

LOAN GUARANTEE AGREEMENT

This Agreement is made as of the date set forth below by and between _____ and its successors and assigns, (the "Financial Institution") and the Secretary of Housing and Urban Development (the "Secretary").

I. RECITALS

- A. Pursuant to Section 4 of the Church Arson Prevention Act of 1996, Pub. Law 104-155, 110 Stat. 1393 ("Section 411), and 24 CFR part 573, the Secretary is authorized to enter into Loan Guarantee Agreements with Financial Institutions in connection with loans made by such institutions to assist organizations described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Borrowers") whose property has been damaged by an act or acts of Arson or Terrorism.
- B. This Loan Guarantee Agreement incorporates and implements the procedures, terms and conditions required by the regulations at 24 CFR part 573 to ensure the objectives of Section 4 are met. The procedures, terms and conditions provide, in part, that to secure the repayment of a guaranteed loan, the Borrower's request for a loan shall be subject to the underwriting standards of the Financial Institution, which shall include the pledging of collateral for repayment of the Note.

II. LOAN ASSISTANCE

- A. The Financial Institution acknowledges acceptance of the responsibilities described herein which are applicable to such institution. It is also acknowledged and agreed that, prior to entering into this Agreement, the Financial Institution has submitted to the Secretary a request for loan guarantee assistance in accordance with 24 CFR 573.6, which request has been accepted and approved by the Secretary. By entering into this Agreement, the Financial Institution agrees to make the loan for which the request for loan guarantee assistance was submitted to and approved by the Secretary, in accordance with the terms proposed therein, as modified by the Secretary's offer of a loan guarantee commitment. Such loan shall be made consistent with the procedures, terms and conditions set forth in this Agreement and with the regulations at 24 CFR Part 573, which loan will be guaranteed by the Secretary, pursuant to Section 4.
- B. It is a goal of the Secretary to provide a loan guarantee as described herein to ensure that eligible nonprofit organizations adversely affected by said acts of Arson or terrorism are provided the means to rebuild and restore their damaged property. The provision of a loan guarantee to a Financial Institution and the amount of the guarantee do not depend in any way on the purpose, function, or identity of the organization to which the Financial Institution has made, or intends to make, a Section 4 Guaranteed Loan.

III. DEFINITIONS

- A. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

Advances: Such amounts as may be advanced to a Borrower from time to time by the Financial Institution.

Approved Request for Loan Guarantee Commitment: The Financial Institution's Request for Loan Guarantee Assistance, submitted in accordance with 24 CFR 573.6, as modified by the Secretary's letter to the Financial Institution describing the loan guarantee commitment offered pursuant to such Request.

Business Day: A day on which banking institutions in the Financial Institution's principal place of business remain open and on which the Federal Reserve Bank of New York is open.

Financial Institution's Commitment Amount: The maximum amount committed by the Financial Institution under the Note (maximum amount that may be advanced there under).

Financial Institution's Principal-Amount: The sum of all Advances made under the Note, which Principal Amount shall not exceed the Financial Institution's Commitment Amount.

Full Guarantee Payment: A payment which shall equal, up to the amount of the Secretary's Commitment Amount, the full amount owed to the Financial Institution under the terms of the Note, including accrued interest through the day of payment, less any amount recovered by the Financial Institution from the underlying collateral security for the Note.

Guarantee Payment: A payment made by the Secretary to the Financial Institution pursuant to the Guarantee that is less than the Full Guarantee Payment.

Monetary Default: Occurs when the Borrower fails to pay principal and/or interest due under the Note each month for three consecutive months, thereby authorizing the Financial Institution to request a Full Guarantee Payment.

Note: A secured promissory note issued by the Borrower to the Financial Institution and guaranteed by the Secretary pursuant to Section 4, in a form acceptable to the Secretary, and subject to this Agreement.

Payment Date: Date on which periodic installment of principal, together with accrued, unpaid interest thereon, is due and payable. If any Payment Date is not a Business Day, then payments payable on such Payment Date shall be made on the next Business Day.

Secretary: The Secretary of the U.S. Department of Housing and Urban Development (HUD).

Secretary's Commitment Amount: The total amount approved to be guaranteed in the Secretary's commitment letter to the Financial Institution, and the maximum amount of the guarantee to be provided by the Secretary.

Secretary's Principal Amount: The total amount of the Financial Institution's Principal Amount that shall be guaranteed by the Secretary, determined in accordance with the Secretary's commitment letter to the Financial Institution, which Principal Amount shall not exceed the Secretary's Commitment Amount.

Section 4: Section 4 of the Church Arson Prevention Act of 1996, Pub. Law 104-155, 110 Stat. 1393.

- B. Where not otherwise defined herein, terms in this Agreement shall be defined as provided in 24 CFR Part 573.

IV. PROMISSORY NOTE AND GUARANTEE

- A. Each debt obligation to be guaranteed, in whole or in part, hereunder shall be evidenced by a promissory note or other-evidence of indebtedness ("Note") made and issued by the Borrower. The form of Note shall be consistent with this Agreement and subject to the approval of the Financial Institution and the Secretary. The Note may be accompanied by a loan agreement, where customarily used by the Financial Institution, (the "Loan Agreement). Wherever the terms or provisions of the Note, other evidence of indebtedness, Loan Agreement or any other documents used in connection with each guaranteed debt obligation are in conflict with the terms or provisions of this Agreement, the terms or provisions of this Loan Guarantee Agreement shall be controlling.
- B. The Note shall describe the terms of the loan, including a requirement that the Borrower comply with Section 4 and 24 CFR Part 573. Such terms shall be consistent with this Agreement and the Financial Institution's approved Request for Loan Guarantee Assistance.
- C. The Secretary's Guarantee shall be executed in the form of Exhibit A hereto ("Guarantee") and affixed by the Financial Institution to the Note. It is understood and agreed that the terms and provisions contained in Exhibit A hereto, insofar as they affect the rights, duties and obligations of the Financial Institution and the Secretary hereunder, are incorporated herein and form a part of this Agreement.

- D. Any term of the Note may be modified by such amendments as may be agreed upon from time to time by the Secretary, the Financial Institution and the Borrower there under.
- E. The Note shall provide that, at any time after the last advance under the Note, the Borrower may prepay the Note, in whole or in part, at a prepayment price to be calculated by the Financial Institution. The Note shall specify the method by which the Financial Institution will calculate the prepayment price, which price may include a discount or reasonable premium.

V. UNDERWRITING AND SECURITY

- A. The Financial Institution has, using generally applicable loan underwriting standards, determined that the making of the loan to the Borrower, under the terms and with the collateral or security described in the Financial Institution's Approved Request for Loan Guarantee Assistance, as incorporated herein, is an acceptable financial risk.
- B. Within 30 days of the Borrower's execution of the Note, but in all events prior to the making of any Advance under the Note, the Financial Institution shall perfect the collateral security from the Borrower.
- C. The preparation, contents and administration of any instruments and agreements securing or otherwise related to the Note shall be the sole responsibility of the Financial Institution.
- D. The enforcement of any instruments and agreements securing or otherwise related to such Note shall be the sole responsibility of the Financial Institution, which responsibility shall be carried out in accordance with instructions received from the Secretary.

I. ADVANCES UNDER THE NOTE

- A. The Note shall provide that the Financial Institution shall be required to make Advances as required from time to time, in accordance with the Note and this Loan Guarantee Agreement (each, an "Advance") upon the written request of an authorized representative of the Borrower. Unless otherwise agreed by the Financial Institution and the Secretary, any decision with respect to the frequency or the aggregate amount of Advances made by the Financial Institution shall be made by the Financial Institution; provided, however, that the aggregate amount of Advances guaranteed under the Note shall not exceed the Secretary's Principal amount, and each such Advance shall be made on a Business Day.
- B. By the fifth Business Day of each month, the Financial Institution shall provide the Secretary with a report describing any Advances against the Note that were made to the Borrower as of the last day of the preceding month. If no such advances were made as of the last day of the preceding month, no report shall be required.

- C. After all Advances have been made under the Note, the Financial Institution shall notify the Borrower and the Secretary of the Financial Institution's Principal Amount and the Secretary's Principal Amount, and shall provide the Borrower and the Secretary with copies of a fixed-interest rate repayment schedule of the amounts due based on Advances made under the Note which schedule shall be based upon the interest rate and term specified in the Approved Request for Loan Guarantee Assistance.

VII. BORROWER DEFAULT UNDER THE NOTE

- A. The Financial Institution shall transmit written notice of a Default by the Borrower under the terms of the Note to the Secretary immediately upon the occurrence of the Default.
- B. A Monetary Default shall occur when the Borrower has failed to pay principal and/or interest as due under the terms of the Note each month for three consecutive months within thirty (30) days of the due date. A payment later than fifteen (15) days after the due date for any given month may, at the option of the Financial Institution, incur a standard penalty similar to those charged for late payments on similar loans made by the Financial Institution.
- C. A Non-Monetary Default shall occur when the Borrower has failed to comply with other responsibilities under the Note, the Loan Guarantee Agreement, Section 4 of the Act and/or any provision of 24 CFR Part 573, which failure is determined by the Secretary to warrant a declaration of Default.

VIII. THE LOAN GUARANTEE

- A. **Guarantee Provisions:** In the event of a Default by the Borrower under the terms of the Note, the Secretary shall make all payments of interest and principal due the Financial Institution in accordance with the Guarantee and the provisions of this Agreement. The Secretary, in concert with the Financial Institution, will pursue appropriate remedies provided for in this Agreement or such other remedies as may be agreed upon by the Secretary and the Financial Institution.
- B. Pursuant to the Guarantee, the Secretary will unconditionally guarantee the payment of all principal and interest on the Note to which such Guarantee relates in accordance with the terms of this Agreement.
- C. **Request for Acceleration and Full Guarantee Payment**
 - (i) Upon the occurrence of a Monetary Default by the Borrower, the Financial Institution may accelerate the debt owed under the Note and request a Full Guarantee Payment from the Secretary.

- (ii) At least 10 days prior to such acceleration, the Financial Institution must notify the Borrower and the Secretary of its intent to accelerate. Upon expiration of the 10-day period, the Financial Institution shall request full payment from the Borrower, which payment may be due no less than 30 days from the date of acceleration.
- (iii) If payment of the full-accelerated amount of the Note is not received from the Borrower within 10 days of the due date, the Financial Institution may request a Full Guarantee Payment from the Secretary. Within fifteen business days after such request, the Secretary shall advise the Financial Institution what actions, if any, the Financial Institution shall take immediately to enforce the instruments and agreements securing or otherwise related to the Note. Within fifteen days after such required actions, if any, have been properly taken by the Financial Institution, the Secretary shall make the requested Full Guarantee Payment. Such payment shall equal, up to the amount of the Secretary's Commitment Amount, the full amount owed to the Financial Institution under the Note, including accrued interest through the day of payment, less any amount recovered by the Financial Institution from the underlying collateral security for the Note.
- (iv) Any Full Guarantee payment made by the Secretary to the Financial Institution on behalf of the Borrower shall constitute a debt owed to the Secretary by the Borrower, which may accrue interest charges in accordance with the terms of the Note. The Secretary shall retain the right to collect such debt by any legal remedy. Any payments received from the Borrower by the Financial Institution after the Financial Institution has requested a Full Guarantee Payment but prior to receipt of such Payment shall be forwarded to the Secretary immediately upon receipt of the Full Guarantee Payment from the Secretary. Or, the Financial institution may accept the Borrower's payment, submit to the Secretary a written withdrawal of its Request for Full Guarantee Payment, and return to the Secretary any funds disbursed to the Financial Institution by the Secretary pursuant to the Financial Institution's Request for a Full Guarantee Payment.
- (v) Upon receipt and acceptance of a Full Guarantee Payment from the Secretary, the Financial Institution shall assign the Note to the Secretary, and the Borrower shall continue to make payments under the Note.
- (vi) After receipt of a Full Guarantee Payment, the Financial Institution shall continue to collect payments under the Note on the Secretary's behalf, and shall promptly forward such amounts to the Secretary. Or, the Secretary may, in his sole discretion, require the Financial Institution to properly deliver the Note and collateral to the Secretary and exercise any options he deems appropriate.
- (vii) In a case where a Full Guarantee payment has been made, the Financial Institution shall recommend to HUD an appropriate form of workout or modification of the loan terms.

- (viii) If the Secretary pays a claim under the guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

IX. CUSTODY OF NOTE AND GUARANTEE

- A. Promptly after the Secretary's receipt of a copy of the executed Note, the Secretary shall convey an executed Guarantee to the Financial Institution, which Financial Institution shall acknowledge to the Secretary the receipt of such document.
- B. Once the Financial Institution has received full payment of all interest and principal due on the Note, if any guarantee payments have been made on the Note by the Secretary, the Financial Institution shall convey the Note and the Guarantee to the Secretary upon the request of the Secretary; provided, however, that the Financial Institution shall remain responsible for collecting from the Borrower amounts due the Secretary under the Note. Such collection shall be carried out in accordance with this Agreement and the mutual agreement of the Secretary and the Financial Institution.

X. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the federal law of the United States and the laws of the State in which the Financial Institution is located, to the extent that such laws are not inconsistent with federal law.

XI. AMENDMENTS

This Agreement may only be amended in writing by mutual agreement of the Financial Institution and the Secretary.

XII. NON-WAIVER

No course of dealing shall operate as a waiver of any rights under this Agreement, and no waiver or amendment shall be binding unless in writing.

XIII. SUCCESSORS AND ASSIGNS BOUND

All successors and assigns of the Financial Institution shall be bound to all responsibilities imposed upon the Financial Institution by this Agreement. Any corporation into which the Financial Institution may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Financial Institution shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Financial Institution, shall be successor of the Financial Institution hereunder, anything herein to the contrary notwithstanding.

XIV. RECORDKEEPING AND RECORD ACCESS

The Financial Institution will keep records of all determinations under this Section and shall permit the Secretary or any of his agents at any reasonable time to examine such records.

XV. FIDELITY BOND OR INSURANCE

So long as any Note is administered hereunder, the Financial Institution shall at all times maintain a fidelity bond or such insurance coverage in respect of its fiscal agent capacity hereunder as it ordinarily maintains when acting in such capacity.

XVI. LOAN GUARANTEE TERMINATION

The provision of loan guarantee assistance shall terminate if any of the following occurs:

- A. The loan is paid in full; or
- B. The Financial Institution (or its successors or assigns) commits fraud or makes a material misrepresentation to the Secretary regarding the information associated with provision of the loan guarantee.

XVII. NOTICES

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given when and if personally delivered at or mailed by registered mail, postage prepaid to the addresses provided in Exhibit B hereto or to such other addresses as may hereafter be furnished to the parties in writing. The Financial Institution is entitled to a copy of any notice given to the Borrower or to the Secretary. Any notice so mailed within the time prescribed in this Agreement (where proof of the mailing and date can be determined) shall be conclusively presumed to have been duly given, whether or not the party to which the mailing was intended receives such notice.

XVIII. SEVERABILITY

If any one or more of the covenants, agreements, provisions, or terms of this Agreement shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions, or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement or of the Notes or the rights of the Holders thereof.

IXX. COUNTERPARTS

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

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IN WITNESS WHEREOF, the undersigned, as authorized officials of the Financial Institution and the Secretary, have executed this Loan Guarantee Agreement as of the 12th day of December 12, 2003.

FINANCIAL INSTITUTION

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

By: _____
(Signature)

By: _____
(Signature)

(Name)

(Name)

(Title)

(Title)

(Date)

(Date)

EXHIBITS (for use, as applicable)

- A - Form of Guarantee
- B - Addresses of Parties

EXHIBIT A

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

GUARANTEE OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BORROWER: _____

LOAN NUMBER: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

DATE OF NOTE: _____

COMMITMENT AMOUNT: _____

PRINCIPAL AMOUNT: _____

Guarantee issued pursuant to Section 4 of the Church Arson Prevention Act of 1996.

TO: LENDER/HOLDER

The Secretary of Housing and Urban Development, pursuant to Section 4 of the Church Arson Prevention Act of 1996, but not personally, hereby unconditionally guarantees to the holder of the attached Note (as described above), and pledges to such holder the obligation of the United States of America for, the payment of the principal and interest on such Note in accordance with the terms of the Loan Guarantee Agreement between the Secretary and the Financial Institution, which Agreement is attached hereto and incorporated herein.

The validity of this Guarantee is incontestable in the hands of any bonafide holder of such Note.

IN WITNESS WHEREOF, the Secretary of Housing and Urban Development or his duly authorized representative has signed this Guarantee.

Secretary of Housing and Urban Development

By: _____
 Nelson R. Bregón
 General Deputy Assistant Secretary for
 Community Planning and Development

Date

EXHIBIT B

ADDRESSES OF THE PARTIES

- I. SECRETARY
- II. FINANCIAL INSTITUTION
- III. BORROWER