



APPLICATION FOR CREDIT & CREDIT TERMS

APPLICANT DETAILS

Entity Type: Private Company / Public Company / Partnership / Sole Trader (Circle one)

Entity Name: _____

ACN: _____ ABN: _____

Trust Name: _____
(if applicable)

Trading Name: _____

Street Address: _____ Postcode: _____

Postal Address: _____ Postcode: _____

Telephone No: _____ Facsimile No: _____

Type of Business: _____

How Long Established: _____

Accounts Contact: _____ Email: _____

Estimated Monthly Purchases: _____

Bank: _____ BSB/Acc No: _____

Method of Payment: Electronic / Cheque / Credit Card (Circle one)

TRADE REFERENCES

Business Name	Contact Person	Telephone No.	Average Monthly Purchases
1.			
2.			
3.			

Are ticket monies placed into a separate trust account? Yes No

CREDIT TERMS

THE PARTIES AGREE:

1. DEFINITIONS

- 1.1 In this Agreement unless inconsistent with the context or subject matter:

"Address for Service" means in relation to each Party:

Pro Dive Cairns: 116 Spence Street, Cairns Queensland 4870;

Applicant: See Page one;

"Agreement" means this document labelled "Application for Credit & Credit Terms";

"Pro Dive" means Remick Pty Ltd ACN 010 474 012 trading as Pro Dive Cairns BN 27 99029;

"Confidential Information" means information relating directly or indirectly to Pro Dive, its assets and the operation and affairs of Pro Dive, including without limitation, this Agreement and the Products;

"Force Majeure" means an act, omission or circumstance over which Pro Dive could not reasonably have exercised control;

"Party" means Pro Dive and/or the Applicant, as the case may be;

"Parties" means Pro Dive and the Applicant;

"Products" means the products supplied by Pro Dive to the Applicant, from time to time.

2. PROVISION OF PRODUCTS

- 2.1 Pro Dive and the Applicant agree that Pro Dive will provide the Products to the Applicant in accordance with the terms of this Agreement.

3. INDEPENDENT CONTRACTOR

- 3.1 The Applicant acknowledges and agrees with Pro Dive that in providing the Products to the Applicant it is doing so as an independent contractor and that neither this Agreement nor the provision of the Services or Products will create any relationship of employer and employee or partnership between the Applicant and Pro Dive.

4. WARRANTIES

- 4.1 The warranties contained in this clause are additional to warranties implied by law. Each of the warranties will be read and construed as a separate and independent warranty and will not be limited by reference to each other. All warranties will be valid at all times during the term of the Agreement and will be continuing warranties which will survive the termination or expiration of this Agreement.
- 4.2 The Applicant warrants to Pro Dive that as at the date of this Agreement and for the duration of this Agreement:
- (a) the information contained in this Agreement is true and correct and it has disclosed all relevant information to Pro Dive accessing the credit worthiness of the Applicant; and
 - (b) it has the legal right and power to enter into this Agreement;
 - (c) the execution, delivery and performance of this Agreement by the Applicant has been duly and validly authorised by all necessary corporate action on its part;
 - (d) this Agreement is a valid and binding Agreement on the Applicant, enforceable in accordance with its terms;

(e) the Applicant is not insolvent and no external controller has been appointed over any part of its assets and no such appointment has been threatened.

(f) the Applicant is not bankrupt or in liquidation or administration and no proceedings have been brought or threatened for the purpose of bankrupting or winding up the Applicant.

(g) no partner, director or shareholder of the Applicant is bankrupt, a discharged bankrupt or in any form of external control.

5. PAYMENT

- 5.1 The Applicant will pay Pro Dive for the Products within 30 days of the end of the month in which the Products were supplied by Pro Dive to the Applicant.
- 5.2 Any amounts not paid by the Applicant to Pro Dive in accordance with this Agreement will attract interest at the daily rate of 15% per annum.
- 5.3 The Applicant acknowledges and agrees that the Applicant has no entitlement to any monies received by the Applicant from time to time in respect of Products except for authorised commission and fees as agreed with Pro Dive from time to time. The Applicant further agrees that such monies are held on behalf of and to the account of Pro Dive and agrees to account to Pro Dive for all such monies (after deduction of the agreed commission and fees) promptly on or before 30 days of the end of the month in which the Products were supplied by Pro Dive to the Applicant.

6. INDEMNITIES

- 6.1 The Applicant will indemnify and hold harmless Pro Dive, its officers, directors, employees and agents and parent, subsidiary or affiliated companies, from and against any and all damage, loss, claims and demands of any nature caused by or arising out of the acts or omissions of Pro Dive in performing in respect of the Products. **[Instructions]**

7. WAIVER, RELEASE, DISCHARGE

- 7.1 The Applicant releases, discharges, waives and forever holds harmless Pro Dive from all claims for any loss sustained by the Applicant whether caused by Pro Dive's negligent act or wilful act or omission, breach of contract, breach of statutory duty or otherwise in connection with supplying the Products.

8. CONFIDENTIAL INFORMATION

- 8.1 The Applicant acknowledges that the Applicant may become acquainted with or have access to Confidential Information, and agrees to maintain the confidence of the Confidential Information and to prevent its unauthorised disclosure to or use by any other person, firm or company.
- 8.2 The Applicant must not make any statements, comments or representations in relation to Pro Dive or the Products whatsoever, unless prior written consent is obtained from Pro Dive.

9. PRIVACY ACT

- 9.1 The Applicant agrees to permit Pro Dive to:
- (a) seek personal and business company credit information from a credit reporting agency on the Applicant to assess the Applicant's Application for credit; and
 - (b) obtain a report about the commercial activities or commercial creditworthiness of the Applicant from a business which provides information about the commercial creditworthiness of the persons; and

- (c) obtain personal information about the Applicant from other credit providers whose names have been provided to Pro Dive or who are named in a credit report, for the purpose of assessing the application for credit made to Pro Dive; and
- (d) obtain a consumer credit report about the Applicant from a credit reporting agency for the purpose of collecting overdue payments in relation to commercial credit owed by the Applicant; and
- (e) seek a credit report from a credit reporting agency containing personal information about the Applicant to assess whether to accept the Guarantor(s).

10. TERMINATION

10.1 Pro Dive may in its absolute discretion, by written notice to the Applicant, immediately terminate this Agreement or part of this Agreement to the extent it relates to a or a number of Products:

- (a) where the Applicant does not make payment in accordance with this Agreement;
- (b) in the event of the Applicant's insolvency, receivership, administration, liquidation or bankruptcy, assignment for the benefit of creditors, or where any substantial part of the Applicant's property is, or becomes, subject to any lien, levy, seizure assignment of sale for or by any creditor to governmental agency without being released or satisfied within ten days;
- (c) in the event of Force Majeure; and
- (d) in the event of breach of any warranty contained in this Agreement.

10.2 The rights and remedies of Pro Dive contained in this clause are in addition to any other rights and remedies by law or under this Agreement.

11. GENERAL

11.1 All notices authorised or required under this Agreement to be given by a Party to the other shall be in writing, sent by facsimile, delivered personally, or sent by registered post, and in each case addressed to the other Party at the Party's Address for Service or as the case may be at such other address as a Party may from time to time notify to the other Party.

11.2 The following will constitute proof of receipt:

- (a) if sent by registered post, proof of posting by registered post; or
- (b) if sent by facsimile, a successful facsimile transmission report;

11.3 Receipt of a notice given under this Agreement will be deemed to occur:

- (a) in the case of a communication sent by registered post on the third business day after posting;
- (b) in the case of a facsimile on the business day immediately following the day of dispatch.

11.4 This Agreement is governed by the laws of Queensland and the Commonwealth of Australia which are in force in Queensland. The Parties submit to the jurisdiction of the Courts of Queensland, relevant Federal Courts and Courts competent to hear appeals from them.

11.5 This Agreement contains the entire understanding and agreement between the Parties as to the subject matter of this Agreement. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter

of this Agreement are merged in this Agreement and are of no further effect. No oral explanation or information provided by a Party to another affects the meaning or interpretation of this Agreement or constitutes any collateral agreement, warranty or understanding.

11.6 No waiver or amendment of a provision of this Agreement is binding unless made in writing and signed by both Parties.

12. GUARANTEE

12.1 In consideration of Pro Dive agreeing to be bound by this Agreement, the Guarantor, as a principal obligor and not merely as surety, irrevocably and unconditionally guarantees to Pro Dive (and indemnifies Pro Dive in respect of) the due and punctual performance of all the obligations of the Applicant under or arising out of the Agreement including (without limitation): -

- (a) the prompt payment of all amounts payable by the Applicant under the Agreement;
- (b) the prompt performance of all other obligations of the Applicant under the Agreement;
- (c) the prompt payment of all amounts for which the Applicant may become liable in respect of any breach of the Agreement.

12.2 The Guarantor agrees that the Guarantor's obligations under this guarantee and indemnity shall be unconditional irrespective of: -

- (a) the validity, regularity and enforceability of any provision of the Agreement;
- (b) the absence of any action by Pro Dive or the Applicant to enforce the Agreement;
- (c) the waiver of consent of Pro Dive in respect of any provision of the Agreement;
- (d) the recovery of any judgment against the Applicant;
- (e) any action to enforce judgment against the Applicant;
- (f) any variation of the terms of the Agreement;
- (g) any time or indulgence granted to the Applicant by Pro Dive;
- (h) the winding up or dissolution of the Applicant;
- (i) any change in the status, function, control or ownership of the Applicant;
- (j) any consolidation, merger, conveyance or transfer by the Applicant;
- (k) any other dealing, transaction or arrangement between Pro Dive and the Applicant; or
- (l) any other circumstances which might otherwise constitute a legal or equitable discharge of or defence to a surety.

12.3 This Guarantee and indemnity shall be a continuing guarantee and indemnity which shall not be discharged except by complete performance of all the obligations of the Applicant under or arising out of the Agreement.

12.4 Pro Dive may require the Guarantor to make a payment or perform any other obligation of the Applicant under or arising out of the Agreement: -

- (a) without first asking the Applicant to do so; and
- (b) irrespective of whether the payment or other obligation would be enforceable against the Applicant.