



- Appearance due to surface profile, texture, and/or color changes in the coating/surfacing as a result of weathering or atmospheric conditions.
- Cleanliness or discoloration of the coating/surfacing caused by environmental conditions, including, but not limited to, dirt, pollutants, or biological agents.

**EXCLUSIONS AND LIMITATIONS FROM WARRANTY COVERAGE.** The System shall not be considered defective, and this warranty will not apply, where the claimed defect is attributable to any cause other than the above-defined System defects. This warranty shall not apply to:

- Damage to the System caused by:
  - animals, flying or falling objects, or by natural disasters, including but not limited to earthquakes, hailstorms, windstorms (winds in excess of 72 miles per hour measured at 33 feet above ground), hurricanes, and tornadoes;
  - any deliberate or negligent act, vandalism, act of terrorism or war, mechanical damage, vehicular or pedestrian traffic, storage of material, or other misuse or abuse;
  - defects or irregularities in the design, materials, or construction of the Structure or substrate, including but not limited to structural movement, structural failure, substrate failure, internal substrate moisture, or internal pressure conditions;
  - unprotected contact with uncured concrete and similar alkaline materials, organic solvents, or any other chemical (solid, liquid, gas, or any other form) that is not listed in KSA's literature regarding chemicals to which the System is resistant and that has not been otherwise approved by KSA in writing;
  - Owner's failure to prevent or mitigate degradation or deterioration of, or leakage through, the substrate, overburden, or other elements of the Structure or substrate that are in contact with or otherwise affect the performance of the System;
  - leaks or seepage due to existing project conditions that prevent proper termination or adhesion of membrane and flashing, including but not limited to low flashings less than 6" in height, tie-ins to adjacent roofing or waterproofing systems, or application to existing coatings or other finish materials;
- Repairs or modifications (including penetrations) made without KSA's prior written consent to the methods and materials to be used, or performed by an applicator not authorized by KSA;
- Damage, defects or irregularities in the System or Materials that do not cause leaks or seepage through the System to the substrate;
- The performance of materials installed on the Structure in locations other than those identified above;
- The performance of materials that are not supplied by KSA, regardless of whether KSA approves their use with the System;
- Unless otherwise agreed as additional coverage in this warranty, the performance of optional KSA and non-KSA surfacing materials not required for watertightness as part of the System, which Owner recognizes will require periodic reapplication.

**CONDITIONS TO CONTINUING COVERAGE.** This warranty shall be voided if:

- Owner fails to comply with its obligations under this warranty, including prompt reimbursement to KSA for expenses incurred in the investigation and repair of non-warranted conditions;
- Owner fails to remedy conditions affecting the System that are excluded from warranty coverage, including maintaining the Structure and any other non-System components, and repairing non-warranted damage to the System;
- There is a misrepresentation as to, or material change in, the use of the System or type of occupancy of the Structure that has a deleterious effect on the performance of the System;
- The extent of repairs or modifications made by third parties without KSA's prior written consent damages the System (the performance of emergency repairs will not in and of itself cause this warranty to be voided provided that permanent repairs are made promptly in a KSA-approved manner).

**THIS EXPRESS WARRANTY IS GIVEN BY KSA IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR USE.** Owner's sole and exclusive remedy against KSA in connection with the purchase, installation, use, and/or performance of the System is repair or replacement of the failed area as expressed in this warranty. KSA shall not be liable for damage to other components of the System not provided by KSA or approved by KSA in writing, the substrate, the Structure itself, or to the contents of the Structure, whether or not caused by a defect covered by this warranty. **KSA SHALL NOT BE LIABLE TO THE OWNER OR TO ANYONE ELSE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT, OR PUNITIVE DAMAGES ARISING FROM ANY DEFECT, DELAY, NONDELIVERY, NONPERFORMANCE, RECALL OR OTHER BREACH BY KSA, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, DEATH, PROPERTY DAMAGE, LOST PROFITS, OR OTHER ECONOMIC INJURY.** This warranty gives you specific legal rights, and you may also have other rights which vary from state to state. Some states, such as New Jersey, do not allow limitations on how long an implied warranty lasts, the exclusion or limitation of incidental or consequential damages, or the limitations on time to bring certain actions, so such limitations contained herein do not apply to individual consumers in New Jersey and may not apply in other states.

This warranty is not transferable unless KSA otherwise agrees in writing and a transfer fee is paid by the transferee. Neither the parties to this warranty nor any other person (including Applicator Firm) may modify or expand this warranty, waive any of the limitations, or make any different or additional warranties with respect to the System. Any statements to the contrary are null and void unless made in a writing signed by the Managing Director of KSA. This warranty is subject to and shall be interpreted according to New York law without regard to principles of conflicts of laws. Any controversy or claims relating to the System shall be settled exclusively by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association ("AAA"), in the office of the AAA closest to the Structure within the state where the Structure is located, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. No action or claim shall be brought against KSA unless filed within one year after the basis for such claim becomes known, or with the exercise of reasonable diligence should have become known, to the Owner or its representatives. Any action or claim not timely filed shall be deemed waived. This agreement to arbitrate disputes shall not, however, apply to any lawsuits commenced by third parties wherein KSA brings a claim against the Owner.

This warranty shall not be effective unless or until (i) Owner has paid in full all invoices of KSA, Applicator Firm and any other supplier of materials for the System, (ii) KSA, receives payment in full of the purchase price for the warranty and any attached riders, and (iii) this document is signed by the Owner of the Structure and the Managing Director of KSA.

THE TERMS OF THE FOLLOWING RIDERS ARE INCORPORATED IN THIS WARRANTY BY REFERENCE:

C _____	C _____
FOR OWNER	FOR KEMPER SYSTEM AMERICA, INC.
BY _____	BY _____
(Print/Type) _____	(Print/Type) _____
TITLE _____ DATE _____	TITLE _____ DATE _____