

WHEREAS, the deed restrictions in the attached instrument have been volunteered in conjunction with a request for an MU-2(SAH) Mixed Use (Standard Affordable Housing) District which was approved by the City Council on February 8, 1995, on Zoning Case #Z923-279/5018-N on property located north of Frankford Road and west of Coit Road; and

WHEREAS, said deed restrictions have been approved as to form; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the deed restrictions set forth in the attached instrument be and are hereby accepted by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property zoned an MU-2(SAH) Mixed Use (Standard Affordable Housing) District as described in Ordinance **22347**, and on property presently zoned an MU-2 Mixed Use District adjacent to the north line of Frankford Road.

Section 2. That said deed restrictions shall be filed in the Deed Records of Collin County, Texas.

Section 3. That this resolution shall take effect from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

**APPROVED BY
CITY COUNCIL**

FEB 22 1995

Robert T. Strom
City Secretary

Approved as to form:
SAM LINDSAY, City Attorney

By *Debra Steen*
Assistant City Attorney

APPROVED _____
HEAD OF DEPARTMENT

APPROVED _____
DIRECTOR OF FINANCE

APPROVED _____
CITY MANAGER

**FIRST ADDITIONAL
DEED RESTRICTIONS****REVISED**

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

§

I.

That the undersigned, E-SYSTEMS INC., POOL TRUST (the "Owner"), is the owner of the following described property (the "Property") being in particular a tract of land out of the Martha McBride Survey, Abstract No. 553, City Block 8759, City of Dallas ("City"), Collin County, Texas, and being a portion of that same tract of land conveyed to Trustees, E-Systems, Inc., Pool Trust, by Plano 105 Associates, a Joint Venture, by deed dated September 12, 1980, and recorded in Volume 1303, Page 54, in the Deed Records of Collin County, Texas, and all of the tract of land conveyed to Trustees, E-Systems, Inc. Pool Trust by Dallas Power and Light Company by deed dated April 29, 1983 and recorded in Volume 1645, Page 795 of the Collin County Deed Records, and being more particularly described in Exhibit A and Exhibit B, attached hereto and incorporated herein for all purposes.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

For multifamily uses the following apply:

1. All buildings in Area I, said area being adjacent to the southern boundary of the Property (Frankford Road frontage) and shown on Exhibit C, attached hereto and incorporated herein for all purposes, shall be limited to two stories plus a level within the roof of the building and above the second story;
2. The maximum height of all buildings in Area I is limited to thirty feet (30'), measured to the midline of the roof;
3. The maximum height for all buildings on the Property outside of Area I is limited to forty-two feet (42'), measured to the midline of the roof;
4. A building setback line of one hundred twenty feet (120') shall be observed, except for stair projections, along the Frankford Road frontage for all buildings, as shown on Exhibit C;

5. The following landscaping and screening shall be provided prior to the issuance of a certificate of occupancy on the Property:
- (a) a landscape area of forty-five feet (45') in depth along the Frankford Road property line, as shown on Exhibit C; the landscape area shall have (i) a fence of a minimum of eight feet (8') in height, except at openings for any entry; and (ii) six inch (6") in caliper live oak trees or red oak trees planted thirty feet (30') on center;
 - (b) all other areas within the forty-five foot (45') landscape area, except paved access drives and improvements required by governmental entities, shall consist of landscape features such as shrubbery, grass, ground cover, flowerbeds, berms, and shall be automatically irrigated and maintained in a healthy and growing condition; and
 - (c) all trees shall be maintained healthy and in growing condition with like tree replacement if necessary by the property owner within thirty (30) days after notice is mailed by the City of Dallas.
6. Prior to submission of an application for a certificate of occupancy on the Property, a controlled access security fence shall be erected along the perimeters of the Property, except for the area along the western property line, as shown on Exhibit C (TU Service Center), which has an existing wall, or any other area with an existing wall.

III.

These restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated only after a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these restrictions, the Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees that these restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VII.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document. Notwithstanding any provision contained in this document to the contrary, it is agreed and understood that prior owners are not responsible for violations by subsequent owners.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

XI.

The Owner certifies and represents that there are no liens, other than liens for ad valorem taxes, against the Property if there are no signatures of lienholders subscribed below.

XII.

The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

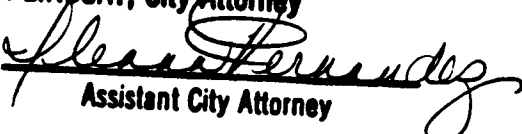
EXECUTED this the 7th day of February, 1995.

E-SYSTEMS INC., POOL TRUST

By: 

ART HOBBS TRUSTEE

Approved as to form:
SAM LINDSAY, City Attorney

By: 
Assistant City Attorney

THE STATE OF TEXAS §
COUNTY OF COLLIN §

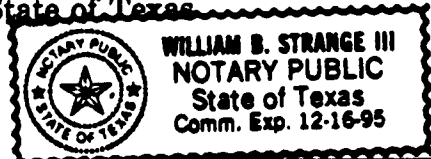
BEFORE ME, the undersigned authority, on this day personally appeared [REDACTED] Trustee of E-Systems Inc., Pool Trust, a Texas Trust, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacities therein stated as Trustee.

ART HOBBS

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 7th day of February, 1995.

William B. Strange III
Notary Public In and For
The State of Texas

My Commission Expires:



(Print Name of Notary Public)

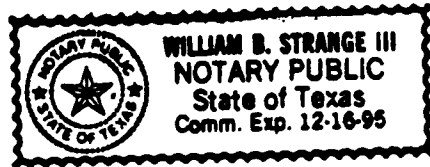


EXHIBIT "A"

BEING 17.444 acres of land located in the MARTHA McBRIDE SURVEY, Abstract No. 553, Collin County, Texas, and being a portion of the tract of land conveyed to Trustee, E-Systems, Inc., Pool Trust, according to the deed recorded in Volume 1303, Page 54 of the Deed Records of Collin County, Texas, and being a portion of the plat of NORTH SERVICE CENTER ADDITION, recorded in Cabinet C, Page 586 of the Plat Records of Collin County, Texas. Said 17.444 acres of land being more particularly described by metes and bounds, as follows:

BEGINNING at a 1/2" iron rod lying N 01° 24' 50" E 668.81 feet from the most Southerly Southwest corner of the aforesaid Trustee, E-Systems, Inc., Pool Trust Tract, and lying in the East line of the aforesaid NORTH SERVICE CENTER ADDITION;

THENCE N 51° 40' 00" W 1402.58 feet along the Southwest line of the aforesaid Trustee, E-Systems, Inc., Pool Trust Tract to a 3/4" iron rod found, lying in the East line of the tract of land conveyed to Dallas Power & Light Company, according to the deed recorded in Volume 977, Page 474 of the Deed Records of Collin County, Texas;

THENCE N 01° 14' 18" E 696.61 feet along the East line of the aforesaid Dallas Power & Light Company Tract to a 1/2" iron rod, lying in the proposed South right-of-way line of State Highway No. 190;

THENCE along the proposed South right-of-way line of said State Highway No. 190, as follows:

1. S 46° 54' 29" E 202.69 feet to a 1/2" iron rod;
2. S 49° 41' 31" E 307.70 feet to a 1/2" iron rod for a corner;
3. S 52° 10' 27" E 307.66 feet to a 1/2" iron rod;
4. S 54° 42' 20" E 307.83 feet to a 1/2" iron rod;
5. S 57° 10' 34" E 268.98 feet to a point for a corner;

THENCE S 01° 25' 25" W 716.74 feet to THE PLACE OF BEGINNING, containing 17.444 acres (759,848 square feet) of land.

EXHIBIT "B"
Page 1 of 2

BEING 3.408 acres of land located in the MARTHA MCBRIDE SURVEY, Abstract No. 553, Collin County, Texas, and being a portion of the tract of land conveyed to Trustee, E-Systems Inc., Pool Trust, according to the deed recorded in Volume 1303, Page 54 of the Deed Records of Collin County, Texas, said 3.408 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a point lying in the east line of the City of Dallas Annexation Line according to the City of Dallas Ordinance No. 15704, and lying N 01° 24' 50" E, 668.81 feet and N 01° 25' 25" E 372.22 feet from the most southerly southwest corner of the aforesaid Trustee, E-Systems Inc., Pool Trust Tract;

THENCE N 01° 25' 25" E 344.52 feet to a point for a corner in the proposed south right-of-way line of State Highway No. 190;

THENCE along the proposed south right-of-way line of said State Highway No. 190 as follows:

1. S 57° 10' 34" E 38.70 feet to a point;
2. S 59° 42' 28" E 307.71 feet to a point;
3. S 62° 12' 22" E 151.92 feet to a point in the east line of the aforesaid Trustee, E-Systems, Inc., Pool Trust Tract;

THENCE S 01° 39' 59" W 334.14 feet along the east line of said Trustee, E-Systems, Inc., Pool Trust Tract to a point lying 300 feet south of the south right-of-way line of State Highway No. 190 as follows:

1. N 62° 12' 22" W 305.61 feet to a point for a corner;
2. N 59° 42' 28" W 186.58 feet to THE PLACE OF BEGINNING, and containing 3.408 acres (148,464 square feet) of land.

EXHIBIT "B"
Page 2 of 2

BEING 9.235 acres of land located in the MARTHA MCBRIDE SURVEY, Abstract No. 553, Collin County, Texas, and being a portion of the tract of land conveyed to Trustee, E-Systems, Inc., Pool Trust, according to the deed recorded in Volume 1303, Page 54 of the Deed Records of Collin County, Texas, said 9.235 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at the most southerly southwest corner of the aforesaid Trustee, E-Systems, Inc., Pool Trust Tract, and lying in the north line of the City of Dallas Annexation Line, according to the City of Dallas Ordinance No. 15463, said point also being in the east line of the property annexed into the City of Dallas by City of Dallas Ordinance No. 15704;

THENCE, along the east line of the City of Dallas Annexation Line according to City of Dallas Ordinance No. 15704 as follows:

1. N 01° 24' 50" E 668.81 feet to a point for a corner;
2. N 01° 25' 25" E 372.22 feet to a point for a corner lying 300 feet south of the proposed south right-of-way line of State Highway No. 190;

THENCE along a line parallel to and 300 feet south of the proposed State Highway No. 190 right-of-way as follows:

1. N 59° 42' 28" E 186.58 feet to a point for a corner;
2. N 62° 12' 22" E 305.61 feet to a point for a corner in the east line of the aforesaid Trustee, E-Systems, Inc., Pool Trust Tract;

THENCE S 01° 39' 59" W 811.54 feet to a point in the aforesaid City of Dallas Annexation Line according to City of Dallas Ordinance No. 15463;

THENCE N 89° 03' 44" W 433.67 feet along said Annexation Line to THE PLACE OF BEGINNING, and containing 9.235 acres (402,290 square feet) of land.

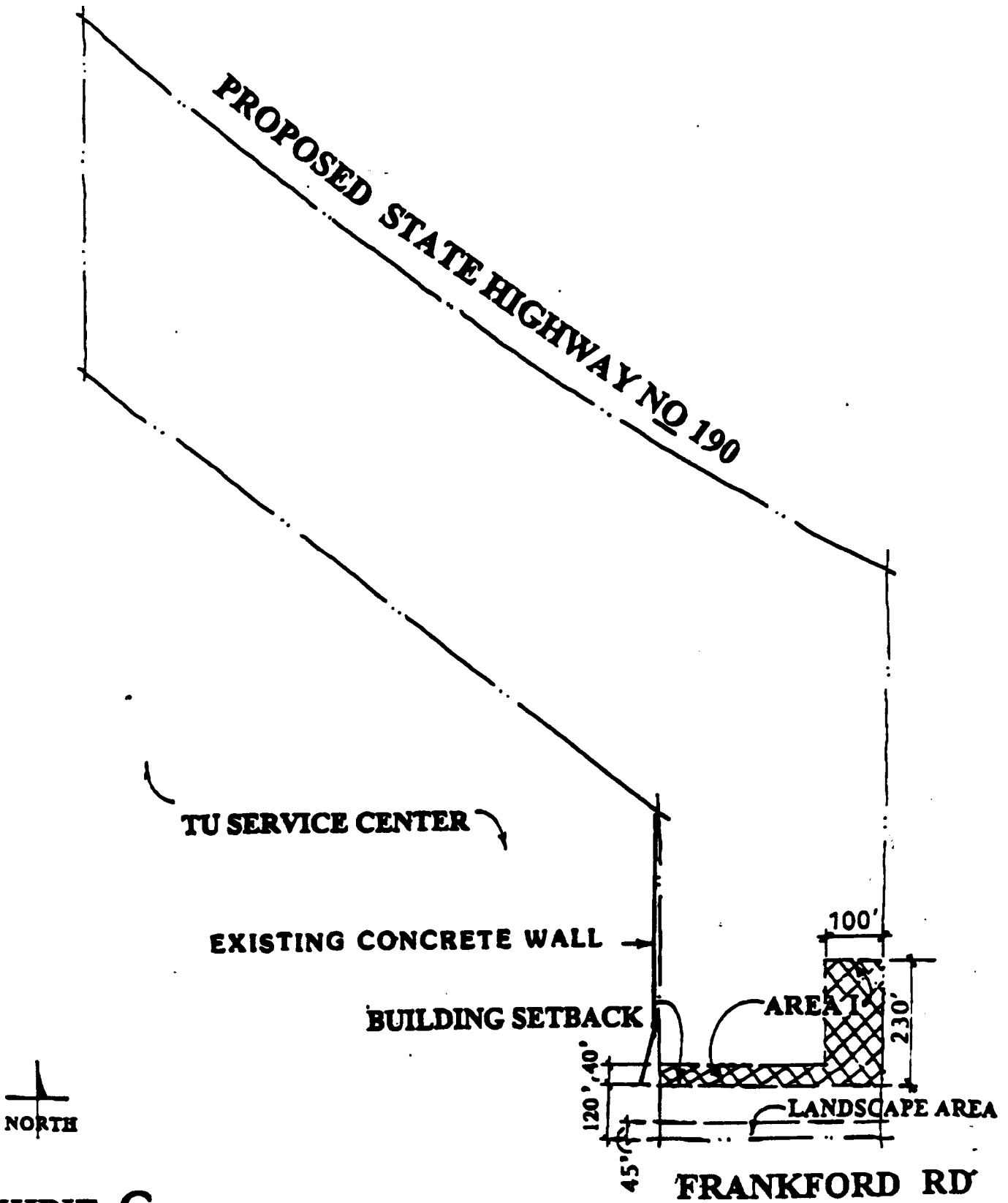


EXHIBIT C

**CERTIFICATE OF INCUMBENCY
EXTRACT FROM TRUST AGREEMENT**

I, Brenda Stringer, Assistant Secretary of E-Systems, Inc., a corporation organized under the laws of the State of Delaware, do hereby certify that the person whose names and specimen signatures appear below are incumbent trustees of the E-Systems, Inc. Pool Trust pursuant to various board resolutions which established the trust and which have appointed trustees:

Michael C. Eberhardt

Michael C. Eberhardt

Art Hobbs

Art Hobbs

James W. Pope

James W. Pope

I further certify that the following are true and correct extracts from the current Trust Agreement between E-Systems, Inc. and the Trustees, E-Systems, Inc. Pool Trust:

**ARTICLE V
POWERS**

5.1 **General Powers and Authority.** Without limiting the other provisions of this Agreement, the Trustees shall have the following powers and authority in the Administration of this Trust:

- A. To receive, hold, take, manage, control and administer the Pooled Funds, and to collect, receive and receipt for the income and profits arising therefrom.
- B. To sell to, exchange with or purchase from any person, including but not limited to the Company and its Affiliates (except as provided in Section 4.4 as regards the Employees' Pooled Fund), at public or private sale, with or without notice to any party, for cash or on credit, any property, with or without notice to any party, for cash or on credit, any property, with or without obtaining or giving security for payment of the price thereof by deed of trust, mortgage, pledge or other encumbrance of such property (except that adequate security and a reasonable rate of interest shall be obtained or given on all transactions between the Trustees and the Company and its Affiliates), on any terms without being limited by the duration of the trust created hereunder, so long as the transactions enumerated above are not prohibited by State or Federal law.
- C. To lease, exchange, redeem, obtain or grant options upon or otherwise

acquire or dispose of any property of any type or kind to, with or from any person (except as provided in Section 4.4 as regards the Employees' Pooled Fund), including but not limited to the Company and its Affiliates, on any terms, and to purchase or otherwise acquire property for such purposes, without being limited by the duration of the trust created hereunder so long as the transactions enumerated above are not prohibited by State or Federal law.

D. To partition and improve any property, or to demolish, remodel or erect buildings or other structures on any property, without incurring any liability or loss resulting therefrom; and to employ surveyors, engineers, artisans, real estate agents, salesmen, contractors and other persons necessary at the normal charges and fees with respect thereto.

E. To borrow from or lend to any person, including but not limited to the Company and its Affiliates (except as provided in Section 4.4 as regards the Employees' Pooled Fund), on any terms not prohibited by law or constituting a "prohibited transaction" under ERISA, and without being limited by the duration of the Pooled Trust, and if the Trustees so elect, to secure or obtain security for the repayment thereof by deed of trust, mortgage, pledge or other encumbrance of any property.

I. To make, execute and deliver any and all deeds, leases, mortgages, conveyances, contracts, waivers, releases or other instruments in writing necessary or proper for the accomplishment of the foregoing powers, without being limited by the duration of the Pool Trust.

M. To perform all acts which the Trustees may deem necessary or proper and to exercise any and all powers of the Trustees under this Agreement upon such terms and conditions as the Trustees may deem for the best interest of the Pool Trust.

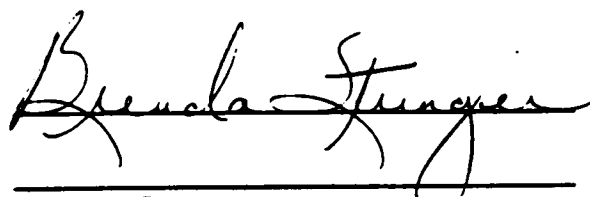
Q. In general, to exercise in respect of any property of any type or kind, any power which an absolute owner of such property would have.

R. Without limitation of the other provisions of this Agreement being intended, the Trustees are herewith granted each and every power, authority, discretion and release of fiduciary obligation permitted by the Texas Trust Act and ERISA to be granted by the settlor or trustor of a trust.

8.13 **Reliance on Authority of Trustees.** No person shall be obligated to see to the application of any money or property delivered to the Trustees, nor shall any such person be

required to take cognizance of the provisions of this Agreement. The certificate of the Trustees, signed by one of the Trustees, may be received by any person dealing with the Trustees as conclusive evidence of any matter relating to this Agreement or the administration thereof. In general, each person dealing with the Trustees may act upon any advice, request or representation in writing by one of the Trustees and shall not be liable to any person in so doing. In case of doubt as to whether the Trustees have or have not been granted a specific power not enumerated hereunder, the certificate of the Trustees that the exercise of such power is necessary or desirable for the proper administration or distribution of the Pooled Funds shall be conclusive upon all persons dealing with the Trustees to the same extent as if such power had been specifically granted to the Trustees.

IN WITNESS WHEREOF, I have hereunto set my hand as Assistant Secretary of the Corporation and have affixed the seal thereof as of this 8th day of February, 1995.



Assistant Secretary