

# Warranty

## HYPERFORM, INC. LIMITED WARRANTY FOR SEADEK PRODUCTS

Thank you for your purchase of a Hyperform, Inc. product. This Limited Warranty (the "Warranty") is made by HYPERFORM INC. ("Hyperform"), a Florida corporation, in connection with the Buyer's purchase of a Hyperform product, as more fully defined in that certain purchase order of even date herewith ("the Covered Product"). This Warranty constitutes the entire agreement between Hyperform and the Buyer as to any warranty provided by Hyperform to the Buyer on the Covered Product

WHAT THIS LIMITED WARRANTY COVERS. Hyperform warrants to the Buyer ("Buyer", for purposes of this Warranty, means only first purchaser of the Covered Product and does not extend to subsequent purchasers) that the Covered Products are free from defects in workmanship and materials at the time of manufacture and for a period of thirty-six (36) months from the date the Covered Products are shipped from Hyperform for delivery to the Buyer. The limited warranty provided hereunder is subject to the strict precondition provided that the Covered Products are used and maintained in accordance with all Hyperform specifications for preparation, installation, storage, as set forth in the two documents, Storing SeaDek Instructions (TAB 4-21) and Applying SeaDek Instructions (TAB 4-20), relevant to the Covered Product, which may be found posted at seadek.com. Improper installation and/or repair voids this Warranty in its entirety, without exception.

### I. ACKNOWLEDGMENTS OF BUYER.

By purchasing a Hyperform product, Buyer accepts this Warranty and acknowledges the following:

- A. That Buyer has read and understands and agrees to the terms and limitations of this Warranty.
- B. That Buyer has been provided with sufficient opportunity to consult with independent legal counsel regarding this Warranty and the limitations hereof, and that Buyer has not relied upon any statements or representations of Hyperform for Buyer's understanding or interpretation of any provision hereof.

### II. WHAT THIS LIMITED WARRANTY DOES NOT COVER.

This limited warranty does not cover the installation of the Product onto any surface, nor does it cover adhesion of the Product to the boat or to any other surface to which the Covered Products are applied. This warranty applies only to material and workmanship of the Covered Product itself. Some fading and/or discoloration of the Covered Products may occur with time and use in the marine environment; such fading and/or discoloration is not covered by this limited warranty. This limited warranty covers only excessive fading or polymer degradation resulting from defective materials. This warranty specifically EXCLUDES deformation, discoloration or other damage to the Covered Product, and EXCLUDES all other damage or loss, resulting from the Covered Product's being subjected to temperatures in excess of 165°F ("Max Temp"). See Light Amplification (TAB 4-26). Max Temp may occur for example in certain specific installations which result in light amplification at the Covered Product surface due to reflection of sunlight from reflective surfaces or refraction of sunlight through light-transmissive surfaces such as windshields or optically clear structures. Care should be taken to avoid installing the Covered Product in such areas. It is exclusively the Buyer's responsibility to provide assurance that any particular installation will not exceed the Max Temp. Hyperform, Inc. shall not be responsible for any damage or loss resulting from any application or use of the Covered Product which exceeds the Max Temp. Installations resulting in the Covered Product's experiencing temperatures in excess of the Max Temp shall void this Warranty in its entirety.

### III. WHAT HYPERFORM WILL DO.

Covered Products determined by Hyperform to have material and/or workmanship defects will be covered as follows. Products deemed by Hyperform to be defective within thirty-six (36) months of shipment to Buyer will be replaced or a refund for the defective product will be provided. At Hyperform's sole option, they may choose to cover the shipping charges of the replacement pad for shipping within the U.S. The Buyer will be responsible for all shipping charges for international shipping.

PROCEDURE. The Buyer shall first submit a completed End User/Dealer/Distributor/Cert Fabricator Warranty Replacement Request and supporting photographs depicting the defective condition and/or return the product. The instructions for this process can be found within the Return Material Authorization (RMA) document (Form 4-13). If deemed defective by Hyperform an RMA (Returned Merchandise Authorization) will be issued along with a credit or a replacement pad for the defective Product in accordance with the terms stated herein.

### IV. LIMITATIONS ON HYPERFORM LIABILITY AND MISCELLANEOUS PROVISIONS.

- A. Hyperform's total liability under this Warranty shall not exceed the replacement value of the Covered Product.
- B. In no event will Hyperform be liable under any theory of liability or be obligated for consequential or indirect damages of any type or nature.
- C. This Warranty shall not be assigned or transferred by the Buyer without the prior written approval of Hyperform.
- D. This Warranty shall be governed by and construed according to the laws of the state of Florida, U.S.A. The Parties agree to personal jurisdiction in the state of Florida, and venue in Brevard County, Florida, or in the Federal Court for the Middle District of Florida, Orlando Division.

### V. WARRANTY DISCLAIMERS.

- A. THIS WARRANTY SUPERSEDES AND REPLACES ANY PREVIOUS WARRANTY MADE OR OFFERED TO THE BUYER BY HYPERFORM AND SEADEK, INCLUDING BUT NOT LIMITED TO ANY WARRANTY SET FORTH IN ANY OTHER AGREEMENT BETWEEN THE PARTIES HERETO.
- B. HYPERFORM SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, NOT SPECIFICALLY SET FORTH IN THIS WARRANTY. OTHER THAN AS SPECIFICALLY SET FORTH IN THIS WARRANTY; (1) THERE ARE NO WARRANTIES ESTABLISHED OR IMPLIED; (2) THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF; (3) NO EXPRESS WARRANTY IS GIVEN; AND (4) NO AFFIRMATION OF FACT OR PROMISE MADE BY HYPERFORM, BY WORD OR ACTION, SHALL CONSTITUTE A WARRANTY.
- C. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED FROM THIS WARRANTY.
- D. EXCEPT FOR THE PROVISIONS SET FORTH IN THIS WARRANTY, NO AGENT, EMPLOYEE, SUBCONTRACTOR, OR REPRESENTATIVE OF HYPERFORM HAS ANY AUTHORITY TO BIND HYPERFORM TO ANY OTHER AFFIRMATION, REPRESENTATION, OR WARRANTY CONCERNING THE PRODUCT SOLD TO THE BUYER. UNLESS AN AFFIRMATION, REPRESENTATION OR WARRANTY IS SPECIFICALLY INCLUDED IN THIS WARRANTY, IT SHALL NOT BE ENFORCEABLE BY THE BUYER.
- E. HYPERFORM MAY, FROM TIME TO TIME, IN THEIR SOLE DISCRETION OFFER TO REPAIR OR REPLACE COVERED PRODUCT IN CERTAIN SPECIFIC SITUATIONS. SUCH OFFERS BY HYPERFORM, INC, IF MADE, ARE NOT TO BE CONSTRUED AS A WAIVER OF ANY EXCLUSION OR OTHER LIMITATION TO THIS WARRANTY STATED HEREIN, NOR ARE THEY TO BE TO BE CONSTRUED AS A COURSE OF DEALING THAT IN ANY WAY MODIFIES THE TERMS OF THIS WARRANTY.