

[Name of Awardee]
AWARD NUMBER: 021CD00

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM
ASSISTANCE AGREEMENT FOR LOANS TO NON-REGULATED INSTITUTIONS

_____, 2002

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY
TABLE OF CONTENTS

	Page
I. Incorporation by Reference	2
II. Definitions	2
2.1 Act	2
2.2 Affiliate	2
2.3 Application	2
2.4 Assistance Agreement	2
2.5 Closing	2
2.6 Closing Date	3
2.7 Community Development Financial Institution	3
2.8 Community Development Financial Institutions Program	3
2.9 Community Development Financial Institutions Program Regulations	3
2.10 Comprehensive Business Plan	3
2.11 Insider	3
2.12 Investment Area	3
2.13 Low Income.	3
2.14 Matching Funds	4
2.15 Subsidiary.	4
2.16 Targeted Population	4
III. The Assistance	4
3.1 The Assistance.	4
3.2 Issuance of the Note.	4
3.3 Authorized Uses of Assistance	5
3.4 Authorized Uses of Matching Funds	5
3.5 Restrictions on the Use of Assistance	5
3.6 Disbursement(s) of Assistance	6
IV. Representations and Warranties	6
4.1 Organization, Standing and Powers	6
4.2 Qualification	6
4.3 Authorization; Consents	7
4.4 Execution and Delivery; Binding Agreement	7
4.5 Authorization and Legality of the Note	7
4.6 The Offering	7
4.7 Litigation.	7
4.8 No Conflicts	7
4.9 Compliance with Other Instruments	8
4.10 Disclosure.	8
4.11 Taxes; Debts; Bankruptcy.	8
4.12 Debarment, Suspension and Other Responsibility Matters	8
4.13 Status As A CDFI.	9
4.13 Matching Funds.	9

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

V.	Conditions Precedent to Closing	9
5.1	Performance	9
5.2	Opinion of Awardee Counsel	9
5.3	Representations and Warranties	10
5.4	Proceedings and Documents	10
5.5	Matching Funds	10
5.6	Performance Goals	10
VI.	Covenants of the Awardee	11
6.1	Compliance with Government Requirements	11
6.2	Fraud, Waste, and Abuse	11
6.3	Right To Inspect and Audit	11
6.4	Retention of Records	12
6.5	General Data Collection	12
6.6	Semi-Annual Reports	12
6.7	Annual Reports	12
6.8	Audited Financial Statements	12
6.9	Equal Credit Opportunity Act	13
6.10	Use of Funds	13
6.11	Certain Insider Activities	13
6.12	Maintain Existence as a CDFI	13
6.13	Financial and Managerial Soundness	13
6.14	Advise the Fund of Certain Material Events	14
6.15	Annual Survey	14
VII.	Events of Default and Remedies	14
7.1	Events of Default	15
7.2	Remedies	16
7.3	No Waiver	17
7.4	Prior Notice to Awardee of Sanctions	17
VIII.	Miscellaneous	17
8.1	Notices	17
8.2	Entire Agreement	18
8.3	Assignment	18
8.4	Successors	18
8.5	Severability	18
8.6	No Waiver	19
8.7	Applicable Law	19
8.8	Disclaimer of Relationships	19
8.9	Counterparts	19
8.10	Headings	20
8.11	Amendments	20
8.12	Survival of Representations and Warranties	20
8.13	Termination	20
8.14	Applicability of Criminal Provisions	21

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

8.15 Disclosure of Awardee Reports by Fund 21
8.16 Limitation on Fund and Federal Liability 21

**DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY
SCHEDULES**

Schedule 3.4	Matching Funds/Chart
Schedule 3.6	Promissory Note
Schedule 4.1	Subsidiaries and Affiliates
Schedule 5.1	Certification of Performance
Schedule 5.3	Certification of Representations and Warranties
Schedule 5.6	Performance Goals
Schedule 6.6	Semi-Annual Report
Schedule 6.7	Annual Report; Awardee Certifications
Appendix 1	Reporting Schedule

**COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM
ASSISTANCE AGREEMENT FOR LOANS TO NON-REGULATED INSTITUTIONS**

This Assistance Agreement is entered into as of this _____ day of _____, 2002, by and between the **Community Development Financial Institutions Fund**, a wholly owned government corporation within the U.S. Department of the Treasury (the "Fund"), and _____, a _____ (the "Awardee"). This Assistance Agreement is not a procurement subject to the Federal Property and Administrative Service Act (41 U.S.C. §§ 251-260) and the Federal Acquisition Regulations.

RECITALS

WHEREAS, through the Community Development Financial Institutions Program (as hereinafter defined), the Fund endeavors to strengthen and expand the national network of financial institutions dedicated to community development;

WHEREAS, the Fund strives to strengthen and expand such network by providing assistance to selected community development organizations in order to enhance their ability to serve an Investment Area(s) (as hereinafter defined), a Targeted Population(s) (as hereinafter defined) or both;

WHEREAS, in order to be considered for assistance under the Community Development Financial Institutions Program, an organization must submit an Application (as hereinafter defined) to the Fund for review and evaluation in the context of a competitive application process;

WHEREAS, the Awardee timely submitted such Application to the Fund and entered such competitive application process; and

WHEREAS, based on a review and evaluation of the Application, the Fund selected the Awardee to receive assistance under the Community Development Financial Institutions Program, subject to the satisfaction of the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants, conditions and agreements hereinafter set forth, the parties hereto agree as follows:

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

**ARTICLE I
INCORPORATION BY REFERENCE**

12 C.F.R. Part 1805, as from time to time amended, is incorporated by reference and given the same force and effect as if set out in full text. In the event of any inconsistency between 12 C.F.R. Part 1805 and the terms of this Assistance Agreement, and any amendments thereto, the provisions of 12 C.F.R. Part 1805 shall govern.

**ARTICLE II
DEFINITIONS**

When used in this Assistance Agreement, the following terms shall have the meanings specified below. Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Act (as hereinafter defined) and/or the Community Development Financial Institutions Program Regulations (as hereinafter defined).

2.1 Act. "Act" shall mean the Community Development Banking and Financial Institutions Act of 1994, subtitle A, title I, Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. No. 103-325, 108 Stat. 2163 (September 23, 1994), as amended.

2.2 Affiliate. "Affiliate" shall mean any company that controls, is controlled by, or is under common control with the Awardee.

2.3 Application. "Application" shall mean the Community Development Financial Institutions Program Application Form, including any written or verbal information in connection therewith and any attachments, appendices and/or written or verbal supplements thereto, dated the _____ day of _____, 2001, submitted by the Awardee to the Fund, in response to the Notice of Funds Availability (NOFA) inviting Applications for the Community Development Financial Institutions Program - Core Component that was published in the Federal Register on September 24, 2001.

2.4 Assistance Agreement. "Assistance Agreement" or "Agreement" shall mean this Community Development Financial Institutions Program Assistance Agreement between the Fund and the Awardee, including any attachments hereto, as such Agreement may, from time to time, be amended in accordance with its terms.

2.5 Closing. "Closing" shall mean any proper execution and delivering of this Agreement and any other document connected herewith and/or any disbursement of financial assistance on the

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

Closing Date (as hereinafter defined) by electronic funds transfer to an account designated by the Awardee. Pursuant hereto, there may be an initial Closing at which, for example, this Agreement and documents connected herewith will be properly executed and delivered and an initial disbursement connected herewith will be made. Subsequently, there may be a subsequent Closing or Closings at which subsequent disbursements connected herewith will be made and any documents in addition to this Agreement that may be connected with such disbursements shall be properly executed and delivered by the Awardee to the Fund.

2.6 Closing Date. "Closing Date" shall mean a date or dates mutually agreed to by the parties hereto, subject to the terms and conditions contained herein.

2.7 Community Development Financial Institution. "Community Development Financial Institution" or "CDFI" shall mean any entity certified as a CDFI by the Fund pursuant to 12 C.F.R. § 1805.201 of the Community Development Financial Institutions Program Regulations (as hereinafter defined), with such certification indicating that the entity meets the CDFI eligibility requirements set forth in the Community Development Financial Institutions Program Regulations, including, without limitation, 12 C.F.R. § 1805.200 thereof.

2.8 Community Development Financial Institutions Program. "Community Development Financial Institutions Program" or "CDFI Program" shall mean the program authorized by the Act and implemented pursuant to the Community Development Financial Institutions Program Regulations.

2.9 Community Development Financial Institutions Program Regulations. "Community Development Financial Institutions Program Regulations" or "CDFI Regulations" shall mean the regulations set forth in 12 C.F.R. Parts 1805 and 1815, as the same may, from time to time, be amended.

2.10 Comprehensive Business Plan. "Comprehensive Business Plan" or "Business Plan" shall mean the plan described in 12 C.F.R. § 1805.601(d) of the CDFI Regulations.

2.11 Insider. "Insider" shall mean any director, officer, employee, principal shareholder (owning, individually or in combination with family members, five percent or more of any class of stock), or agent (or any family member or business partner of any of the above) of the Awardee or of any Affiliate or Community Partner of the Awardee.

2.12 Investment Area. "Investment Area" shall mean the geographic area meeting the requirements set forth in 12 C.F.R. § 1805.201(b)(3). [For purposes of this Assistance Agreement, the

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

Awardee's Investment Area consists of _____; or the geographic area designated in the Awardee's most recently approved CDFI certification memorandum located in the Awardee's certification file at the Fund, whichever is most current.]

2.13 Low-Income. "Low-Income" means an income as defined in accordance with the CDFI Program Regulations at 12 CFR 1805.104 (cc).

2.14 Matching Funds. "Matching Funds" shall mean the funds referenced and/or described in Section 3.4, including the corresponding Schedule 3.4, and Section 5.5 hereof.

2.15 Subsidiary. "Subsidiary" shall have the same meaning as defined in 12 C.F.R. § 1805.104(gg).

2.16 Targeted Population. "Targeted Population" shall mean the individuals or identifiable group of individuals meeting the requirements of 12 C.F.R. § 1805.201(b)(3) of the CDFI Regulations. [For purposes of this Assistance Agreement, the Awardee's Targeted Population consists of _____; or the individuals or identifiable group of individuals designated in the Awardee's most recently approved CDFI certification memorandum located in the Awardee's certification file at the Fund, whichever is most current.]

**ARTICLE III
THE ASSISTANCE**

3.1 The Assistance. At all Closings connected herewith, including without limitation, any initial Closing and any subsequent Closing(s), and subject to all of the terms and conditions hereof and in reliance upon all representations, warranties, assurances, certifications and agreements contained herein, the Fund hereby agrees to provide to the Awardee, subject to the availability of funds, and the Awardee hereby agrees to accept from the Fund financial assistance in the form of a loan in the aggregate amount of _____ **Dollars** (\$_____) (the "Assistance"). The Assistance shall be evidenced by a promissory note as described in Section 3.2 hereof. If, at any Closing connected herewith, any of the conditions specified herein or in any document connected herewith shall not have been fulfilled to the satisfaction of the Fund, the Fund will, in its sole discretion, elect not to effect such Closing until such time as said conditions shall be fulfilled to the satisfaction of the Fund.

3.2 Issuance of the Note. Subject to the terms and conditions hereof and in reliance upon the representations and warranties contained herein, the Awardee agrees to issue to the Fund a

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

promissory note as evidence of the loan in the aggregate principal amount of \$_____ (the "Note"). The aggregate principal amount of the Note shall be due and payable in full _____ years from the date of the Note. The Note shall bear interest at a rate per annum (computed on the basis of the actual number of days elapsed over a year of 360 days) equal to _____, which shall be payable _____. When signed, the Note shall be made a part hereof and the Fund shall have full recourse against the Awardee.

The Fund may, at any time, assign or sell this Note, provided the Fund retains the power to enforce any agreements, covenants and other obligations of the Awardee hereunder until such time as the Awardee shall have achieved all of its Performance Goals (as hereinafter defined).

3.3 Authorized Uses of Assistance. The Awardee may use the Assistance to enhance its net worth. The Assistance need not be used to make loans but instead may be used to strengthen the Awardee's financial position, which in turn is intended to support the Awardee's Comprehensive Business Plan and assist it in achieving its community development objectives.

3.4 Authorized Uses of Matching Funds. The Awardee may use the Matching Funds to enhance its net worth. The Matching Funds need not be used to make loans but instead may be used to strengthen the Awardee's financial position, which in turn is intended to support the Awardee's Comprehensive Business Plan and assist it in achieving its community development objectives.

3.5 Restrictions on the Use of Assistance.

- (a) The Awardee shall not use any Assistance provided hereunder or any corresponding Matching Funds in a manner other than as authorized hereunder, unless the Awardee consults with and obtains the prior written approval of the Fund.
- (b) The Awardee shall not distribute Assistance to any Affiliate without the Fund's prior written consent.
- (c) The Awardee shall not use any Assistance provided hereunder to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan or cooperative

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY
agreement as such terms are defined in 31 U.S.C. §
1352.

3.6 Disbursement(s) of Assistance. Any Assistance provided by the Fund hereunder will be disbursed to the Awardee via electronic funds transfer to an account designated by the Awardee at least 20 business days prior to the initial Closing Date. The amount of the disbursement will be [**either a partial or the full amount**] of the Assistance. The Fund will not disburse any Assistance pursuant hereto until the Awardee has satisfied all conditions precedent to receiving such Assistance. The Fund will not disburse any Financial Assistance until the Awardee has received the required Matching Funds connected with the Assistance. The Fund will not disburse such Assistance until the Awardee delivers to the Fund the Note in the form attached hereto as Schedule 3.6. In accordance with 12 C.F.R. § 1805.802, Assistance disbursed by the Fund to the Awardee will not exceed the amount of Matching Funds received by the Awardee on or before the applicable Closing Date. The Fund will require the Awardee to certify to the Fund the amount of Matching Funds received on or before the applicable Closing Date.

If on the Closing Date, the Awardee fails to tender to the Fund the Note as provided herein, or if on said Closing Date any of the conditions specified herewith shall not have been fulfilled to the satisfaction of the Fund, the Fund, in its sole discretion, may elect not to provide some or any Assistance contemplated hereby until such time as said conditions shall be fulfilled to the satisfaction of the Fund.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES**

The Awardee hereby represents and warrants to the Fund the following:

4.1 Organization, Standing and Powers. The Awardee is a _____, validly existing and in good standing under the laws of the _____ and has all requisite power and authority to own and operate its assets and properties, to carry on its business as it is now being conducted and to carry out its proposed, hereby authorized use(s) of the Assistance provided hereunder. The Awardee has no Subsidiary or Affiliate except as listed on Schedule 4.1 attached hereto.

4.2 Qualification. The Awardee is duly qualified, in good standing and authorized to transact business in each jurisdiction where the conduct of the Awardee's business, the carrying out of its proposed, hereby authorized use(s) of the Assistance to be provided hereunder or the ownership of its assets and properties

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

requires such qualification, or, if not so qualified, the Awardee's failure so to qualify shall not have a material adverse effect on the Awardee, its financial condition or operations and will not impair the Awardee's ability to carry out its proposed, hereby authorized use(s) of the Assistance to be provided hereunder or its right to enforce any material agreement to which it is a party.

4.3 Authorization; Consents. The execution, delivery and performance by the Awardee of the Assistance Agreement and the carrying out of its proposed, hereby authorized use(s) of the Assistance provided hereunder are within the Awardee's corporate powers and have been duly authorized by all requisite corporate action. No consent, license, approval, authorization, qualification, exemption, franchise, designation, permit or order of, notice to or declaration or filing with, any third party including, without limitation, any governmental entity, is required in connection with the conduct of the Awardee's business or in connection with the valid execution, delivery and performance by the Awardee of the Assistance Agreement or any documents or agreements connected herewith or the carrying out of the proposed, hereby authorized use(s) of the Assistance to be provided hereunder.

4.4 Execution and Delivery; Binding Agreement. This Assistance Agreement and all documents connected herewith have been or will be, on or before the applicable Closing Date, duly authorized, executed and delivered on behalf of the Awardee and constitute, on or before the applicable Closing Date, legal, valid and binding obligations of the Awardee enforceable in accordance with their respective terms.

4.5 Authorization and Legality of the Note. The Note has been duly and validly executed and authorized, and the issuance of the Note to the Fund pursuant to this Agreement has been duly executed and authorized by the board of directors of the Awardee. No further authorization or approval is required for the issuance of the Note as contemplated herein. When delivered to the Fund, the Note will be validly issued.

4.6 The Offering. Neither the Awardee nor anyone acting on its behalf has directly or indirectly offered the Note, for issuance to the Fund, any part thereof, or any similar security of the Awardee, for sale to, or solicited any offer to buy the same from anyone other than the Fund, without registering the Note and other similar securities under State securities laws.

4.7 No Conflicts. The execution, delivery and performance by the Awardee of this Assistance Agreement and the carrying out of the proposed, hereby authorized uses(s) of the Assistance

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

provided hereunder shall not result in any violation of and shall not conflict with, or result in a breach of any of the terms of, or constitute a default under, any provision of Federal or State law to which the Awardee is subject, the Awardee's incorporation, charter, organization, formation or otherwise establishing documentation, bylaws or any agreement, judgment, writ, injunction, decree, order, rule or regulation to which the Awardee is a party or by which it is bound.

4.8 Litigation. The Awardee has neither actual nor constructive knowledge of any suit, action, proceeding or investigation pending or threatened that questions the validity of this Assistance Agreement or any action taken or to be taken pursuant hereto or contemplated hereby including, but not limited to, the carrying out of the proposed, hereby authorized use(s) of the Assistance to be provided hereunder.

4.9 Compliance with Other Instruments. The Awardee is not, and at any Closing connected herewith will not be, in violation of any provision of its incorporation, charter, organization, formation or otherwise establishing documents, or of any loan agreement or other material agreement to which it is a party. The Awardee is not, and at any Closing connected herewith will not be, in violation of any instrument, judgment, decree, order, statute, rule or governmental regulation applicable to it, the violation of which might have a material adverse effect on the business, affairs, operations, or condition of the Awardee.

4.10 Disclosure. Neither this Assistance Agreement nor any attachment hereto, nor any certification or other document referenced or incorporated herein or therein and furnished to the Fund by the Awardee contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. The Awardee has disclosed, in writing, to the Fund all facts that might reasonably be expected to result in a material adverse effect upon the Awardee's ability either to conduct its principal business or to carry out its proposed and herein authorized use of the Assistance to be provided hereunder. The Awardee has not knowingly and willfully made or used a document or writing containing any false, fictitious or fraudulent statement or entry as part of its correspondence or communication with the Fund. The Awardee acknowledges, under 18 U.S.C. § 1001, that if it knowingly and willfully makes or uses such document or writing it or its employee(s) or agents shall be fined or imprisoned for not more than five years, or both.

4.11 Taxes; Debts; Bankruptcy. The Awardee is not delinquent on any debts owed to Federal, State or local governments including, but not limited to, amounts due under the Internal Revenue Code,

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

and has never filed for bankruptcy nor had a conservator appointed.

4.12 Debarment, Suspension and Other Responsibility Matters.

Neither the Awardee nor any of its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) within a three-year period prior to the date of this Agreement, have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in (b) above; or (d) within a three-year period prior to the date of this Agreement, have had one or more public transactions (Federal, State, or local) terminated for cause or default.

4.13 Status As A CDFI. Since its certification as a CDFI by the Fund, the Awardee has neither actual nor constructive knowledge of any changes that may adversely affect its status as a certified CDFI.

4.12 Matching Funds. Funds used by the Awardee as Matching Funds for purposes of this Assistance Agreement have not been used by the Awardee or any of its Affiliates to satisfy a legal requirement for obtaining funds under another Federal grant or award program.

**ARTICLE V
CONDITIONS PRECEDENT TO CLOSING**

The obligation of the Fund to provide any Assistance to the Awardee at any Closing connected herewith is subject to the fulfillment, as determined by the Fund, in its sole discretion, of the following conditions precedent, each of which shall be fulfilled prior to any Closing(s) connected herewith.

5.1 Performance. The Awardee shall have performed and complied with all applicable agreements and conditions contained herein required to be performed or complied with by it before or at such Closing, and the Fund shall have received a certification to such effect in the form attached hereto as Schedule 5.1.

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

5.2 Opinion of Awardee Counsel. Unless otherwise determined by mutual agreement of the Fund and the Awardee, the Fund shall have received from _____, counsel for the Awardee, a favorable opinion satisfactory in scope, form, and substance to the Fund and the Fund's counsel, which confirms the following:

- (a) the representations and warranties contained in Sections 4.1 (first sentence), 4.3, 4.4, 4.5, 4.7 and 4.8 herein;
- (b) the Note has been duly executed and delivered by duly authorized officers of the Awardee; and
- (c) the offer, issue, sale and delivery of the Note constitute exempted transactions under the applicable State securities laws as now in effect, and the registration under State securities laws is not required.

Such opinion shall also cover such other matters incident to the transactions contemplated hereby as the Fund or its counsel may require.

5.3 Representations and Warranties. The representations and warranties set forth in this Agreement and the Assurances and Certifications contained in the Application shall be true and correct in all material respects on the date hereof and as of any Closing Date connected herewith, and the Fund shall have received from the Awardee a certification to such effect in the form attached hereto as Schedule 5.3 for each Closing.

5.4 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated by this Assistance Agreement and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Fund, and the Fund shall have received from the Awardee all such counterpart originals or certified or other documents as the Fund may reasonably request.

5.5 Matching Funds. The Fund shall have received evidence satisfactory in substance and form to the Fund that the Awardee has secured the required Matching Funds connected with the Assistance provided hereunder as described in Section 3.6 hereof. The Awardee shall raise from non-Federal government sources not less than one dollar for each dollar provided by the Fund hereunder. Community Development Block Grant Program and other funds provided pursuant to the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5301 et seq.), shall be considered Federal government funds and may not be used to satisfy this Matching Funds requirement. Matching Funds shall be at least comparable in form and value to the Assistance provided

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

hereunder. The Fund, in its sole discretion, will determine whether proposed Matching Funds are comparable in form and value to the Assistance provided hereunder.

5.6 Performance Goals. The Fund and the Awardee shall have determined, by mutual agreement, the Performance Goals for the Awardee as required by 12 U.S.C. § 4707(f) and the CDFI Regulations. Such Performance Goals will be set forth on Schedule 5.6 attached hereto and based upon the Comprehensive Business Plan of the Awardee as of the Closing Date. Nothing herein is intended or should be construed to prevent the Awardee from developing, adopting and/or revising a business strategy as it deems appropriate in the best interests of the Awardee, provided such activities by the Awardee do not result in the Awardee's failure to comply with terms, conditions, agreements and other provisions of this Assistance Agreement.

**ARTICLE VI
COVENANTS AND AGREEMENTS OF THE AWARDEE**

Until the expiration of this Agreement pursuant to Section 8.13 hereof (except with respect to Section 6.4 hereof which shall remain in effect for three years following the expiration hereof pursuant to said section), the Awardee shall duly perform and observe each and all of the following covenants and agreements:

6.1 Compliance with Government Requirements. In carrying out its responsibilities pursuant to this Assistance Agreement, the Awardee shall comply with all applicable Federal, State and local laws, regulations, ordinances, Office of Management and Budget (OMB) Circulars, and Executive Orders.

6.2 Fraud, Waste and Abuse. If the Awardee becomes aware at any time of the existence or apparent existence of fraud, waste or abuse of Assistance provided pursuant to this Assistance Agreement, the Awardee shall promptly report such incidence(s) to the Office of Inspector General of the U.S. Department of the Treasury.

6.3 Right to Inspect and Audit. The Awardee shall submit such financial and activity reports, records, statements and documents as may be required by the Fund and the U.S. Department of the Treasury to ensure compliance with this Assistance Agreement. The United States Government including, but not limited to, the U.S. Department of the Treasury and the Comptroller General, and their duly authorized representatives, shall have full and free access during reasonable business hours to the Awardee's offices

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

and facilities and all books, documents, records and financial statements relevant to the Assistance provided hereunder. The Awardee shall permit any of these authorities to copy such documents as they deem appropriate. The purposes of such inspections and/or audits will include, but not be limited to, ensuring that representations, warranties, covenants, and/or certifications are accurate. The Fund will, consistent with applicable law, maintain the confidentiality of all financial and other proprietary information disclosed to the Fund pursuant to this section.

6.4 Retention of Records. The Awardee shall comply with all record retention requirements set forth in OMB Circular A-110. Pursuant to this Circular, the Awardee shall retain all financial records, supporting documents, statistical records and any other records pertinent to the Assistance for a period of three years after the conditions in Section 8.13(a), (b), (c) and (d) hereof have all been met.

6.5 General Data Collection. The Awardee shall maintain such records as reasonably may be necessary to:

- (a) disclose the manner in which the Assistance provided hereunder is used;
- (b) demonstrate compliance with the requirements of the CDFI Regulations and this Assistance Agreement; and
- (c) evaluate the accomplishments of the CDFI Program.

6.6 Semi-Annual Reports. Within 60 days after the end of each semi-annual reporting period, the Awardee shall deliver to the Fund a semi-annual report containing the information set forth on Schedule 6.6 attached hereto. If the information provided by the Awardee indicates that the Awardee has failed to meet its Financial Soundness Covenant(s), as set forth in Goal 1 of Schedule 5.6, the Awardee shall respond to each of the questions listed in Schedule 6.6. The due date for each semi-annual report is listed in Appendix 1.

6.7 Annual Reports. By _____ of each year, commencing in _____, the Awardee shall deliver to the Fund an annual report covering the preceding _____ through _____ period. The due date for each such annual report is listed in Appendix 1. Such report shall be in the form found at Schedule 6.7 attached hereto and contain the following information:

- (a) a narrative description of the Awardee's activities in support of its Comprehensive Business Plan;

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

- (b) qualitative and quantitative information on the Awardee's compliance with its performance goals and (if appropriate) an analysis of factors contributing to any failure to meet such goals; and
- (c) information describing the manner in which the Assistance and any corresponding Matching Funds were used.

6.8 Audited Financial Statements. Within ___ days after the end of fiscal year _____ of the Awardee and each fiscal year thereafter, the Awardee shall deliver to the Fund copies of the single audit reporting package and any management letters issued by the Awardee's auditor that were prepared in accordance with OMB Circular A-133 ("Audits of States, Local Governments, and Non-Profit Organizations"). If the Awardee is not subject to the provisions of OMB Circular A-133 for any given fiscal year, it shall instead submit to the Fund the Awardee's most recent statements of financial condition audited by an independent certified public accountant, if any. However, under no circumstances should the requirements of this section 6.8 be construed as requiring the Awardee to conduct or arrange for additional audits not otherwise required under OMB Circular A-133 or by the Awardee's Board of Directors. The due dates for such submissions are listed in Appendix 1.

6.9 Equal Credit Opportunity Act. The Awardee shall provide its products and services in a manner that is consistent with the Equal Credit Opportunity Act (15 U.S.C. § 1691), to the extent that the Awardee is subject to the requirements of such Act.

6.10 Use of Funds. The Awardee shall use any Assistance provided hereunder and the corresponding Matching Funds described herein only as permitted hereby. The Awardee shall not use any of the Assistance to pay or provide reimbursement for payment of the salary of a consultant at more than the daily rate equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law. For calendar year 2002, this daily rate equivalent is \$515.38.

6.11 Certain Insider Activities. The Awardee shall comply with the restrictions on Insider activities set forth at § 1805.806 of the CDFI Regulations.

6.12 Maintain Existence as a CDFI. The Awardee shall do all things necessary to preserve, renew and keep in full force and effect its existence as a CDFI and simultaneously with its delivery to the Fund of the annual report required by Section 6.7

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

hereof shall deliver to the Fund a certification to such effect in the form set forth on Schedule 6.7 attached hereto.

6.13 Financial and Managerial Soundness.

- (a) The Awardee shall produce, for its internal review each month, unaudited financial statements including at least a balance sheet and an income and expense statement.
- (b) At least quarterly, the Awardee shall conduct a portfolio review evaluating individually the status of each loan in the portfolio.
- (c) The Awardee shall comply with its Financial Soundness Covenant(s), as set forth in Goal 1 of Schedule 5.6 attached hereto.

If applicable, the Awardee shall provide an analysis of factors contributing to the failure to meet its Financial Soundness Covenant(s), as set forth in Goal 1 of Schedule 5.6, an explanation of what is being done to address the situation, and when the Awardee expects to be in compliance.

- (d) Simultaneously with its delivery to the Fund of the annual report required by Section 6.7 hereof, the Awardee shall deliver to the Fund a certification that it has complied with subsections (a) and (b) of this Section 6.13 in the form set forth on Schedule 6.7 attached hereto.

6.14 Advise the Fund of Certain Material Events. The Awardee shall promptly advise the Fund in writing in reasonable detail of any of the following events:

- (a) any proceeding instituted against the Awardee in, by or before any court, governmental or administrative body or agency, which proceeding or its outcome could have a material adverse effect upon the operations, assets or properties of the Awardee;
- (b) any material adverse change in the condition, financial or otherwise, or operations of the Awardee;
- (c) any change in the business of the Awardee;
- (d) the occurrence of any Event of Default, as that term is defined in Section 7.1 hereof, or any event which upon

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

notice or lapse of time, or both, would constitute an Event of Default; or

- (e) the merger or acquisition of the Awardee by or with another entity.

6.15 Annual Survey. By such date as the Fund may specifically prescribe in a letter to the Awardee of each year, the Awardee shall deliver to the Fund a response to an annual survey covering the preceding _____ through _____ period. The purpose of the annual survey is to assist the Fund in evaluating: (i) the extent to which the Awardee has accomplished its Comprehensive Business Plan (including, but not limited to, the "Activities Level Chart" and the "Impact and Institutional Performance Chart"), and (ii) the accomplishments of the CDFI Program. The Fund will provide the form and content requirements of the annual survey. The due date for each such annual survey is listed in Appendix 1.

**ARTICLE VII
EVENTS OF DEFAULT AND REMEDIES**

7.1 Events of Default. If any one or more of the following events occurs, the Fund, in its sole discretion, may find the Awardee to be in default:

- (a) fraud, mismanagement or noncompliance with the Act;
- (b) any representation, warranty, certification, assurance or any other statement of fact set forth in this Assistance Agreement or the Application of the Awardee including, but not limited to, the Assurances and Certifications in the Application, or any representation or warranty set forth in any document, report, certificate, financial statement or instrument now or hereafter furnished in connection with this Assistance Agreement, is found by the Fund to be inaccurate, false, incomplete or misleading when made, in any material respect;
- (c) the failure of the Awardee to observe, comply with or perform any term, covenant, agreement or other provision contained in the CDFI Regulations, the Assistance Agreement including, but not limited to the Performance Goals, or the Application including, but not limited to, the Assurances and Certifications contained therein, or any instrument, note or any other

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

document delivered to the Fund in connection with or pursuant to this Assistance Agreement;

- (d) the failure of the Awardee to conduct its business in the usual and ordinary course or to maintain its corporate existence and right to carry on its business and duly obtain all necessary renewals and extensions thereof and to maintain, preserve and renew all such rights, powers, privileges and franchises; provided, however, that no default will be deemed to occur in the event that the Awardee ceases or omits to exercise any rights, powers, privileges, or franchises that in the judgment of its board of directors may no longer be exercised in the best interests of the Awardee;
- (e) default in the due and punctual payment of the principal, interest, or both on the Note when and as the same shall become due and payable;
- (f) the Awardee's becoming insolvent or unable to meet its obligations as they mature, making a general assignment for the benefit of creditors, or consenting to the appointment of a trustee or a receiver, or admitting in writing its inability to pay its debts as they mature;
- (g) the institution of bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings by or against the Awardee and, if instituted against it, the same being consented to by the Awardee or remaining undismissed for a period of thirty (30) calendar days; or
- (h) default in the due and punctual payment of the principal, interest, or both on a debt instrument of the Awardee that evidences funds borrowed by the Awardee and used as Matching Funds hereunder when said default results in the instrument's holder initiating proceedings against the Awardee to make all payments under said instrument immediately due and payable.

7.2 Remedies. If the Fund finds the Awardee to be in default under Section 7.1 of this Assistance Agreement, the Fund may, in its sole discretion, take any one or more of the following actions, subject to Section 7.4 of this Agreement:

- (a) require changes in the Awardee's Performance Goals attached hereto and incorporated herein;
- (b) require changes in the Awardee's Comprehensive Business Plan defined herein;

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

- (c) revoke approval of the Awardee's Application;
- (d) revoke approval of any other applications submitted to the Fund by the Awardee under any of the Fund's programs;
- (e) reduce or terminate the Awardee's Assistance authorized hereunder;
- (f) require repayment of any Assistance that has been distributed to the Awardee pursuant hereto;
- (g) bar the Awardee from reapplying for any Assistance from the Fund;
- (h) require the Awardee to convene a meeting(s) of its board of directors at which meeting(s) the Fund will be given the opportunity to address the attendees with respect to the Fund's evaluations and concerns regarding the performance of the Awardee under the Assistance Agreement;
- (i) declare the Note to be due and payable, whereupon the maturity of the then unpaid balance of the Note shall be accelerated and the principal and all interest accrued thereon shall forthwith become due and payable without presentment, demand, protest or notice of any kind, all of which the Awardee hereby expressly waives; or
- (j) take such other actions as the Fund deems appropriate.

7.3 No Waiver. No course of dealing on the part of the Fund or any delay or failure on the part of the Fund to exercise any right herein will operate as a waiver of the right or otherwise prejudice the Fund's rights, powers and remedies under this Assistance Agreement, the Act, the CDFI Regulations or any other applicable law or regulation.

7.4 Prior Notice to Awardee of Sanctions. Prior to exercising or imposing any remedy contained herein, the Fund will, to the maximum extent practicable, provide the Awardee with written notice of the incidence(s) giving rise to the default and the proposed remedy (or remedies). The Fund's written notice will give the Awardee 10 calendar days from the date of the notice to respond. The Fund may, in its sole discretion, also afford the Awardee 20 calendar days from the date of the notice to correct the incidence(s) giving rise to the default. If the Awardee fails to respond within either the 10 calendar day response time or, if applicable, the 20 calendar day correction or cure period, the Fund may, in its sole discretion, impose or exercise the

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

remedy (or remedies) set forth in its written notice. Nothing in this Assistance Agreement, however, will provide the Awardee with any right to any formal or informal hearing or comparable proceeding not otherwise required by law.

**ARTICLE VIII
MISCELLANEOUS**

8.1 Notices. All notices, requests, demands, consents, waivers and other communications given under any provision of this Assistance Agreement shall be in writing and shall be delivered by hand, mailed by postage-prepaid first-class mail or delivered by overnight courier service, to the addresses indicated below, or to such different address or addresses as the addressee may have specified in a notice duly given to the sender:

if to the Fund:

Community Development Financial Institutions Fund
Department of the Treasury
Attention: Awards Manager
601 13th Street, NW, Suite 200 South
Washington, DC 20005

if to the Awardee:

Attention:_____

All notices and other communications from the Awardee to the Fund shall include the Award Number: _____.

8.2 Entire Agreement. This Assistance Agreement, the Schedules, and Appendix attached hereto, the Application and the attachments, exhibits, appendices and supplements to the Application, and the Notice of Award dated _____, 2002, between the Awardee and the Fund with respect to the obligation of funds necessary to provide Assistance to the Awardee contain the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements or understandings, written or oral, in respect thereof, and no change, modification or waiver of any provision hereof shall be valid unless in writing and signed by the party to be bound. The Application, including any attachments, exhibits, appendices and supplements thereto, any attachments, schedules, exhibits, appendices and supplements to this Assistance Agreement, and said

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

Notice of Award are incorporated in and made a part of this Agreement.

8.3 Assignment. The Awardee may not assign, pledge or otherwise transfer any rights, benefits or responsibilities of the Awardee under this Assistance Agreement without the prior written consent of the Fund. In addition, any assignment by the Awardee shall comply, to the extent applicable, with the Assignment of Claims Act, codified at 31 U.S.C. § 3727.

8.4 Successors. The rights, benefits and responsibilities of each of the parties hereto shall inure to their respective successors, subject to this Section 8.4. If the Awardee merges with or is acquired by another entity, the Fund reserves the right to examine the new entity, which acquired or merged with the Awardee, to determine its acceptability as an Awardee. If the Fund determines that the new entity is not eligible or acceptable as an Awardee, or if the new entity does not agree to abide by all the provisions of this Assistance Agreement and shall continue operations and performance as if there were no interruption in the parties to this Agreement, the Fund may terminate the continued provision of Assistance under this Agreement and take any or all remedies it deems appropriate in accordance with Sections 7.2 and 7.4 herein.

8.5 Severability. If any provision of this Assistance Agreement shall for any reason be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other provision of this Assistance Agreement, and this Assistance Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.

8.6 No Waiver. No delay or failure on the part of either party in exercising any rights hereunder, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder.

8.7 Applicable Law. This Assistance Agreement shall be governed by and construed in accordance with Federal law to the extent such Federal law is applicable, and to the extent Federal law is not applicable, this Assistance Agreement shall be governed by and construed in accordance with the law of the State of incorporation of the Awardee.

8.8 Disclaimer of Relationships.

- (a) The Awardee shall not be deemed to be an agency, department or instrumentality of the United States merely by virtue of it being an Awardee.

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

- (b) Nothing in this Assistance Agreement, nor any act of the Fund or the Awardee, shall be construed by either of them, or by a third party, to create any relationship of third-party beneficiary, principal and agent, limited or general partner or joint venture, or of any association or relationship whatsoever involving the Fund.
- (c) Notwithstanding any other provision of law, the Fund shall not be deemed to control the Awardee by reason of any Assistance provided hereunder for the purpose of any other applicable law, provided that the Fund does not own more than 50 percent of the equity of the Awardee.

8.9 Counterparts. This Assistance Agreement may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

8.10 Headings. The headings contained in this Assistance Agreement are for convenience only and shall not affect the meaning or interpretation of this Assistance Agreement.

8.11 Amendments. The terms of this Assistance Agreement may be amended, modified, or supplemented by the mutual written consent of the parties hereto.

8.12 Survival of Representations and Warranties. All representations, warranties, covenants, and agreements made by the Awardee in this Assistance Agreement or the Application, including, without limitation, all Assurances and Certifications contained in the Application, or in any document, report, certificate, financial statement, note or instrument now or hereafter furnished in connection with this Assistance Agreement shall survive the execution and delivery of this Assistance Agreement and the provision of any Assistance pursuant hereto.

8.13 Termination. Unless otherwise mutually agreed upon in writing by the parties hereto, this Assistance Agreement shall terminate when all of the following conditions have been met:

- (a) the Fund determines that the Awardee has submitted to the Fund the reports required by Sections 6.6, 6.7, 6.8 and 6.15 hereof covering activity through [Insert date for final Performance Goal benchmark];
- (b) the Fund determines that all Assistance provided hereunder has been used as permitted hereby;
- (c) the Fund determines that the Awardee has met all of its Performance Goals; and

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

- (d) the Fund determines that the Note and all accrued and unpaid interest and, if applicable, late fees thereon have been paid in full.

At such time as the Awardee meets the conditions in Section 8.13(a), (b), and (c) hereof, but Awardee has not met the condition in Section 8.13(d) hereof:

- (a) Sections 3.3, 3.4, 5.6, 6.6, 6.7 and 6.8 hereof will no longer be applicable;
- (b) In lieu of the reports required by sections 6.6, 6.7 and 6.8 hereof, at the Fund's request, the Awardee shall deliver to the Fund the most recent audited financial statements prepared by an independent certified public accountant, and a summary of Awardee activities and initiatives during the prior year;
- (c) Sections 6.12 and 6.15 hereof will remain in effect, except that the annual certification attached to Schedule 6.7 and the annual survey required in Section 6.15 will not be required unless specifically requested by the Fund.

8.14 Applicability of Criminal Provisions. The criminal provisions of 18 U.S.C. § 657 regarding embezzlement or misappropriation of funds are applicable to all Awardees and Insiders.

8.15 Disclosure of Awardee Reports by Fund. The Fund will, consistent with applicable law, make reports described in Article VI hereof available for public inspection after deleting any materials necessary to protect privacy or proprietary interests.

8.16 Limitation on Fund and Federal Liability. The liability of the Fund and the United States Government arising out of the provision of any Assistance to the Awardee hereunder shall be limited to the amount of such Assistance. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory or the District of Columbia. Nothing herein is intended or should be construed to affect the application of any Federal tax law.

8.17 Compliance with Non-Discrimination Statutes. The Awardee shall comply with all Federal statutes relating to non-discrimination, including, but not limited to: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Drug Abuse Office and Treatment

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

Act of 1972; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; §§ 523 and 527 of the Public Health Service Act of 1912; and Title VIII of the Civil Rights Act of 1968.

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

IN WITNESS WHEREOF, the parties hereto have duly executed this Assistance Agreement as of the date first above written.

THE FUND: **Community Development Financial
Institutions Fund**

By: _____
Name:
Title:

THE AWARDEE: **[Name of Awardee]**

By: _____
Name:
Title:

**Award No.
Date:**

**CERTIFICATION OF MATCHING FUNDS AND REPRESENTATIONS AND
WARRANTIES**

I, _____ (the "Authorized Representative"), do hereby make the following certifications on behalf of [**Awardee Name**] _____ (the "Awardee") with respect to that certain Assistance Agreement entered into by and between the Community Development Financial Institutions Fund and the Awardee, dated _____ (the "Assistance Agreement"):

1. Funds used by the Awardee as Matching Funds for purposes of the Assistance Agreement have not been used by the Awardee to satisfy a legal requirement under another Federal grant or award program.
2. For purposes of the Assistance Agreement, the funds described on the attached "Matching Funds Analysis" are (a) have been received as loan payments to the Awardee and (b) satisfy all Matching Funds requirements set forth in 12 C.F.R. 1805.500 et seq. and the NOFA.
3. All information contained in or attached to this Certificate is true, accurate and complete.

IN WITNESS WHEREOF, I have signed this Certificate in the capacity indicated below as of this _____ day of _____, 2000.

[Name of Awardee]

By: _____
Name:
Title:

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY
MATCHING FUNDS ANALYSIS
[Awardee]
Award No.

No.	Lender	Amount	Date	Source Documentation
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				

Total Matching Funds: \$

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

Schedule 3.6

[FORM OF PROMISSORY NOTE]

\$_____

Washington, DC
_____, 2001

FOR VALUE RECEIVED, the undersigned, _____, a _____ (the "Awardee"), hereby promises to pay to the order of the Community Development Financial Institutions Fund, a wholly owned government corporation within the U.S. Department of the Treasury (the "Fund"), at 601 13th Street, NW, Suite 200 South, Washington, DC 20005, or to order, the principal sum of _____ (\$_____) (or such lesser amount as shall equal the aggregate unpaid principal amount of the loan disbursed by the Fund to the Awardee under the Assistance Agreement), payable in its entirety at the date of maturity of this promissory note (the "Note"), _____, _____ (the "Maturity Date").

The Awardee further promises to pay interest at the rate of _____ (____%) per annum, accruing daily from the date hereof on the unpaid principal balance from time to time outstanding on this Note. Interest shall be payable quarterly in arrears on the last day of March, June, September and December of each year until the Maturity Date, beginning _____, 200_. Interest shall be computed on the basis of a year of 360 days comprised of twelve 30-day months and for the actual number of days elapsed in any partial month. The Awardee shall pay to the Fund the outstanding principal amount and all accrued but unpaid interest on the Note on the Maturity Date.

All payments shall be made through electronic funds transfers via the U.S. Treasury Pre-Authorized Debit system as explained in the payment instruction attached hereto as Attachment 1, and shall be debited from the Awardee's bank account in the amounts and on the dates as described in the payment schedule attached hereto as Attachment 2. The Fund reserves the right to unilaterally amend such payment instructions at any time by providing written notice to the Awardee.

Should a payment due the Fund not be received as and when due within a five (5) calendar day grace period, the Fund will assess a late payment fee equal to five percent (5%) of the payment, which shall be immediately due and payable to the Fund. The Fund will not assess a late payment fee if the cause of the late payment is the fault of the United States Government. The Awardee has the burden of establishing to the reasonable satisfaction of the Fund that any late payment was caused by the United States Government.

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

No right, power or remedy conferred to the Fund in this Note or the Assistance Agreement, or now or hereafter existing at law or in equity, by statute or otherwise, shall be exclusive, and each such right, power or remedy shall, to the full extent permitted by law, be cumulative and in addition to every other such right, power or remedy. No course of dealing and no delay in exercising any right, power or remedy conferred to the Fund in this Note or the Assistance Agreement, or now or hereafter existing at law or in equity, by statute or otherwise, shall operate as a waiver of or otherwise prejudice any such right, power or remedy.

Whenever any payment to be made hereunder shall be due on a Saturday, Sunday or public holiday under Federal law, the payment may be made on the next succeeding business day.

The Awardee hereby waives presentment, demand for payment, notice of dishonor, protest and notice of protest of this Note.

The Awardee agrees to perform and comply with each of the covenants, conditions, provisions and agreements of the Awardee contained in the Assistance Agreement. No waiver of any provision of this Note or the Assistance Agreement, made by agreement of the Fund or any other person or party, will constitute a waiver of any other term hereof, or otherwise release or discharge the liability of the Awardee under this Note.

Capitalized terms used herein that are defined in the Assistance Agreement are so used as therein defined.

This Note shall be governed by and construed in accordance with Federal law to the extent Federal law is applicable, and to the extent Federal law is not applicable, this Note shall be governed by and construed in accordance with the State of incorporation of the Awardee.

Executed as of the day and year first above written.

[Name of Awardee]

By: _____
Name:
Title:

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

**Schedule 4.1
Award No.**

**SUBSIDIARIES AND AFFILIATES
[Name of Awardee]**

The Awardee hereby represents and warrants to the Fund that the following is an accurate and complete listing of the Awardee's Subsidiaries and Affiliates: _____.

**CERTIFICATION OF PERFORMANCE AND
REPRESENTATIONS AND WARRANTIES**

I, _____ (the "Authorized Representative"), do hereby make the following certifications on behalf of **[Name of Awardee]** (the "Awardee"):

(i) The Awardee has performed and complied with all applicable agreements and conditions required by the Assistance Agreement to be performed or complied with by it before or at the Closing; and

(ii) the representations and warranties set forth in the Assistance Agreement and the Assurances and Certifications contained in the Application (as defined in the Assistance Agreement) are true and correct in all material respects as of the date hereof and as of the Closing Date (as defined in the Assistance Agreement).

IN WITNESS WHEREOF, I have signed this Certificate in the capacity indicated below as of this _____ day of _____, 200_.

[Name of Awardee]

By: _____
Name:
Title:

**Performance Goals for
[Name of Awardee]**

This schedule sets forth Performance Goals that have been established by mutual agreement between the Fund and the Awardee. For each Performance Goal included in the chart below, one or more measures are set forth. For each measure, a benchmark is included to assess performance as of the Annual Evaluation Date. The Final Annual Evaluation Date will be _____. The period during which performance will be measured will begin on _____. The Fund will determine whether or not a Performance Goal has been met by assessing performance against benchmarks as of the Annual Evaluation Date. The benchmarks classify performance on each measure into one of two ranges as follows: satisfactory and unacceptable. The Fund reserves the right to verify to its satisfaction the accuracy of information submitted by the Awardee in connection with Performance Goals, including, without limitation, information submitted pursuant to Section 6.7 of the Assistance Agreement.

If, for any Performance Goal, as of the Annual Evaluation Date, the Awardee's performance for each measure relating to such Performance Goal is at or above the "satisfactory" range, the Awardee will be deemed by the Fund to have met such Performance Goal.

If, for any Performance Goal, as of the Annual Evaluation Date, the performance for any measure relating to such Performance Goal is in the "unacceptable" range, the Awardee will be deemed by the Fund to have failed to meet such Performance Goal.

**[AWARDEE NAME]
Semi-Annual Report
for Reporting Period: _____ through _____, _____**

1. Attach a copy of the Awardee's internal financial statements, including balance sheet and income and expense statements, covering the fiscal year through the end date of this reporting period (i.e. the statements will cover six months if this is the first semi-annual report of the fiscal year, twelve months if it is the second semi-annual report of the fiscal year.)

If the Awardee has failed to meet any of its Financial Soundness Covenant(s), please provide a response to the following questions and submit the response with the Second Semi-Annual Report:

1. Did the Awardee's annual budget for the most recently completed fiscal year, as approved by the Awardee's Board of Directors, anticipate not meeting any of its Financial Soundness Covenant(s)?
2. Why did the Awardee not meet the Financial Soundness Covenant(s)?
3. How does not meeting the Financial Soundness Covenant(s) affect its financial condition?
4. How does the Awardee's performance on its Financial Soundness Covenant(s) compare to its performance on the same in the prior fiscal year?
5. Does the Awardee's inability to meet a Financial Soundness Covenant(s) place the Awardee in violation of any financial soundness requirements with any of its lenders, funders or investors, or violate the Awardee's financial management policies? If yes, please explain.
6. Does the Awardee's inability to meet a Financial Soundness Covenant(s) adversely affect the Awardee's ability or plans to leverage other funding sources? If yes, please explain.
7. What actions are being taken to ensure that the Awardee meets all of its Financial Soundness Covenants in the future?
8. Does the Awardee expect to be able to meet all of its Financial Soundness Covenants for the next reporting period? If no, please explain.

DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY

ALL INFORMATION CONTAINED IN OR ATTACHED TO THIS SEMI-ANNUAL REPORT AS REQUIRED BY SECTION 6.6 OF THE ASSISTANCE AGREEMENT IS TRUE, ACCURATE AND COMPLETE.

IN WITNESS WHEREOF, I have signed this Certificate in the capacity indicated below as of this ____ day of _____, ____.

[AWARDEE NAME]

BY: _____

Name:

Title:

Annual Report for:
Annual Reporting Period: _____ through _____, _____

1. Provide a narrative description of the Awardee's activities in support of its Comprehensive Business Plan during the annual reporting period.
2. Attach Schedule 5.6 of the Awardee's Assistance Agreement. For each measure, complete the "Actual Performance" line for this annual reporting period and previous annual reporting periods. If the Actual Performance for the current annual reporting period fails to achieve a "Satisfactory" rating for any performance measure, provide: an analysis of factors contributing to this failure, an explanation of what is being done to address the situation, and when the Awardee expects to be in compliance.
3. Describe how the Awardee's use of the CDFI Fund award and any corresponding Matching Funds during the annual reporting period were consistent with the Authorized Uses in Sections 3.3 and 3.4 of the Awardee's Assistance Agreement.
4. Attach a completed Financial Status Report form, SF-269-A.
5. Awardee Certifications (see page 2):

**DRAFT- FOR ILLUSTRATIVE PURPOSES ONLY
AWARDEE CERTIFICATIONS**

I, _____ (the "Authorized Representative"), do hereby make the following certifications on behalf of _____ (the "Awardee"):

(i) The Awardee continues to meet the eligibility requirements for certification as a CDFI pursuant to 12 C.F.R. § 1805.200 and will do all things necessary to preserve, renew and keep in full force and effect its existence as a CDFI pursuant to 12 C.F.R. § 1805.200;

(ii) Throughout the annual reporting period, the Awardee has produced, for its internal review each month, unaudited financial statements including at least a balance sheet and an income and expense statement;

(iii) Throughout the annual reporting period, the Awardee, at least quarterly, has conducted a portfolio review evaluating individually the status of each loan in its portfolio; and

(iv) All information contained in or attached to this Annual Report as required by Section 6.7 of the Assistance Agreement is true, accurate and complete.

(v) None of the Assistance has been used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

IN WITNESS WHEREOF, I have signed this Certificate in the capacity indicated below as of this _____ day of _____, _____.

[AWARDEE NAME]

By: _____
Name:
Title:

Reporting Schedules for [Awardee Name]

Semi-Annual Report Due Dates	
Report for period ending on:	Due Date:

Annual Report Due Dates	
Report for period ending on:	Due Date:

Annual Survey Due Dates	
Report for period ending on:	Due Date:
	To be determined

Audited Financial Statement Due Dates	
Report for period ending on:	Due Date: