

## AMENDMENT TO THE DECLARATION OF RESTRICTIONS FOR PERSIMMON POINTE

THIS AMENDMENT is made this 18 day of October, 2012, by Olathe-Persimmon, L.L.C., as successor to Heritage Development of Kansas, Inc., a Kansas corporation (hereinafter referred to as "Developer").

### WITNESSETH:

WHEREAS on June 4, 2005, Developer filed that certain Declaration of Restrictions for Persimmon Pointe that subdivision described in Exhibit "A", recorded in Book 9058, Page 975 et.seq., of the Register of Deeds of Johnson County, Kansas ("Declaration"); and WHEREAS, pursuant to the Declaration, the Developer may make modifications to the Declaration as long as the Developer owns lots in the subdivision, and WHEREAS, Olathe-Persimmon, L.L.C., as successor Developer, desires to modify Section 2 to clarify deck stain and to establish a Fine Policy for non-compliance of the Declaration of Restrictions.  
NOW, THEREFORE, pursuant to the powers retained by Developer under the Declaration, the successor Developer hereby amends the Declaration as follows:

1.

Section 2, Paragraph F of the Declaration and amended Declaration recorded on January 28, 2011 in Book 201101, Page 010138 of the Register of Deeds of Johnson County, Kansas is amended by striking it in its entirety and substituting the following therefor:

No fence, wall or deck shall be constructed, maintained or altered upon any Lot unless the location, design, configuration, height, color and materials are prior approved in writing by the Architectural Control Committee. No animal pens or runs shall be permitted. No fence, wall or privacy screen shall be constructed or maintained on any Lot closer to the street than the rear corner of the house or nearer to a side street than fifteen feet (15') from the side property line unless otherwise specifically approved in writing. Any fence installed next to an existing fence on an

Encl/  
Haith & Young LLC

adjacent Lot must be joined to such existing fence. Perimeter fences shall be black wrought iron, black powder-coated steel, or cedar in the style shown on the attached Exhibit A-1. Cedar may be untreated and allowed to weather or may be treated with protective sealer in "Natural Cedar Tone" color, or equivalent. All fences must be stair-stepped to follow the grade of the Lot. Fences shall not exceed 48 inches in height unless specifically approved for a greater height by the Architectural Control Committee. All exterior decks shall be constructed of wood (preferably cedar), treated wood or wood- like materials. Exterior decks may be treated with protective sealer in "Natural Cedar Tone" color or treated with an earth tone sealer. Exterior decks may not be treated with exterior paint. However ground supports may be of treated wood. No animal pens or runs shall be permitted.

2.

Section 2 of the Declaration is amended by adding the following to paragraph B:

The ACC has the right to enforce a Fine Policy using the following process. After the homeowner is sent the original notification of violation of the Association's Declaration of Restrictions, if the violation persists after 30 days the homeowner will be sent a second violation letter.

The second letter will state that if the violation is not rectified within 30 days of the date of the second notification, they will be assessed \$100. If the homeowner does not pay the fine a lien will be placed on their property and the homeowner's account charged \$150 in addition to the assessed fine(s).

After the initial fine is assessed and the violation continues the homeowner will be levied additional fines of \$100 each 30 days the violation continues.

IN WITNESS WHEREOF, the undersigned successor Developer has executed this Amendment on the date and year first written above.

OLATHE-PERSIMMON, L.L.C.  
A Kansas Limited Liability Corporation

By: Janel Blair

Printed Name: Janel Blair

Title: Director

STATE OF KANSAS     )  
  ) ss.  
COUNTY OF JOHNSON )

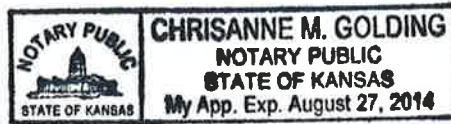
This instrument was acknowledged before me on this 18 day of October, 2012 by

Janet Blair, as Director of Olathe-Persimmon, L.L.C. on behalf of said limited liability corporation and executed to be the act and deed of said limited corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last written.

Chrisanne M. Golding  
Signature of notary public

My appointment expires: 8/27/2014



#### EXHIBIT A

Lots 1 through 62, inclusive, and Tracts A and B, PERSIMMON POINTE, 1<sup>ST</sup> PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

Lots 63 through 113, inclusive, PERSIMMON POINTE, SECOND PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

Lots 114 through 190, inclusive, PERSIMMON POINTE, THIRD PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

Lots 183 through 189, inclusive, and Tract D, PERSIMMON POINTE, FOURTH PLAT, A subdivision in the City of Olathe, Johnson County, Kansas