KEMPER SYSTEM

KEMPER SYSTEM AMERICA, INC.

___ -YEAR SELECT LIMITED WARRANTY

SYSTEM USED: _____ **FLEECE WITH** _____ **RESIN/COATING**

OWNER
NAME:
ADDRESS:
TELEPHONE:

APPLICATOR FIRM
NAME:
ADDRESS:
TELEPHONE:

STRUCTURE INFORMATION

NAME:
ADDRESS:
SIZE OF PROJECT:

APPLICATION LOCATION:
COMPLETION DATE:
PROJECT NO.:

SAMPLE

The Warranty

KEMPER SYSTEM AMERICA, INC. ("**KSA**") warrants to the above-named **Owner** that the above referenced KSA Supplied Resin / Coating (**"System"**) installed on the **Structure** by an **Approved Applicator** in accordance with KSA specifications, shall be free from leaks or seepage through the System to the substrate caused by manufacturing defects in KSA material content and composition for the above referenced period of **years** from the **Completion Date**. Only leaks or seepage found by KSA to have been caused by manufacturing defects in KSA material shall be deemed System defects covered by this warranty. This warranty is subject to the requirements, conditions, limitations, and exclusions set forth below.

Claim Notification

The Owner must notify KSA directly in writing through the warranty claim form process located at www.kemper-system.com of any claimed defect within thirty (30) days of its discovery and during the warranty period. Failure to give timely notice of a claimed System defect shall constitute absolute waiver of any claim and KSA shall have no liability under this warranty or otherwise with respect to such claimed defect. Notwithstanding any other provision of this warranty, KSA's maximum liability over the life of this warranty for any covered repair or replacement shall be an amount equal to the original KSA materials cost to the Owner to install the System.

Remedy

KSA shall at its option repair or replace only the area of the System determined by KSA in its sole discretion to be defective and the cause of the leak during the warranty period. When deemed necessary by KSA, the Owner shall, at its sole expense, (1) provide to KSA photographs and samples of the Materials, (2) remove/replace overburden to enable inspection, (3) furnish KSA and its agents free access to the structure and the Materials for inspection and testing, and (4) provide all required scaffolding, staging, and rigging. Failure by Owner to furnish KSA samples, photographs, information or free access to the structure or to remove/replace overburden for purposes of inspection shall constitute an absolute waiver of any claim. If after inspection it is determined that the KSA materials are not defective or that coverage under this warranty is excluded, then Owner shall reimburse KSA for all costs incurred in investigating the claimed defect. If leaks or seepage through the System to the substrate are caused in part by a System defect covered by this warranty and in part by a cause or condition excluded from this warranty, then KSA's liability under this warranty shall be proportionately and equitably reduced. In such event the Owner shall reimburse KSA for the cost of any repairs or replacement in excess of its proportionate liability. Failure to reimburse expenses incurred in the investigation and repair of non-warranted conditions within 30 days of receipt will result in the warranty being voided

LIMITATIONS AND EXCLUSIONS FROM WARRANTY COVERAGE. This warranty does not cover or apply to:

- Improper installation of the KSA materials or System;
- Defects or irregularities caused by any adulteration, alteration, dilution, modification, misuse or improper storage of the Materials after delivery;
- Failure of the Owner to exercise reasonable care in the maintenance of the building;
- The performance of materials that are not supplied by KSA, regardless of whether KSA approves their use with the System.
- Appearance of coatings/surfacings due to surface profile, texture and/or color changes in the coating/surfacing caused by weathering, man-made, atmospheric or environmental conditions, including but not limited to: dirt, pollutants or biological agents;

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Visit http://kemper-system.com/US/eng/warranties/warranty-form.html to submit a leak claim.

- Any conditions that prevent positive drainage or result in standing water on Modified Bitumen systems;
- Defects in design or construction of the frame wall components, deck or any other underlying or adjacent surfaces of or material and equipment on structural components of the wall or building;
- Damage caused by any deliberate or negligent act, repairs, vandalism, act of terrorism or war, mechanical damage, storage of material or other misuse, abuse or man-made damage;
- Damage caused by animals, flying or falling objects, fires 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 for reinforced waterproofing and roofing systems and 54 miles per hour for unreinforced coatings), hurricanes, and tornadoes;
- Deterioration or movement of material adjacent to or through the System;
- Leaks or seepage due to existing project conditions that prevent proper termination or adhesion of System, including but not limited to tie-ins to adjacent roofing or waterproofing systems, or application to existing coatings or other finish materials;
- Infiltration or condensation in, through or around copings, flashings, walls, building structure or underlying or surrounding areas;
- Installations, penetrations, alterations, or repairs made on or through the wall after the System has been applied, including but not limited to the installation of heating, cooling, electrical, mechanical or plumbing structures, fixtures or equipment; and
- Damage caused by unprotected contact with uncured concrete, alkaline materials, organic solvents or any other substance or chemical (solid, liquid, gas, or any other form) that is not listed in KSA's literature as a substance or chemical to which the System is resistant and that has not been otherwise approved by KSA in writing.

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

- Owner fails to comply with its obligations under this warranty;
- Owner fails to remedy conditions affecting the Materials or 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 Materials or System;
- Repairs or modifications made by third parties without KSA.'s prior written consent damage the Materials or 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 or the exclusion or limitation of incidental or consequential damages, 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 Authorized Representative 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_____

DRAFT

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