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MASTER DEED AND DECLARATION
OF
HORIZONTAL PROPERTY REGIME

THE OAKS

A Condominium Community by Miracon, Inc.

THIS MASTER DEED, and Declaration (hereinafter referred to as "Master Deed"), made and entered into in Lexington, Fayette County, Kentucky, this 26th day of June, 1974, by MIRACON, INC., a Kentucky corporation, with its principal office at 2216 Young Drive, Lexington, Kentucky, 40505 (hereinafter referred to as the "Grantor");

W I T N E S S E T H:

WHEREAS, the Grantor is the owner of the following-described tract of land along with the improvements, easements, rights of way and appurtenances thereunto belonging, situated, lying and being in the City of Lexington, County of Fayette, State of Kentucky, which said land along with all of its appurtenances are hereinafter referred to as the "Property", and which said land is more particularly described as follows, to-wit:

Beginning at an iron pin in the South right of way of New Circle Road, S.E., said point being a corner to Kirklevington South, as reflected by plat recorded in Plat Book 22, Page 40, in the Fayette County Court Clerk's Office; thence with the South right of way of New Circle Road, S.E., for five chords, N 86° 57' 32" W 66.07 feet, N 84° 45' 16" W 267.44 feet, N 83° 06' 05" W 111.40 feet, N 81° 25' 22" W 254.07 feet, N 79° 25' 14" W 150.52 feet to an iron pin corner to Lansdowne Company, Inc.; thence with Lansdowne Company, Inc. S 30° 32' 33" W 749.21 feet to an iron

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pin in the North right of way of Redding Road; thence with the North right of way of Redding Road S 55° 55' E 1180.81 feet to an iron pin corner to Robert T. Mayes, et al.; thence with Mayes, et al., N 24° 53' E 412.80 feet to an iron pin in the South line of the abovementioned Kirklevington South; thence with Kirklevington South for two calls, N 50° 21' 01" W 367.17 feet to an iron pin, and N 30° 53' 46" E 689.13 feet to the beginning, and containing 20.323 acres; and

Being the same property conveyed to Miracon, Inc. on April 17, 1973, by Virginia Hamilton Bailey, et al., by deed recorded in the Fayette County Court Clerk's Office in Deed Book 1084, Page 475.

WHEREAS, it is the express desire and intention of the Grantor to submit the said Property to a horizontal property regime pursuant to the Horizontal Property Law, Sections 381.805 through 381.910 of the Kentucky Revised Statutes, as amended (hereinafter referred to as the "Act"), which shall be known as "The Oaks, A Condominium Community" (hereinafter sometimes referred to as the "Condominium"); and

WHEREAS, the Grantor desires to provide for the administration of the said horizontal property regime by the Council of Co-Owners of The Oaks (hereinafter referred to as the "Council"), said Council to consist of all the Co-Owners as defined herein, each of whose membership shall automatically arise with ownership of a Unit, as defined herein, in the Condominium and cease with the termination of such ownership, all in accordance with the provisions of this Master Deed and the Bylaws attached hereto as "Exhibit A" and made a part hereof;

NOW, THEREFORE,

FIRST: The Grantor does hereby, pursuant to the powers vested in it as owner of the above-described Property and the powers vested in it by the abovementioned statutes, now declare, establish and create The Oaks, A Condominium Community, as a horizontal property regime pursuant to the Act and does hereby

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submit the Property to said Condominium in accordance with the terms and conditions of this Master Deed and the attached Bylaws and the Plans recorded in the Office of the Fayette County Court Clerk, in the Fayette County Courthouse, in Lexington, Kentucky, in Apartment (Condominium) Ownership Book 1, Pages 1 through 5, and such amended Plans as may hereafter be recorded, all of which said Plans are hereby incorporated by reference herein and made a part hereof;

PROVIDED, HOWEVER, the Grantor reserves unto itself, its successors and assigns, the right to make adjustments in the Plans filed as indicated above, provided such adjustments shall not in any way change the percentage of ownership of any conveyee who has prior to such adjustments taken title to a Unit and the accompanying fractional part of the common area and limited common area, and provided, further, that such adjustments will not increase the density of the Condominium.

SECOND: The Property is submitted herewith in its entirety. The present and planned improvements consist of 30 buildings (including the club house) containing 248 dwelling units, or apartments, as more particularly described hereinafter in paragraph THIRD (and hereinafter referred to as "Units"). The areas of the Property and of the buildings are shown on the recorded Plans. The legal description of each Unit shall consist of its Building name and Apartment number as reflected in the recorded Plans followed by the words "The Oaks Condominium Apartment Horizontal Property Regime". Each Unit is capable of individual utilization; having its own exit to the common elements of the Condominium Community. Each of the Units, as more particularly described herein, is hereby declared to be in fee simple and may be retained, occupied, conveyed, transferred, encumbered, inherited or devised in the same manner as any other parcel of real estate independent of the other individual Units, by or to one or more owners (herein referred to as "Co-Owners"), each Co-Owner being a person, corporation, trust or any other legal entity, or any

combination thereof, which obtains a particular and unique property right in the Unit or Units and an undivided interest in the General and Limited Common Elements as defined hereinafter in paragraph THIRD, all of the above in accordance with the provisions of the Act and subject to the conditions herein set forth.

THIRD: The Condominium Community is hereby divided in the manner and to the extent described herein and in the recorded Plans into (a) Condominium Units; (b) General Common Elements; and (c) Limited Common Elements.

(a) Units. ("Unit" means an apartment shown on the floor plans hereinabove described, each of which is capable of individual utilization, with its own exit to the common elements of the Condominium Community. The lower vertical boundary of any such Unit is a horizontal plane (or planes), the elevation of which coincides with the elevation of the upper surface of the unfinished surface of the floors or subfloors thereof, extended to intersect the lateral or perimetrical boundaries thereof. The upper vertical boundary of any such Unit is a horizontal plane (or planes), the elevation of which coincides with the lower surface of the unfinished ceiling thereof, extended to intersect the lateral or perimetrical boundaries thereof. The lateral or perimetrical boundaries of any such Unit are vertical planes which coincide with the unexposed surfaces of the perimeter walls of the Unit, to include the perimeter dry wall, plenums, windows and doors thereof, extended to intersect the upper and lower vertical boundaries of the Unit.) Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, range hoods, electrical receptacles and outlets, air-conditioning compressors and other air-conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings consisting of, inter alia and as appropriate,

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wallpaper, paint, plaster, flooring, carpeting and tile. All pipes, wires, conduits or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members or any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

(b) General Common Elements. The General Common Elements shall consist of those areas and facilities which are not Units as hereinabove defined or Limited Common Elements as hereinbelow defined, including, but not limited to: (i) the Property as hereinabove defined; (ii) the foundations, roofs, slabs, chimneys, perimeter walls, bearing walls, and structural interior walls and partitions, beams, entrance ways, hallways, corridors, lobbies, stairways, pipes, watermains, wires, conduits, air ducts, public utility lines and meters, and other service installations, regardless of location, columns, girders, supports, service rooms, laundry rooms and janitor closets, all of which foregoing may be used by more than one Unit; (iii) any central service system used for distribution of heat and air-conditioning, power, light, gas and water, compressors, incinerators, water storage tanks, pipes, ducts, flues, chutes, exhaust shafts, interior down spouts, conduits, cable and wire outlets and other utility lines which are used for more than one Unit; (iv) the uncovered and unrestricted parking areas, streets, curbs, roads, walkways, paths, trees, shrubbery, gardens, lawn areas, exterior lighting and devices of common use or necessary to the existence, upkeep, use and safety of the buildings and other Condominium property; (v) club house, tennis courts and swimming pool, and all equipment and fixtures necessary to the support thereof.

The General Common Elements shall be owned in common by all of the Co-Owners. The General Common Elements shall remain undivided and no Co-Owner shall bring any action for partition or division of the whole or any part thereof.

(c) Limited Common Elements. The Limited Common Elements consist of those so designated on the recorded Plans and such others as are agreed upon by a majority of the Co-Owners to be reserved for the exclusive use of a certain Unit or certain number of Units to include covered and restricted parking spaces, terraces, patios or balconies. These Limited Common Elements are reserved for the use and benefit of the owners of the Units to which they are adjacent or to which they are declared to be appurtenant by appropriate designation in the floor plans or such other plans as shall be agreed upon by a majority of the Co-Owners to be reserved for the exclusive use of a certain Unit or number of Units. Each Limited Common Element is owned in common by all of the Co-Owners but restricted to the exclusive use and benefit of the Unit or Units to which it is declared to be appurtenant.

FOURTH: Each Co-Owner shall have an undivided ownership interest in the General and Limited Common Elements and shall share, as assessed in accordance with the provisions of the Bylaws, in the expenses of operating and maintaining the General and Limited Common Elements, except insofar as the Bylaws require the Co-Owner of a Unit, to which the use and enjoyment of Limited Common Elements are reserved, to be responsible for the normal maintenance of those particular Limited Common Elements, in accordance with the percentage attributable to such Co-Owner's Unit, as hereinafter described.

The use of the General and Limited Common Elements shall be limited to the Co-Owners in residence and to their tenants in residence. The use of the General and Limited Common Elements

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shall be governed by the Bylaws and the rules and regulations as adopted from time to time by the Council.

Tabulated below, according to Unit designations and types corresponding to and reflected in the floor plans, are all of the Units in the Condominium:

<u>Unit Designation</u>	<u>Unit Type</u>
1-16	Mansfield
17-32	Carlton
33-68	Transylvania
69-248	Eaton

The percentage of valuation of each of the Units, including its proportionate share of the valuation of the General and Limited Common Elements (which percentage is sometimes referred to in this Master Deed and the Bylaws as the "individual percentage interest") is listed below by Unit Type:

<u>Unit Type</u>	<u>Individual Percentage Interest</u>
Mansfield	.007501
Carlton	.006876
Transylvania	.005833
Eaton	.003111

FIFTH: The administration of the Condominium shall be by the Council through the Board in accordance with the provisions of this Master Deed and with the provisions of the Bylaws. All of the Co-Owners shall together constitute the Council. Every Co-Owner or group of Co-Owners of a Unit shall automatically be a member of the Council and shall remain a member of the Council until such time as his or her ownership ceases for any reason, at which time his or her membership in the Council shall automatically cease. Other than as an incident to a lawful transfer of title to a Unit, membership in the Council shall be non-transferable, and any attempted transfer shall be null and void.

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SIXTH: In the event that any building reflected by the Plans recorded herewith has not been completed at this time but is subsequently completed in substantially the location and form shown by the Plans, and in the event that any building is partially or totally destroyed and is then rebuilt in substantially the same location and form, and as a result of such building or rebuilding any portion of the General and Limited Common Elements encroaches upon the Units, or any of them, or vice versa, or any of the Units encroaches upon another Unit, a valid easement for such encroachment and for the maintenance thereof, so long as it stands, shall and does exist. Easements are hereby reserved through each of the Units for the benefit of other Units as may be required for structural repairs, utility lines, and for heating, air-conditioning and ventilating ducts in the locations as presently installed, or to be installed, under the Plans in the Unit or as subsequently approved in writing by the Council of Co-Owners in accordance with procedures set forth in the Bylaws, the Co-Owner of the burdened Unit and any mortgagee having a security interest therein.

SEVENTH: The undivided interest in the General and Limited Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest may not be expressly mentioned or described in the conveyance or other instrument.

EIGHTH: Each Co-Owner shall comply with the provisions of this Master Deed and the Bylaws, as same may be lawfully amended from time to time, the decisions and resolutions of the Board and of the Council or their representatives; and failure to comply with any such provision, decision or resolution shall be grounds for an action to recover sums due, for damages or for injunctive relief.

NINTH: All present or future owners, tenants, future tenants or any other person who might use the facilities of the project in any manner are subject to the provisions of this

Master Deed, and the mere acquisition or rental of any of the Units of the Condominium or the mere act of occupancy of any of said Units shall signify that the provisions of this Master Deed are accepted and ratified.

TENTH: A mortgagee or other purchaser of a Unit who obtains title by reason of foreclosure of a mortgage or other security interest covering a Unit, his successors or assigns, shall not be liable for assessments by the Council which became due prior to his acquisition of title, it being understood, however, that the above shall not be construed to prevent the Council from filing and claiming liens for such assessments and enforcing same as provided by law, and that such assessment liens shall be subordinate to such mortgage or security interest.

ELEVENTH: In a voluntary conveyance of a Unit the grantee of the Unit shall be jointly and severally liable with the Grantor for all unpaid assessments by the Council against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the Grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Managing Agent (as defined in the Bylaws) or Board, as the case may be, setting forth the amount of the unpaid assessments against the Grantor due the Council, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Council against the Grantor in excess of the amount therein set forth.

TWELFTH: The dedication of the Condominium to the Plan of Ownership herein described shall not be revoked, nor shall the Condominium be removed from the Plan of Ownership, or any of the provisions herein amended, unless all of the Co-Owners and holders of all of the deeds of trust, mortgages, or other security

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interests covering the Units, and all other parties having any security interest in any Unit, unanimously agree to such revocation, amendment or removal by duly recorded instruments, except as provided in those portions of Article VI of the Bylaws that deal with destruction of the Units.

THIRTEENTH: The submission of the Property is subject to all covenants, conditions, easements and restrictions now of record and that subsequently may be placed of record subsequent to approval by a duly authorized governmental authority.

FOURTEENTH: It is the intention of the Grantor that the provisions of this Master Deed are severable so that if any provision, condition, covenant or restriction thereof shall be invalid or void under any applicable federal, state or local law or ordinance, the remainder shall be unaffected thereby. In the event that any provision, condition, covenant or restriction thereof is, at the time of recording this Master Deed, void, voidable or unenforceable as being contrary to any applicable federal, state or local law or ordinance, the Grantor, its successors and assigns and all persons claiming by, through or under this Master Deed, covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this Master Deed thereby operating to validate the provisions of this instrument which otherwise might be invalid, and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein declared as fully as if they had been in effect at the time of the execution of this instrument.

IN TESTIMONY WHEREOF, witness the name of the Grantor affixed hereto by its duly authorized officer this 26th day of June, 1974.

MIRACON, INC.

By: Robert T. Draygo, Pres.

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STATE OF KENTUCKY)
) Sct.
COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 26th day of June, 1974 by Robert T. Mayes as President of Miracon, Inc., a Kentucky corporation, on behalf of said corporation.

My Commission expires: February 7, 1976.

Susan J. Cicebett
Notary Public, State of Kentucky
at Large

THIS INSTRUMENT WAS PREPARED BY
McDONALD, ALFORD & ROSZELL
ATTORNEYS AT LAW
138 MARKET STREET
LEXINGTON, KENTUCKY

BY: *[Signature]*