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DUSTY RHODES  
AUDITOR  
HAMILTON COUNTY OHIO

**FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
THE OVERLOOK AT EDEN PARK CONDOMINIUM**

This will certify that the First Amendment to Declaration of Condominium Ownership for The Overlook at Eden Park Condominium has been filed in the office of the County Auditor, Hamilton County, Ohio, this 3rd day of July, 2014.

**HAMILTON COUNTY AUDITOR  
DUSTY RHODES**

By \_\_\_\_\_

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**FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
THE OVERLOOK AT EDEN PARK CONDOMINIUM**

**WHEREAS**, the Declaration of Condominium Ownership for The Overlook at Eden Park Condominium is dated May 12, 2008 and was recorded on June 3, 2008 in Official Record 10865, Page 1066, et seq, of the records of the Hamilton County, Ohio Recorder's Office (the "Declaration");

**WHEREAS**, the By-Laws of The Overlook at Eden Park Condominium Association were recorded as Exhibit C to the Declaration in Official Record 10865, Page 1117, et seq., of the records of the Hamilton County, Ohio Recorder's Office (the "By-Laws");

**WHEREAS**, the Declaration and By-Laws are all binding upon the property described in Exhibit A attached hereto;

**WHEREAS**, the members of The Overlook at Eden Park Condominium Association (the "Association") are all owners of record of Units in The Overlook at Eden Park Condominium;

**WHEREAS**, the members and the Association desire to amend the Declaration as detailed below in this First Amendment;

**WHEREAS**, pursuant to Article XX, Section 4 of the Declaration, the Unit Owners exercising not less than 75% of the voting power of the Unit Owners have consented to this First Amendment which changes the provisions governing hazard, fidelity or other insurance requirements;

**WHEREAS**, Article XX, Section 4 requires the consent of eligible holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders of First Mortgage Liens appertain because under subsection (g) this amendment seeks to change the provisions governing hazard, fidelity or other insurance requirements;

**WHEREAS**, Paragraph 18 of the Definitions Section within the Declaration defines "Eligible Holder of a First Mortgage Lien" as the holder of a valid recorded first mortgage on a Unit, which holder has given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of Eligible holders of first mortgage liens;

**WHEREAS**, there are no Eligible Holders of First Mortgage Liens, as no first mortgage holders have given written notice to the Association required by Paragraph 18, and thus the consent of the Eligible Holders of First Mortgage Liens is not required;

**NOW THEREFORE**, the Declaration is hereby amended as follows:

**Paragraph 6(b)(3) of the definition section shall be amended to read as follows:**

3. Installations of central services, including, but not limited to, power, light, gas, hot and cold water, heating, refrigerating, air conditioning, incinerating, and fire suppression systems;

**The following sentence is hereby added to Article IX, Section 2:**

Unit Owners shall be responsible to restore and repair damage to the Unit sustained as a result of a malfunction or other condition arising out of the Common Element such as the fire suppression system as long as the Association has not acted negligently in failing to maintain, repair or replace such Common Element or system.

**Article XI is hereby deleted in its entirety and the following substituted in its place:**

## **ARTICLE XI.**

### **INSURANCE; LOSSES; BONDS**

The Board shall obtain and maintain, to the extent obtainable, the insurance described in Sections 1 and 2 below, the cost of which shall be a Common Expense. Certificates of such insurance, together with proof of payment of premiums, shall be delivered to all Unit Owners and mortgagees of Units annually and prior to expiration of the then current policies upon written request to the Association.

Section 1. **Property Insurance.** The Board shall maintain property insurance on the Common Elements and Limited Common Elements, providing coverage for "All Risks" of direct physical loss and all perils normally covered in a "special form" policy, including fire insurance, extended coverage, vandalism, boiler, machinery, earthquake, sprinkler leakage, lightning, and malicious mischief endorsements, together with such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use to the Building.

- (a) Such insurance shall be for the maximum full replacement costs of the Common Elements and the Limited Common Elements, including the bare walls, structural ceilings and floors of each Unit (exclusive of drywall and any floor covering), pipes, lines, wires, ducts, vents, flues, components thereof or conduits therefor located outside the bounds of the Unit as defined in Article V, Section 2(a), and other portions of the Condominium Property which are not the responsibility of the Unit Owner to insure. Such coverage shall also extend to service machinery contained in the Common Element or owned or leased in the name of the Association.

- (b) Such insurance shall be primary as to the Common and Limited Common Elements and shall cover the interests of the Association, the Board, all Unit Owners, and all Unit Owners' mortgagees, as their interests may appear.
- (c) Such insurance shall exclude, and the Board shall not be responsible for obtaining, physical insurance on any portion of the Unit, other than the bare walls and structural ceilings and floors as described above, or any additions, alterations and improvements to a Unit or appurtenant or adjacent Limited Common Elements or any furniture, fixtures or other personal property of a Unit Owner. As provided in Section 6 below, the Unit Owner is solely responsible for obtaining such insurance relative to the Unit and any additions, alterations, or improvements thereto and to the appurtenant or adjacent Limited Common Elements, and the Unit Owner's furniture, fixtures or other personal property at such Unit Owner's sole cost and expense.
- (d) The policy shall provide for a reasonable deductible, determined in the discretion of the Board, after carefully considering and comparing the increased premium costs resulting from a lower deductible together with the lower premium costs but higher per risk resulting from a higher deductible together with all other pertinent factors, which shall be a Common Expense unless levied as a Special Individual Unit Assessment under Article XV, Section 3(c).
- (e) The policy shall show the name of the insured as "The Overlook at Eden Park Condominium Association, Inc., for the use and benefit of the individual Unit Owners".

All such insurance shall provide for a standard mortgage clause in favor of each mortgagee of a Unit, which shall provide that the loss, if any, thereunder shall be payable to such mortgagee and the Unit Owners, as their interests may appear; provided, however, that no mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration. Certain provisions herein are for the benefit of mortgagees of Units, and all of such provisions for the benefit of any mortgagee of a Unit may be enforced by such mortgagee.

- (f) The policy shall provide that adjustment of loss shall be made with the Board, the affected Unit Owner(s) and their mortgagee(s), as their interests may appear. All such policies shall provide that the carrier shall not have an option to restore damage in lieu of making a cash settlement in the event of removal of the Condominium Property from the provisions of the Condominium Act under the Condominium Act.
- (g) The policy shall further provide that the coverage therefor shall not be materially altered or terminated for nonpayment of premiums without at least thirty (30)

days written notice to the Board and the respective mortgagees of each Unit whose address is shown in the records maintained by the Association pursuant to the Condominium Instruments.

- (h) All policies of insurance required to be carried by the Board pursuant to Sections 1 and 2 hereof shall provide that the knowledge, acts or omissions of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under such policy. All policies of insurance purchased by the Association shall contain waivers of subrogation with respect to the Association, its officers and employees, Unit Owners, and members of their households.
- (i) All policies of insurance required to be carried by the Board under Sections 1 and 2 hereof shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the insureds, including all mortgagees of each Unit whose address is shown in the records maintained by the Association pursuant to the Condominium Instruments.
- (j) Unless the insurance company is willing to write such insurance on an "agreed amount" basis satisfactory to the Board, prior to obtaining any policy of property insurance or any renewal thereof, the Board shall obtain an appraisal from an insurance company or otherwise of the full insurable replacement value of the Building, including the bare walls of all of the Units, and all of the Common and Limited Common Elements therein, but excluding those components which the Unit Owners are to insure under Section 6, without deduction for depreciation for the purpose of determining the amount of insurance to be obtained pursuant to this Section.
- (k) All policies of insurance shall be purchased from insurance companies authorized and licensed to transact business in the State of Ohio who shall hold a Policyholder's Alphabetic and Financial Size Category Rating of not less than A VIII according to Best's Insurance Reports or a substantially equivalent rating from a nationally recognized rating service.
- (l) The Board of Directors shall retain the right to submit or not to submit an insurance claim to its carrier, after carefully considering the potential effect of an insurance claim on the premium rates and insurability of the Association with the cost to restore damage to the Common Element or Limited Common Element. As long as the Board has acted in good faith, on an informed basis, and in a manner it honestly believes to be in the best interest of the Association, neither the Board of Directors nor the Association shall be liable to any aggrieved party.

Section 2. **Public Liability Insurance.** The Board shall maintain comprehensive general public liability insurance with broad form extensions in such limits as it may from time to time determine (but in no event less than \$5,000,000 for bodily injury, including deaths of persons, and property damage arising out of a single occurrence), covering the Common Elements and any other

area under the control of the Association, the Association, each member of the Board, each managing agent, if any, and their respective agents, volunteers, and employees, and each Unit Owner, and such Unit Owner's Occupants and tenants. The Board shall review such limits once a year. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, each managing agent, if any, and their respective agents, volunteers, and employees, or other Unit Owners, their Occupants and tenants, and shall include, without limitation, coverage for legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, legal liability arising out of lawsuits related to employment contracts of the Association, and additional coverage as is ordinarily obtained with respect to projects similar in construction, location and use.

Section 3. **Other Insurance.** The Board may obtain such other insurance as it determines in its discretion to be appropriate, including, without limitation, directors' and officers' errors and omissions coverage, umbrella liability coverage, workers' compensation coverage, flood and water damage coverage, and earthquake coverage.

Section 4. **Fidelity Coverage.** The Board shall obtain and maintain fidelity coverage for the Association against dishonest or fraudulent acts on the part of the directors, managers, employees, agents, or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance shall name the Association as the named obligee or insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of: (i) 150% of the estimated annual operating expenses of the Association, including reserves; (ii) the maximum funds that will be in the custody of the Association or its agent at any time; or (iii) the sum of three months worth of assessments plus the Association's reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written notice to the Association, any insurance trustee, and any holder, insurer, guarantor or servicer on behalf of any holder of any mortgage on a Unit who requires such rights. Any managing agent that handles funds for the Association shall be required to obtain its own fidelity bond providing similar coverage. The cost of this insurance shall be a common expense, payable by the Association.

Section 5. **Common Expense.** Premiums for any insurance the Board acquires, and any other expenses incurred in connection with the acquisition and enforcement of such insurance, shall be Common Expenses; provided, however, that if the Board's property and extended coverage insurance covers Limited Common Elements, fixtures, equipment or other property within or associated

with some but not all of the Units, or other insurance attributable to some but not all of the Units, the Board reserves the right to charge the Unit Owners of such Units for which the Board provides additional insurance coverage an amount equal to the portion of the premium attributable to such additional insurance coverage as calculated by or at the direction of the Board, which shall be levied as a Special Individual Unit Assessment under Article XV, Section 4(c).

**Section 6. Unit Owner Insurance.** Each Unit Owner shall obtain, maintain, and provide evidence of coverage and payment therefor to the Association for: (i) property insurance covering his personal property in the Unit and anywhere on the Condominium Property, including automobiles; the Unit, including the drywall, ceiling and floor covering in the Unit and any additions, alterations, improvements and betterments to a Unit as well as any other furniture, fixtures or equipment not covered by the property insurance purchased by the Board; and any additions, alterations, improvements and betterments to its Limited Common Elements; all for the full replacement cost with the Association as an additional insured; (ii) personal liability, but in no event less than \$500,000.00, unless otherwise determined by the Board (for bodily injury, including deaths of persons and property damage arising out of a single occurrence) to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners; and (iii) additional living expense. All policies of casualty insurance carried by each Unit Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. Each Unit Owner shall provide to the Association certificates of insurance evidencing the aforementioned coverage, together with proof of payment of premiums, annually and prior to expiration of the then current policies. In the event that a Unit Owner does not comply with the requirements of this Section, the Unit Owner shall be responsible for any deficiency in any resulting insurance loss recovery, and the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit. Unit Owners shall not be prohibited from carrying other insurance for their own benefit and at such Unit Owner's own cost and expense, provided that all such policies shall be excess over the coverage provided by the Board and further provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. All such property and extended coverage insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its Officers and Directors, all other Unit Owners and Occupants, but only to the extent of actual recovery of insurance proceeds under or pursuant to such policy.

**Section 7. Insufficient Insurance for Property Damage.** In the event any improvements forming a part of the Common Elements shall suffer damage or destruction from any cause or peril that is not insured against or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit Owners and Eligible Holders of First Mortgages (if they are entitled to do so pursuant to the provisions

of this Declaration) shall elect within sixty (60) days after such damage or destruction not to make such repair, restoration or reconstruction, the Association shall make repairs, restoration or reconstruction of the Common Elements so damaged or destroyed at the expense (to the extent not covered and paid by insurance) of all Unit Owners in proportion to their respective undivided interests in the Common Elements. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed against the Unit of such Unit Owner and that assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments.




**PRESIDENT'S CERTIFICATION**

SCOTT M. SLOVIN, the President of The Overlook at Eden Park Condominium Association, Inc., an Ohio non-profit corporation, hereby certifies, pursuant to Article XX, Section 10 of the Declaration, that this First Amendment was duly adopted in accordance with Article XX, Section 4 of the Declaration by the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners.

**THE OVERLOOK AT EDEN PARK  
CONDOMINIUM ASSOCIATION, INC.**

An Ohio non-profit corporation

  
By: SCOTT M. SLOVIN  
Its: President

STATE OF OHIO :  
: SS:  
COUNTY OF HAMILTON:

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of June, 2014 by Scott M. Slovin, President of The Overlook at Eden Park Condominium Association, Inc., an Ohio non-profit corporation, by and on behalf of the Association.

  
NOTARY PUBLIC

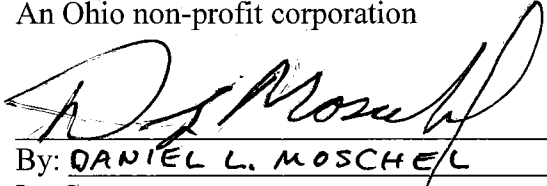


Tracy Rottenberger  
Notary Public, State of Ohio  
My Commission Expires 06-19-2017

**SECRETARY'S CERTIFICATION**

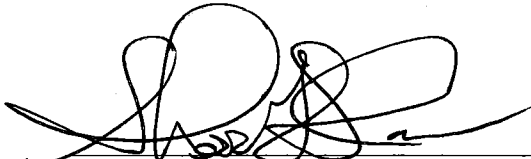
DANIEL L. MOSCHEL, the Secretary of The Overlook at Eden Park Condominium Association, Inc., an Ohio non-profit corporation, hereby certifies, pursuant to Article XX, Section 10 of the Declaration, that this First Amendment was duly adopted in accordance with Article XX, Section 4 of the Declaration by the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners.

**THE OVERLOOK AT EDEN PARK  
CONDOMINIUM ASSOCIATION, INC.**  
An Ohio non-profit corporation

  
By: DANIEL L. MOSCHEL  
Its: Secretary

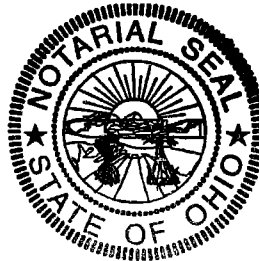
STATE OF OHIO :  
: SS:  
COUNTY OF HAMILTON:

The foregoing instrument was acknowledged before me this 26<sup>TH</sup> day of June, 2014 by Daniel L. Moschel, Secretary of The Overlook at Eden Park Condominium Association, Inc., an Ohio non-profit corporation, by and on behalf of the Association.

  
\_\_\_\_\_  
NOTARY PUBLIC

This Instrument Prepared by:

Amy Schott Ferguson, Esq.  
CUNI, FERGUSON & LEVAY CO., L.P.A.  
10655 Springfield Pike  
Cincinnati, Ohio 45215  
(513) 771-6768



**SHERRI GOREN SLOVIN**  
Attorney at Law  
Notary Public, State of Ohio  
My Commission has no Expiration  
date Section 147.03 R.C.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Situate in the City of Cincinnati, Hamilton County, Ohio and being Units 2N, 2S, 3N, 3S, 4N, 4S, 5N, 5S, 6N, 6S, 7N, 7S, 8N, 8S, 9N, 9S, 10N, 10S, 11N, 11S, 12N, 12S and PH of The Overlook at Eden Park Condominium created by the Declaration of Condominium Ownership for The Overlook at Eden Park Condominium recorded on June 3, 2008 at Official Record 10865, Page 1066, et seq., of the Hamilton County, Ohio Recorder's Office. Plat Book 416, Pages 30 to 40 and Plat Book 417, Page 15.