or agents for any injuries or damage to persons or property arising in conjunction with the use of or working with the Dive Rite O2ptima Rebreather, Shearwater electronics, or components. Further, User agrees to **INDEMNIFY, SAVE HARMLESS, AND REIMBURSE** the Manufacturer / Seller or its principals, employees, or agents for all costs, attorney's fees, judgments, or settlements in any and all actions, claims, or causes of action for injuries or damage to persons or property arising in conjunction with the use of or working with the Dive Rite O2ptima Rebreather, Shearwater Dive Can electronics, or components due to the Manufacturer's / Seller's negligence or otherwise, wherever and by whomever such action, claim, or cause of action is asserted.

\_\_\_\_\_ Read and Understood (user to initial)

5.0 User understands that Manufacturer / Seller makes this sale or use of the Dive Rite O2ptima Rebreather, Shearwater electronics or components without any express or implied warranties of merchantability or fitness for a particular use or purpose, and that the Dive Rite O2ptima Rebreather, Shearwater electronics, or components are hereby accepted in "as is" condition by User.

\_\_\_\_\_ Read and Understood (user to initial)

6.0 Use of the Dive Rite O2ptima Rebreather, shearwater electronics or components are permitted only upon this "Waiver of Liability" required herein, and is for "O2ptima Rebreather Certified Divers" or "O2ptima Rebreather Trainees Under Recognized Instructor Supervision" only. The User agrees and understands that the Dive Rite O2ptima Rebreather, Shearwater electronics and components are only to be used without instructor monitoring after successful completion of an agency approved O2ptima Rebreather Training Course and acceptance by Dive Rite of the User's successful completion of an agency approved O2ptima Rebreather Training Course" and only upon the "waiver of Liability" required herein.

\_\_\_\_\_ Read and Understood (user to initial)

7.0 The User agrees to attend and successfully complete re-qualification training courses as outlined by recognized training agencies. The User agrees that these re-qualification training courses must be successfully completed and further agrees that the successful completion of these courses is necessary in order to continue the use of the Dive Rite O2ptima Rebreather, Shearwater electronics, or components. In no event does the successful completion of these courses imply a release or abrogate any of this "Waiver of Liability".

\_\_\_\_\_ Read and Understood (user to initial)

8.1 User agrees that the use of this Dive Rite O2ptima Rebreather, Shearwater electronics or components are for the use by the User only. The User further agrees that he / she will not allow any non Dive Rite O2ptima Rebreather, Shearwater electronics or component Trained person to use the Rebreather.

\_\_\_\_\_ Read and Understood (user to initial)

8.2 Further, in the event that person(s) other than the User are to use this Dive Rite O2ptima Rebreather, Shearwater electronics or components, as specified in paragraph 8.0, User agrees to assure their successful completion of an agency approved Training Course and to obtain their agreement to the terms and provisions of this **"WAIVER OF LIABILITY"**, as evidenced by their notarized signature(s), prior to delivery of this Dive Rite O2ptima Rebreather, Shearwater electronics and components to the User.

\_\_\_\_\_ Read and Understood (user to initial)

8.3 In the event that person(s) other than the User identified in paragraph 8.1 fail or refuse to successfully complete an agency approved Rebreather Training and or to sign this **"WAIVER OF LIABILITY"** agreement pursuant to paragraph 8.1, Manufacturer / Seller has the right to refuse delivery until such signature(s) have been obtained, or alternatively, to cancel completely this availability of the Dive Rite O2ptima Rebreather, Shearwater electronics, and components to the User.

\_\_\_\_\_ Read and Understood (user to initial)

9.1 In the event the User allows or permits this Dive Rite O2ptima Rebreather, Shearwater electronics or components to be used by, or transfers this Dive Rite O2ptima Rebreather, Shearwater electronics or components to any person who is not a successful graduate of these training courses and a signatory to this **"WAIVER OF LIABILITY"** agreement pursuant to paragraph 8.2, such user or transferee shall be considered an unauthorized user of the Dive Rite O2ptima Rebreather, Shearwater electronics, or components.

\_\_\_\_\_ Read and Understood (user to initial)

9.2 User agrees to **INDEMNIFY, SAVE HARMLESS, AND REIMBURSE** the Manufacturer / Seller or its principals, employees, and agents for all costs, attorney's fees, judgments, or settlements in any and all actions, claims, or causes of action for injuries or damage to persons or property arising in conjunction with the use of the Dive Rite O2ptima Rebreather, Shearwater electronics or components by an unauthorized user, wherever and by whomever such action, claim, or cause of action is asserted.

\_\_\_\_\_ Read and Understood (user to initial)

10.0 User and Manufacturer / Seller agree that this **"WAIVER OF LIABILITY"** agreement is to be governed by the laws of the State of Florida, USA.

\_\_\_\_\_ Read and Understood (user to initial)

11.0 User and Manufacturer / Seller agree that the terms and provisions of this **"WAIVER OF LIABILITY"** agreement shall be severable, and should any term of provision be found unenforceable, that term or provision shall be binding and enforceable to the extent permitted by law and the remainder of this agreement shall be binding and enforceable in accordance with its terms to the full extent permitted by law .

\_\_\_\_\_ Read and Understood (user to initial)

12.0 User hereby acknowledges that the Dive Rite O2ptima Rebreather, Shearwater electronics and components provided are experimental in nature, and as such, Shearwater cannot provide any warranty as to the use, operation, or fitness of this equipment.

\_\_\_\_\_ Read and Understood (user to initial)

13.0 User understands and acknowledges that the manufacturing and use of this Dive Rite O2ptima Rebreather, Shearwater electronics, or components would not be possible at any price without the existence of this **"WAIVER OF LIABILITY"**.

\_\_\_\_\_ Read and Understood (user to initial)

14.0 **IT IS THE INTENTION OF THE USER, TO EXEMPT AND RELIEVE MANUFACTURER / SELLER AND ITS PRINCIPALS, EMPLOYEES, AND AGENTS FROM LIABILITY FOR INJURIES OR DAMAGES TO PERSONS OR PROPERTY ARISING FROM NEGLIGENCE OR OTHERWISE.**

\_\_\_\_\_ Read and Understood (user to initial)

15.0 **USER, HAS READ AND FULLY UNDERSTANDS THE TERMS AND PROVISIONS OF THIS "WAIVER OF LIABILITY" AGREEMENT AND VOLUNTARILY SIGNS AND AGREES TO BE BOUND BY IT.**

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Address (Street, City, State, Country)

\_\_\_\_\_  
User (Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

## **Personal Diver Information**

### **Contact Information<sup>1</sup>**

Name:

Address:

Phone Home:

Phone Work:

Phone Cell:

E-mail Address:

### **Certification Process**

In order to receive your controller, you need to have 1 of the following done;

1. Already be a certified O2ptima diver.

Training Agency: \_\_\_\_\_

Certification Number: \_\_\_\_\_

2. Successfully pass a O2ptima diver

course. Instructor Agency: \_\_\_\_\_

Instructor Name: \_\_\_\_\_

Instructor Contact Number: \_\_\_\_\_

If you are taking an Optima course from a certified instructor, the controller will be sent to your instructor in order to unlock your unit for the course. Only upon completion of the course will the instructor provide you with the controller.

<sup>1</sup> This information will be kept confidential and use solely for the purpose of product updates