3. COMPLIANCE WITH TAMKO INSTRUCTIONS, RECOMMENDATIONS AND LIMITED WARRANTY: In no event shall TAMKO be liable under this Limited Warranty or the TAMKO Limited Warranty Agreement if: (A) the Product has been stored, handled, installed and maintained in compliance with TAMKO’s application instructions, specifications, any recommendations or guidelines set forth in this Limited Warranty, including without limitation any conditions, exclusions and other provisions detailed in the terms and provisions of this Limited Warranty have been complied with; (B) the Product has been used in a manner inconsistent with TAMKO’s recommendations, specifications, or the provisions of this Limited Warranty; (C) the Product has been used in any manner contrary to TAMKO’s instructions, recommendations or guidelines; or (D) TAMKO does not have the authority to recommend or accomplish such repairs.

4. BUILDING AND STRUCTURE PLANS: Because TAMKO does not practice engineering or architecture, neither the issuance of this Limited Warranty nor any review or inspection of the building, structure, plans, specifications or construction by a TAMKO representative shall constitute any warranty or representation by TAMKO with respect to design, structure, plans, specifications or construction or in any way constitute an extension of the terms and conditions of this Limited Warranty. It is up to the Owner to determine the Product to be included in full compliance with the terms and conditions set forth in TAMKO’s most current application instructions, specifications, and recommendations. FURTHER, THE OWNER HEREBY ACKNOWLEDGES THAT IT IS SOLELY THE OWNER’S RESPONSIBILITY TO DETERMINE THAT THE PRODUCT HAS BEEN INSTALLED IN COMPLIANCE WITH (I) ANY CONTRACT SPECIFICATIONS OR ANY OTHER SPECIFICATIONS TO WHICH THE OWNER IS CONTRACTUALLY obligated TO COMPLY, TO (II) THE TERMS AND CONDITIONS OF THIS LIMITED WARRANTY.

EXCLUSIONS FROM COVERAGE:

TAMKO shall not be liable under this Limited Warranty for any of the following:

1. Damage to any building or structure, either exterior or interior, or any property contained therein or for injuries or damages of any kind whatsoever.
2. Damage resulting from acts of God, including, but not limited to, hurricanes, tornadoes, hail or other violent storm or casualty or impact of objects.
3. Leaks or damage resulting from exposure of the Product to ionized radiation or contamination by radioactivity from any nuclear source, or chemical attack on the Product as the result of exposure to chemicals including, but not limited to, aromatic or aliphatic solvents, chlorinated hydrocarbons, turpentine, oils, or organic or inorganic gaseous materials.
4. Inadequate drainage.
5. Structural defects or failures in the building(s) or structures in which the Product is installed.
6. Any additional installation, repairs or alterations on or through the Product after the initial installation that is not consistent with TAMKO application instructions.
7. Infiltration or condensation of moisture around or under the foundation or other system components.
8. Damage to the Product due to underlying or overlying materials.
9. Misuse or abuse of the Product.
10. Faulty or improper workmanship or application of the Product.
11. Removal, excavation, or replacement of concrete or other materials on or through the Product or the foundation or other system components.
12. Leaks from any cause other than inherent manufacturing defect in the Product.

NON-TRANSFERABILITY:

This Limited Warranty shall accrue and inure only to the benefit of the Owner of the Product and shall not be assignable or transferable in any manner, including without limitation any condition, exclusion or other provision by which the Product or this Limited Warranty is transferred, modified, or altered. This Limited Warranty shall be assignable or transferable only in the event of the sale or transfer of the Product by the Owner to a Commercial Buyer, provided the Commercial Buyer signs and returns to TAMKO a completed and executed Limited Warranty Assignment form. TAMKO shall have the authority to require the sale of the Product and/or this Limited Warranty. The Owner shall have the authority as the Owner of the Product, to retain the ownership of the Product and/or this Limited Warranty. The Owner shall have the exclusive authority to resolve any dispute relating to the interpretation, application, enforceability or formation of this Limited Warranty. In the event of a transfer of the Product or any part of this Agreement is void or voidable, when allowed to void or voidable by law, the new owner or transferee shall be entitled to recover its costs and reasonable attorney’s fees.

TAMKO-TW-60, TW-105 FLASHING, TWM-1 MASTIC, TWP-1, TWP-LV1 AND TWP-2 ADHESIVE PRIMERS, LIMITED WARRANTY AND ARBITRATION AGREEMENT

MANDATORY BINDING ARBITRATION: ANY CLAIM OR CONTROVERSY BETWEEN YOU AND TAMKO AND/ OR ITS EMPLOYEES AND AGENTS, PRODUCT OR PROPERTY OWNED BY YOU AND/OR WITH RESPECT TO THE PRODUCT OR THE LIMITED WARRANTY SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION. WITHSTANDING THE FOREGOING, INDIVIDUALS WHO PURCHASED THE PRODUCT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES MAY PURSUE A CLAIM IN ANY SMALL CLAIMS COURT WITH JURISDICTION PROVIDED THE CLAIM IS MADE AS AN INDIVIDUAL ACTION AND NOT AS PART OF A CLASS. TO ARBITRATE AN ACTION AGAINST TAMKO, YOU MUST INITIATE THE ARBITRATION IN ACCORDANCE WITH THE APPLICABLE RULES OF THE AMERICAN ARBITRATION ASSOCIATION, THE JUDICIAL ARBITRATION AND MEDICATION AGREEMENTS (“ARBITRATION AGREEMENT”) IN EFFECT AT THE TIME YOU FILE YOUR NOTICE OF ARBITRATION WITH TAMKO AND PROVIDE WRITTEN NOTICE TO TAMKO BY CERTIFIED MAIL AT P.O. BOX 97, GALENA, KS 66739-0097. THE ARBITRATION SHALL HAVE THE AUTHORITY TO RENDER THE SAME RELIEF AS A COURT OF COMPARE SUIT, AS TO WHICH THE PRODUCT AND/OR THIS LIMITED WARRANTY, THE ARBITRATOR SHALL HAVE THE EXCLUSIVE AUTHORITY TO RESOLVE ANY DISPUTE RELATING TO THE INTERPRETATION, APPLICATION, ENFORCEABILITY OR FORMATION OF THIS LIMITED WARRANTY. THE CLAIM MUST BE BROUGHT IN THE FORUM AUTHORIZED BY LAW TO CONDUCT ARBITRATION FOR THE STATE IN WHICH THE PRODUCT IS SITUATED. ANY ARBITRATION AGREEMENT EXCEPT THIS AGREEMENT IS VOID OR VOIDABLE, WHEN ALLOWED TO VOID OR VOIDABLE BY LAW, THE NEW OWNER OR TRANSFEREE SHALL BE ENTITLED TO RECOVER ITS COSTS AND REASONABLE ATTORNEY’S FEES.

Class Action Waiver: You and TAMKO AGREE THAT ALL CLAIMS, DISPUTES, OR ACTIONS BETWEEN US ARISING FROM OR RELATING TO THE PRODUCT AND/OR THIS LIMITED WARRANTY WILL BE, ARBITRATED OR, AT TAMKO’S DISCRETION, DECIDED IN AN INDIVIDUAL ACTION AND NEITHER PARTY WILL CONSOLIDATE, OR SEEK CLASS TREATMENT FOR ANY ACTION UNLESS PROVIOUSLY AGREED TO IN WRITING BY BOTH YOU AND TAMKO.

Arbitration Must Be Commenced Within One Year: Any action relating to the Product or this Limited Warranty must be brought within one year after the first discovery of the potential problem with the Product. In those jurisdictions where statutory claims or implied warranties and conditions cannot be excluded, all such statutory claims, implied warranties and conditions and all rights to bring actions for breaches thereof expire one year (or such longer period of time mandated by applicable law) after the date of purchase. Some states do not allow limitations on how long an implied warranty or condition lasts, so the above limitations may not apply to you.

Disclaimer of All Implied WARRANTIES AND LIMITATION OF REMEDIES: Remedies contained in this Limited Warranty are exclusive and in lieu of all other remedies available to the Owner or any other person or entity for all matters regarding the Product. IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF TAMKO BUILDING PRODUCTS LLC, INCLUDING BUT NOT LIMITED TO DIRECT AND INDIRECT ECONOMIC DAMAGES, AND INCIDENTAL, CONSEQUENTIAL AND PUNITIVE DAMAGES, ARE EXCLUDED. Some states do not allow exclusion or limitation of implied warranties or consequential or incidental damages so the above limitations or exclusions may not apply to you. This Limited Warranty gives you specific legal rights and you may also have other rights which vary from state to state. INVALIDITY OR INCOMPATIBILITY OF ANY OTHER PROVISION, ALL OF WHICH SHALL REMAIN IN FULL FORCE AND EFFECT, IN THE EVENT THE CLASS ACTION WAIVER AND/OR THE MANDATORY BINDING ARBITRATION PROVISIONS SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER PROVISION. ANY AND ALL CLAIMS OR CONTROVERSY WHICH YOU WOULD HAVE BEEN ELIGIBLE TO ASSERT IN ANY COURT IN WHICH YOU WOULD HAVE BEEN ELIGIBLE TO ASSERT OR ENFORCE THE ENTIRETY OF THIS LIMITED WARRANTY (EXCEPT THIS PARAGRAPH) SHALL BE NULL AND VOID AND THE PRODUCTS ARE SOLD AS IS, WITH NO REPRESENTATION OF ANY KIND WHATSOEVER. TAMKO HAS NO REPRESENTATIVE, EMPLOYEE OR OTHER AGENT OF TAMKO, OR ANY PERSON OTHER THAN TAMKO’S PRESIDENT, HAS AUTHORITY TO MODIFY OR WAIVE ANY PROVISIONS OF THIS LIMITED WARRANTY OR AGREE FOR TAMKO TO WAIVE ANY OF THE RIGHTS, REMEDIES OR RESPONSIBILITY IN CONNECTION WITH THE PRODUCT EXCEPT AS DESCRIBED ABOVE.

This form is not to be copied or reproduced in any manner. This Limited Warranty applies only to the Product sold on or after August 30, 2019. The Limited Warranty for your Products is the version in effect on the date of retail purchase. If you are not satisfied with the terms and conditions of this LIMITED WARRANTY, you may return the Product to the ORIGINAL PLACE OF PURCHASE FOR A REFUND.
BUILDING PRODUCTS FOR THE PROFESSIONAL.

Since 1944, building professionals and homeowners have looked to TAMKO® for building products. Today, we offer a wide range of building products, including Heritage® Laminated Asphalt Shingles, Elite Glass-Seal® 3-tab Shingles, MetalWorks® steel shingles, waterproofing materials and ventilation products.

—Page 2—