

**\$68,290,000**

**PUERTO RICO INDUSTRIAL, TOURIST, EDUCATIONAL, MEDICAL AND  
ENVIRONMENTAL CONTROL FACILITIES FINANCING AUTHORITY  
TOURISM REVENUE BONDS, 2000 SERIES A  
(PARADISUS COCO BEACH RESORT PROJECT)**

In the opinion of Pietrantoní Méndez & Alvarez LLP, Bond Counsel, assuming compliance by Desarrolladora del Norte, S. en C., S.E. with certain representations and covenants, under existing law: (i) the Bonds and the interest thereon are exempt from Commonwealth of Puerto Rico (“Puerto Rico”) income taxes and municipal property and licenses taxes; (ii) under certain circumstances, the Bonds are exempt from Puerto Rico gift and estates taxes; (iii) the interest on the Bonds is not subject to income tax under the United States Internal Revenue Code of 1986, as amended (the “Code”), when received by (a) individuals who are bona fide residents of Puerto Rico during the entire taxable year in which such interest is received and (b) under certain circumstances, foreign corporations, including Puerto Rico corporations; and (iv) the interest on the Bonds is not excludable from the gross income of the recipients thereof under Section 103(a) of the Code. See “TAX MATTERS.”

**Dated: Date of Issuance**

**Due: As shown on the inside front cover page**

The Bonds are being issued to provide financing for a portion of the cost of the development, construction and equipping of Paradisus Coco Beach Resort, a 491-room, luxury “all-inclusive” resort hotel and related facilities to be located in Río Grande, Puerto Rico (the “Project”). The Bonds are being issued as fully registered bonds without coupons and will be initially registered only in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as securities depository for the Bonds. The Bonds will be available to purchasers in denominations of \$5,000 and integral multiples thereof. Purchasers will not receive certificates evidencing the Bonds. Interest on the Bonds will accrue from their date of delivery and will be payable on the twentieth day of each month commencing on October 20, 2000 until maturity or prior redemption. The Bonds are subject to mandatory and optional redemption prior to maturity as described herein.

The Bonds are limited obligations of Puerto Rico Industrial, Tourist, Educational, Medical and Environmental Control Facilities Financing Authority (the “Authority”), issued pursuant to the provisions of a trust agreement between the Authority and Banco Popular de Puerto Rico, as trustee (the “Trustee”). The Bonds are payable solely from payments to be made by

**DESARROLLADORA DEL NORTE, S. EN C., S.E.,**

a mercantile partnership organized under the laws of Puerto Rico (the “Borrower”), under a loan agreement (the “Loan Agreement”) between the Authority and the Borrower, and from moneys deposited with the Trustee in the funds and accounts under the Trust Agreement, and the income, if any, derived from the investment of moneys in such funds and accounts. Payment of the principal of and interest on the Bonds when due are further secured by an irrevocable transferable stand-by letter of credit (the “TDF Letter of Credit”) issued by

**PUERTO RICO TOURISM DEVELOPMENT FUND**

a government instrumentality of Puerto Rico (“TDF”) and a subsidiary of Government Development Bank for Puerto Rico. The TDF Letter of Credit will expire on December 30, 2015, subject to automatic extension for three additional periods of five years each. See “THE TDF LETTER OF CREDIT AND THE TOURISM DEVELOPMENT FUND.” The Bonds are additionally secured by the assignment to the Trustee of the Authority’s rights under: (a) a pledge of a mortgage note secured by a mortgage on the property where the Project is being developed; and (b) a first priority security interest on certain personal property of the Borrower, including the Borrower’s interest in certain revenues, accounts receivable and contracts of the Project. See “SOURCES OF PAYMENT AND SECURITY FOR THE BONDS.”

**Neither the Government of Puerto Rico nor any of its instrumentalities is obligated to pay the Bonds, except the Authority, and, so long as the TDF Letter of Credit shall not have been substituted, TDF. Neither the Authority nor TDF has any taxing power. Neither the Government Development Bank for Puerto Rico nor any other affiliate of TDF is obligated to make payments under the TDF Letter of Credit. None of the partners of the Borrower is obligated to pay the Bonds.**

An investment in the Bonds entails certain risks. See “BONDHOLDERS’ RISKS” beginning on page 2.

This cover page, the back cover page and page (i) contain certain information for convenience of reference only. Such information is not intended to be a summary of the security or of the terms of this bond issue. Investors are instructed to read the entire Official Statement, including the Appendices, to obtain information essential to the making of an informed investment decision.

The Bonds are offered, subject to prior sale, when, as and if issued by the Authority and received by the Underwriters, subject to the approval of legality by Pietrantoní Méndez & Alvarez LLP, San Juan, Puerto Rico, Bond Counsel, and certain other conditions. Certain legal matters will be passed upon for the Borrower by Correa, Collazo, Herrero, Jiménez & Fortuño, San Juan, Puerto Rico. Certain legal matters will be passed upon for the Underwriters by Martínez Odell & Calabria, San Juan, Puerto Rico. Certain legal matters will be passed upon for the Puerto Rico Tourism Development Fund by O’Neill & Borges, San Juan, Puerto Rico. It is expected that the Bonds will be available for delivery to The Depository Trust Company in New York, New York, on or about September 28, 2000.

**POPULAR SECURITIES**

**PAINEWEBBER INCORPORATED OF PUERTO RICO**

**SALOMON SMITH BARNEY**

**(Joint Lead Managers)**

September 13, 2000



COCO BEACH RESORT AND COMMUNITY DEVELOPMENT  
MASTER PLAN

\$68,290,000

PUERTO RICO INDUSTRIAL, TOURIST, EDUCATIONAL, MEDICAL AND  
ENVIRONMENTAL CONTROL FACILITIES FINANCING AUTHORITY  
TOURISM REVENUE BONDS, 2000 SERIES A  
(PARADISUS COCO BEACH RESORT PROJECT)

\$8,510,000 Serial Bonds

<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Price</u>
\$490,000	6.50%	June 20, 2005	100%
505,000	6.50%	December 20, 2005	100%
520,000	6.55%	June 20, 2006	100%
540,000	6.55%	December 20, 2006	100%
555,000	6.60%	June 20, 2007	100%
575,000	6.60%	December 20, 2007	100%
590,000	6.65%	June 20, 2008	100%
610,000	6.65%	December 20, 2008	100%
630,000	6.70%	June 20, 2009	100%
655,000	6.70%	December 20, 2009	100%
675,000	6.75%	June 20, 2010	100%
700,000	6.75%	December 20, 2010	100%
720,000	6.80%	June 20, 2011	100%
745,000	6.80%	December 20, 2011	100%

\$59,780,000 Term Bonds

\$13,630,000	7.000%	Term Bonds due December 20, 2018 - Price - 100%
\$35,540,000	7.125%	Term Bonds due December 20, 2028 - Price - 99.696%
\$10,610,000	7.125%	Term Bonds due December 20, 2030 - Price - 98.50% (NRO*)

**IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.**

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\* Not reoffered hereby.

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## SUMMARY

### The Authority

Puerto Rico Industrial, Tourist, Educational, Medical and Environmental Control Facilities Financing Authority (the "Authority") is a body corporate and politic constituting a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico ("Puerto Rico" or the "Commonwealth"). See "THE AUTHORITY AND GOVERNING BOARD."

### The Borrower

Desarrolladora del Norte, S. en C., S.E. (the "Borrower"), a mercantile partnership organized under the laws of Puerto Rico that has elected to be treated as a special partnership in accordance with the provisions of the Puerto Rico Internal Revenue Code of 1994, as amended, and Act No. 3 of September 27, 1985, as amended. Pursuant to such election, the liability of the partners of the Borrower (the "Partners") is limited to their paid-in capital. Approximately 95% of the partnership interests in the Borrower are owned in equal shares by San Juan Investments, B.V. and Desarrollos Hoteleros San Juan, B.V. (the "Majority Partners"), which in turn are wholly-owned subsidiaries of Meliá Inversiones Americanas, N.V. ("Meliá Inversiones"), a majority-owned subsidiary of Sol Meliá, S.A. ("Sol Meliá"). Sol Meliá is based in Spain and is engaged in the ownership and operation of hotels throughout the world, including luxury, moderate and "all inclusive" hotel properties, under the names Gran Meliá, Meliá and Paradisus Resort. CBM Investment Corporation ("CBM Investment"), a wholly-owned subsidiary of Coco Beach Holdings, Inc., a company which is wholly-owned by Betterroads Asphalt Corporation ("Betterroads"), will initially own a 5% non voting minority equity interest in the Borrower. Betterroads owns and is engaged, together with its subsidiaries Coco Beach Development Corporation and CBM Investment, in the development of the Coco Beach Resort and Community Development. Neither the Partners of the Borrower nor its affiliates, including Sol Meliá and Betterroads, are liable with respect to any payments due to the holders of the Bonds. See "THE BORROWER" and "Appendix A."

### The Project

The Bonds are being issued to finance a portion of the cost of the development, construction and equipping of Paradisus Coco Beach Resort, a 491-room, luxury "all-inclusive" resort hotel and related facilities to be located in Río Grande, Puerto Rico (the "Project"). The Project will be owned by the Borrower, which will engage Operadora San Juan, S.E. (the "Hotel Operator"), a partnership to be organized under the laws of Puerto Rico and majority-owned by Sol Meliá, to manage and operate the Project. The Borrower expects that the construction of the Project will take approximately 24 months to complete and that the Project will commence operations in the third quarter of 2002. The Borrower estimates that the total aggregate cost of the Project will be approximately \$106.9 million. The Project will be constructed on a 43.25 *cuerdas* parcel of land located within the larger 980 *cuerdas* Coco Beach Resort and Community Development, and will be adjacent to the Coco Beach Golf & Country Club project which will consist of two golf courses and a clubhouse. The facilities of the Coco Beach Golf & Country Club will be available for use by Project guests pursuant to a Use and Access Agreement.

The Borrower will enter into a guaranteed maximum price construction agreement (the "Construction Agreement") with Cobián & Agustín, S.E., San Juan, Puerto Rico (the "General Contractor") in the amount of \$54.8 million. The General Contractor will provide a payment and performance bond in the amount of the Construction Agreement to be issued by United States Fidelity & Guaranty Company.

## **Use of Proceeds**

The Authority will lend the proceeds from the sale of the Bonds to the Borrower pursuant to a loan agreement to be dated the date of initial issuance and delivery of the Bonds between the Borrower and the Authority (the "Loan Agreement"). The Borrower will use these proceeds to: (i) pay a portion of the costs of the Project, including, but not limited to, a portion of the interest due on the Bonds up to May 20, 2003 and fees due to the Letter of Credit Issuer (as defined herein) up to February 20, 2003; (ii) fund a debt service reserve fund for the Bonds; (iii) fund an operating deficit reserve fund required under the Initial Reimbursement Agreement (as defined herein); and (iv) pay a portion of the costs incurred in connection with the issuance of the Bonds. See "SOURCES AND USES OF FUNDS."

## **The Bonds**

### ***General***

The Bonds will be issued pursuant to a trust agreement to be dated the date of initial issuance and delivery of the Bonds (the "Trust Agreement") between the Authority and Banco Popular de Puerto Rico, as trustee (the "Trustee"). The Bonds will be issued in the aggregate principal amount of \$68,290,000, consisting of serial bonds and term bonds in the principal amounts, bearing interest at the rates and with the maturity dates shown on the inside front cover page of this Official Statement. The Bonds will be dated their date of delivery and will be issued in fully registered form, without coupons, in denominations of \$5,000 and any integral multiple thereof. See "THE BONDS – General."

The principal of the Bonds will be payable semiannually on each June 20 and December 20, commencing on June 20, 2005. Interest on the Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds will accrue from their date of delivery and will be paid on the twentieth day of each month, commencing on October 20, 2000. The Bonds will be registered under the DTC Book-Entry Only System. Purchasers of the Bonds will not receive certificates representing the Bonds. The principal or redemption price of and interest on the Bonds will be payable as described under "THE BONDS - Book-Entry Only System."

### ***Additional Bonds***

The Trust Agreement provides, subject to the fulfillment of certain conditions, for the issuance of additional bonds to complete the Project or to finance any addition, extension or improvement to the Project ("Additional Bonds"). Any Additional Bonds issued will be entitled to the same benefits and security as the other Bonds then outstanding. See "THE BONDS – Additional Bonds."

### ***Mandatory Redemption***

The Bonds are subject to mandatory redemption at a price equal to the principal amount thereof, without premium, plus accrued and unpaid interest to the redemption date: (i) in part, to the extent of any funds remaining in the Construction Fund (as defined herein) on the earlier of: (a) the third anniversary of the date of initial issuance and delivery of the Bonds (subject to extension by the Authority); (b) the date on which the Borrower and the Letter of Credit Issuer certify to the Trustee that the Project has been completed (the "Completion Date"); or (c) the receipt by the Trustee of a certificate signed by the Borrower and approved by the Authority and the Letter of Credit Issuer to the effect that the Project will not be completed; (ii) in whole or in part, as applicable, upon a partial or total condemnation or casualty of the Project under the conditions set forth in the Pledge Agreement (as defined herein); and (iii) in whole, upon the failure of the Borrower to extend, renew or replace any Successor Letter of Credit (as defined herein) on or prior to the sixtieth (60th) day preceding its expiration. In addition, the term bonds maturing on December 20, 2018, December 20, 2028 and December 20, 2030 (the "Term Bonds") (unless previously paid by redemption, purchase or

otherwise) are subject to mandatory redemption in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the date fixed for redemption, in the amounts of specific amortization requirements and at the dates set forth herein. See “THE BONDS – Redemption – Mandatory Redemption.”

### ***Optional Redemption***

The Bonds are subject to redemption, at the option of the Borrower, in whole or in part, on any interest payment date occurring on or after June 20, 2008, as directed by the Borrower, at the redemption prices set forth below, which are expressed as the percentage of the outstanding principal amount of such Bonds, plus accrued interest to the redemption date.

<b><u>Redemption Period</u></b> (All Dates Inclusive)	<b><u>Redemption Price</u></b>
June 20, 2008 to June 19, 2009	102%
June 20, 2009 to June 19, 2010	101%
June 20, 2010 and thereafter	100%

### ***Selection and Notice of Redemption***

Except with respect to the mandatory redemption of the Term Bonds in accordance with the amortization requirements described in “THE BONDS - Mandatory Redemption”, if less than all of the outstanding Bonds are to be redeemed, such Bonds will be redeemed in inverse order of maturity, unless otherwise approved by the Letter of Credit Issuer at the request of the Borrower. If less than all the Bonds of one maturity are to be redeemed, the Bonds to be redeemed will be selected by the Trustee by such method as the Trustee deems fair and appropriate in integral multiples of \$5,000. See “THE BONDS - Redemption - Selection and Notice of Redemption.”

### ***Sources of Payment and Security for the Bonds***

The Bonds are limited obligations of the Authority payable solely from revenues derived pursuant to the Loan Agreement and from such other amounts as may be available to the Trustee under the Trust Agreement and the Letter of Credit. See “SOURCES OF PAYMENT AND SECURITY FOR THE BONDS.”

***The Loan Agreement.*** The Borrower will agree in the Loan Agreement to deposit with the Trustee in a bond fund created under the Trust Agreement (the “Bond Fund”) amounts sufficient to pay, together with the moneys then on deposit therein, the principal of, premium, if any, and interest on the Bonds when due. Payments of principal, premium, if any, and interest on the Bonds will be made with Eligible Moneys, as such term is defined under “THE BONDS - General.” Pursuant to the Trust Agreement, the Authority will assign its interest in the Loan Agreement (except for certain reserved rights) to the Trustee as security for the Bonds. See “SOURCES OF PAYMENT AND SECURITY FOR THE BONDS - The Loan Agreement.”

***The Debt Service Reserve Fund.*** On the date of issuance of the Bonds, there shall be deposited \$2,895,282.48 from the proceeds of the Bonds to the credit of a debt service reserve fund created under the Trust Agreement (the “Debt Service Reserve Fund”). Such amount is equal to the maximum debt service on the Bonds during any six-month period (the “Debt Service Reserve Fund Requirement”). Moneys held to the credit of the Debt Service Reserve Fund shall be used for the purpose of paying the principal of, and interest on the Bonds when due, whenever and to the extent that Eligible Moneys held to the credit of the Bond Fund shall be insufficient for such purposes. To the extent that any amounts deposited in the Debt Service Reserve Fund are transferred to the Bond Fund or the value of the investment obligations therein shall be less than the Debt Service Reserve Fund Requirement (such difference, a “Debt Service Reserve Fund Deficiency”), the Borrower will be obligated to deposit with the Trustee such amounts as will cause the amount on deposit in

the Debt Service Reserve Fund to equal the Debt Service Reserve Fund Requirement. See "SOURCES OF PAYMENT AND SECURITY FOR THE BONDS - The Debt Service Reserve Fund."

***The Letter of Credit.*** The Trust Agreement will require the Trustee to make draws on the Letter of Credit to make payments on the Bonds (except for any payment of premiums) if Eligible Moneys on deposit with the Trustee to the credit of the Bond Fund or the Debt Service Reserve Fund are not sufficient to make such payments or to pay a Debt Service Reserve Fund Deficiency. The Letter of Credit is issued pursuant to the terms of a letter of credit and reimbursement agreement (the "Reimbursement Agreement") between the Borrower and Puerto Rico Tourism Development Fund ("TDF" and, together with any successor thereto, the "Letter of Credit Issuer"). On the date of issuance of the Bonds, the Borrower will cause TDF to issue an irrevocable transferable stand-by letter of credit (the "TDF Letter of Credit" and, together with any successor letter of credit, the "Letter of Credit") in favor of the Trustee for the benefit of the Bondholders. The TDF Letter of Credit will secure the payment of the principal amount of the Bonds outstanding at any time plus up to 195 days of interest thereon. The TDF Letter of Credit will expire on December 30, 2015, (subject to earlier termination and automatic extension). The TDF Letter of Credit will be automatically extended beyond its expiration date for three additional periods of five years each. The TDF Letter of Credit may be replaced with a successor Letter of Credit complying with the requirements of the Loan Agreement (the "Successor Letter of Credit") on or prior to the sixtieth (60th) day preceding the expiration date thereof. A Successor Letter of Credit must have a minimum term of one year, but may expire earlier than the TDF Letter of Credit. In addition, a Successor Letter of Credit may not be subject to automatic extension. See "THE BONDS – Redemption." The Letter of Credit does not cover any premium payable on the Bonds by reason of optional redemption. See "SOURCES OF PAYMENT AND SECURITY FOR THE BONDS - The Loan Agreement" and "THE TDF LETTER OF CREDIT AND THE TOURISM DEVELOPMENT FUND."

The Loan Agreement provides that in order to accept delivery of a Successor Letter of Credit, the Trustee must receive written confirmation from S&P to the effect that the delivery of such Successor Letter of Credit will not cause the then current rating on the Bonds to be lowered by S&P; provided, however, that upon delivery of any such Successor Letter of Credit, the Bonds may not be rated lower than "A-" by S&P, unless such Successor Letter of Credit is to be issued by an instrumentality of Puerto Rico, in which case the Bonds may not be rated lower than "BBB" by S&P.

***The Security Agreements.*** The Bonds will be secured by a lien on substantially all the assets of the Borrower, including: (i) a pledge of a mortgage note in an amount equal to the principal amount of the Bonds, which mortgage note will be secured by a first mortgage on substantially all the real property comprising the Project; and (ii) a first priority security interest on substantially all the personal property of the Borrower, including the Borrower's rights under various agreements and funds held in various accounts. The mortgage, the mortgage note, and the other security documents are sometimes collectively referred to herein as the "Security Agreements." So long as the Letter of Credit Issuer is in compliance with its obligations under the Letter of Credit, the Letter of Credit Issuer may modify, change or otherwise amend the Security Agreements without the consent of the Authority, the Bondholders or the Trustee. The proceeds of any such release shall be used as directed by the Letter of Credit Issuer. Any such change, amendment or modification shall be subject to the additional requirement that immediately thereafter the Authority continues to be a mortgagee of a first mortgage in the amount of the mortgage note on the land and buildings comprising the Project.

The Security Agreements may also be amended upon the issuance of Additional Bonds to provide for the increase of the mortgage note in an amount sufficient to secure such Additional Bonds and to otherwise grant the bondholders of such Additional Bonds equal rights and priority in the mortgage note, the Security Agreements and any other collateral securing the Bonds.



## **Bondholders' Risks**

The Bonds are subject to certain risks, including some that may result in the payment of the Bonds prior to their maturity dates. Prospective Bondholders are instructed to and should carefully review the section entitled "BONDHOLDERS' RISKS" for a discussion of certain risks associated with an investment in the Bonds.

## **Tax Matters**

In the opinion of Pietrantoní Méndez & Álvarez LLP, Bond Counsel, under existing law and assuming compliance by the Borrower with certain representations and covenants, as described herein: (i) the Bonds and interest thereon are exempt from Puerto Rico income taxes and municipal property and license taxes; (ii) under certain circumstances, the Bonds are exempt from Puerto Rico gift and estate taxes; (iii) interest on the Bonds is not subject to income tax under the Internal Revenue Code of 1986, as amended (the "Code"), when received by (a) individuals who are *bona fide* residents of Puerto Rico during the entire taxable year in which such interest is received; and (b) under certain circumstances, foreign corporations, including Puerto Rico corporations; and (iv) interest on the Bonds is not excludable from the gross income of the recipients thereof under Section 103(a) of the Code. See "TAX MATTERS."

## **Rating**

The Bonds are rated "BBB" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), with the understanding that, upon delivery of the Bonds, the TDF Letter of Credit will be issued by TDF. There is no assurance that such rating will remain in effect for any given period of time or that it will not be revised downward or withdrawn entirely by such organization if, in its sole judgment, circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market prices of the Bonds. See "RATING."

## **Trustee**

The Trustee is Banco Popular de Puerto Rico. The principal corporate trust office of the Trustee is located at 209 Muñoz Rivera Avenue, San Juan, Puerto Rico.

## **Underwriters**

The Underwriters of the Bonds are: Popular Securities, Inc., PaineWebber Incorporated of Puerto Rico and Salomon Smith Barney.

## **Continuing Disclosure**

The Borrower and TDF will enter into a Continuing Disclosure Agreement for the benefit of the Bondholders and the Beneficial Owners (as defined herein) of the Bonds to provide certain financial and operating information on an annual basis (and notices of certain material events) to certain municipal securities information repositories and to any Puerto Rico information depository pursuant to Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. See "CONTINUING DISCLOSURE COVENANT."

**Available Information**

The Underwriters will provide without charge during the offering period for the Bonds, to each person to whom copies of this Official Statement are delivered, a copy of the Trust Agreement, the Loan Agreement, the TDF Letter of Credit, the Initial Reimbursement Agreement and the other documents described herein upon the written or oral request of such person. Requests for such information should be directed to the Underwriters at their principal offices. After the date of issuance of the Bonds, executed copies of these documents will be available for inspection at the offices of the Trustee.

# **OFFICIAL STATEMENT**

**\$68,290,000**

**Puerto Rico Industrial, Tourist, Educational, Medical and  
Environmental Control Facilities Financing Authority  
Tourism Revenue Bonds, 2000 Series A  
(Paradisus Coco Beach Resort Project)**

## **INTRODUCTION**

This Official Statement, which includes the cover page, the back cover page, the inside front cover page and appendices hereto, is provided to furnish information in connection with the offering and sale by the Authority of its \$68,290,000 Tourism Revenue Bonds, 2000 Series A (Paradisus Coco Beach Resort Project), to be issued pursuant to the Trust Agreement. The Bonds will be dated, mature, bear interest and be subject to redemption prior to maturity as more fully described herein.

The descriptions and summaries of the Bonds, the TDF Letter of Credit, the Initial Reimbursement Agreement, the Loan Agreement, the Trust Agreement, and the other documents described herein do not purport to be complete and are subject to and qualified by reference to the provisions of the complete documents, copies of which are available for inspection at the corporate trust office of the Trustee and, during the offering period, from the Underwriters. All terms not otherwise defined in this Official Statement shall have the respective meanings ascribed to them in the documents being summarized. The agreements of the Authority with the holders of the Bonds are fully set forth in the Trust Agreement, and neither any advertisement of the Bonds nor this Official Statement is to be construed as constituting an agreement with the purchasers of the Bonds. So far as any statements are made in this Official Statement involving matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact. Copies of the documents mentioned in this paragraph are on file at the offices of the Trustee.

For further information regarding the Borrower and its affiliates and information relating to the Project see "Appendix A" and "Appendix B." The financial statements of TDF for the years ended June 30, 1999 and 1998, contained in Appendix C, have been audited by Deloitte & Touche LLP, independent auditors, as stated in their report appearing therein.

## **BONDHOLDERS' RISKS**

*Purchase of the Bonds involves certain risks. Prospective purchasers of the Bonds should give careful consideration to the matters referred below as well as to other information set forth in this Official Statement before deciding to invest in the Bonds.*

### **Prepayment Risk**

The Bonds are subject to prepayment in advance of their stated maturity upon redemption and following an acceleration of their maturity or upon the failure of the Borrower to comply with certain covenants, and the resulting occurrence of an event of default, under the Loan Agreement, the Trust Agreement, or the Initial Reimbursement Agreement. The ability of the Borrower to comply with these covenants depends in part on the factors described in this "BONDHOLDERS' RISKS" section. In addition, the Initial Reimbursement Agreement requires that the Borrower apply twenty-five percent (25%) of its annual excess cash flow, if any, to the optional redemption of Bonds. Furthermore, any Successor Letter of Credit may not be subject to automatic extension and may be for a term that is shorter than (i) the initial 15 year term of the TDF Letter of Credit or (ii) the term of the Bonds. In such event, the Bonds will be subject to mandatory redemption prior to maturity if the Borrower is unable to extend, renew or replace such Successor Letter of Credit prior to its expiration.

### **Financial Condition of the Letter of Credit Issuer**

Payment of the principal of and interest on the Bonds is secured by the Letter of Credit issued by the Letter of Credit Issuer. Payment of the Bonds will depend, to the extent the Borrower's financial condition does not permit it to pay the Bonds, upon the financial condition of the Letter of Credit Issuer. There can be no assurance that TDF or any Successor Letter of Credit Issuer will maintain its financial condition during the life of the Bonds.

The ability of TDF to meet its obligations under the TDF Letter of Credit is directly related to its capital and allowances for losses on guarantees and letters of credit, supplemented by fees paid by the obligors under debt guaranteed by it, investment income, legislative appropriations, and losses incurred in other tourism projects. As of June 30, 1999, the capital of TDF was \$55,029,900, including retained earnings of \$5,029,900, and its allowance for losses on guarantees and letters of credit was \$25,690,604. As of the date of this Official Statement, TDF has executed guaranty agreements and letters of credit with respect to the financing of eight other hotel projects in the aggregate outstanding principal amount of approximately \$426.8 million. No assurance can be given that TDF will have sufficient capital and allowances, generate earnings or receive appropriations to meet its obligations under the TDF Letter of Credit. The Legislature of Puerto Rico is not legally obligated to appropriate funds for TDF. For further information about TDF, see "THE TDF LETTER OF CREDIT AND THE TOURISM DEVELOPMENT FUND - TDF" and "Appendix C." For information concerning the requirements of a Successor Letter of Credit, see "SUMMARY OF THE LOAN AGREEMENT - Successor Letter of Credit."

### **Financial Condition of the Borrower**

The Borrower was organized on March 2, 1999, has no operating history and will have no significant assets other than the Project. The ability of the Borrower to comply with its obligations under the Loan Agreement and the Reimbursement Agreement depends primarily upon the future operating revenues and expenses of the Project, which are subject to conditions that may change in the future to an extent that cannot be determined at this time. Conditions which may affect the Project's future operating revenues and expenses include inflation and other economic conditions, population and demographic trends, the cost and availability of labor, the cost and availability of utilities, transportation costs and the occurrence of natural disasters. The Project's future operating revenues will also depend on the Borrower's obtaining and maintaining certain permits, licenses and endorsements by various agencies of the Government of Puerto Rico. Except for certain debt service reserves and the security for the Bonds which may be available to pay the Bonds at any given time as described herein, the Borrower will have no other assets or sources of revenue

for the payment of the Bonds. If the Borrower fails to meet its obligations under the Loan Agreement or the Reimbursement Agreement, under certain conditions, the Letter of Credit Issuer has the right to direct the Trustee to accelerate the Bonds, which would cause an early prepayment of the Bonds.

### **Capital Intensive Industry**

Resort facilities such as the Project are capital intensive and, in order to remain attractive and competitive, must be maintained as well as periodically modernized and refurbished. This creates an ongoing need for capital funds. The results of the Project will therefore be affected by the cost and availability of these funds. There can be no assurance that the Borrower will have sufficient reserves to meet such capital requirements or that the Borrower will have access to other sources of funds to meet such capital requirements.

### **Competition**

Both present and future resort hotels in Puerto Rico and the Caribbean may impact the profitability of the Project. Competition in Puerto Rico may increase in the future due to the development efforts in the hotel and tourism industry of the Government of Puerto Rico and the many tax and investment incentives being offered to attract such development. Future competition may also be affected by periodic overbuilding and changes in market conditions, or travel patterns and preferences. In addition, the current development plans of Betterroads and its subsidiaries contemplate the construction of an additional hotel within the Coco Beach Resort and Community Development which may be in direct competition with the Borrower and the Project.

### **Seasonality**

The destination resort industry is seasonal in nature. Generally, hotel revenues and occupancy rates are expected to be greater in the first and fourth quarters than in the second and third quarters of a calendar year. This seasonality can be expected to cause quarterly fluctuations in the Project's anticipated revenues.

### **Uninsured and Underinsured Losses**

Certain types of losses, such as those resulting from hurricanes, floods and earthquakes, may not be economically insurable up to the Project's full economic value, and there can be no assurance that the Borrower will be able to maintain adequate insurance for all risks at reasonable costs and/or suitable terms. As a result, there can be no assurance that, in the event of a catastrophic or substantial loss, the Project's insurance would be sufficient to pay the full current market value or current replacement cost of the Project.

### **Terms of Management Agreement Negotiated by Affiliates**

The Borrower will execute a Management Agreement (the "Management Agreement") with the Hotel Operator under which the Hotel Operator will manage and operate the Project and will grant the Borrower a license (the "License"). The License will permit the Borrower to use, in connection with the Project, the name "Paradisus" and avail itself of the reservation system, marketing and training programs and other services provided by Sol Meliá. "Paradisus" is the name currently used by Sol Meliá for the operation of "all inclusive" hotel properties. The terms and provisions of the Management Agreement were negotiated by affiliated entities. Accordingly, the terms, provisions and compensation contained in the Management Agreement may not reflect the fair market value of the services rendered by the Hotel Operator.

### **Conflicts of Interest**

The Borrower is subject to various conflicts of interest arising out of its relationship with the Managing Partner, the Hotel Operator and CBM Investment and their respective affiliates. Such conflicts could result in certain actions or decisions that could have an adverse effect on the Borrower.

## **Development and Construction Risks**

The development and construction of the Project will require the Borrower to obtain certain permits, approvals and consents from certain governmental agencies. The inability of the Borrower to obtain one or more of such approvals may delay or hinder the completion of the Project.

The development and construction of the Project will take approximately 24 months to complete, and until such time the Borrower will have no significant operations. The completion of the Project involves risks that are beyond the control of the Borrower, including the shortage of building materials, strikes, acts of God, competitive factors, general economic conditions and government regulations, and as a result, there can be no assurances that the Project will be completed within the estimated schedule.

The Borrower will depend on the General Contractor to provide the services contemplated under the Construction Agreement. The Borrower will be subject to risks relating to the General Contractor's ability to sustain costs in excess of those anticipated, to build the Project in conformity with its plans and specifications and to complete the work in a timely manner. The General Contractor's failure to comply with its obligation under the Construction Agreement may delay or hinder the completion of the Project.

In the event the costs of the Project exceed the budget (which includes reserves), the Borrower has no committed source of additional funding, other than a completion guaranty of Meliá Inversiones. The costs of the Project may exceed the budget (including reserves) in the event of unforeseen circumstances that require substantial changes to the development plan for the Project and, accordingly, to the plans and specifications. Consequently, the Borrower may have to modify the Project as previously proposed or delay its completion until additional funding is secured. The Initial Reimbursement Agreement restricts the Borrower's ability to borrow additional funds.

## **Golf Course Availability**

Among the amenities which the Borrower expects to offer to its hotel guests, is the use of the golf facilities to be owned by the Coco Beach Golf & Country Club. The financing and ultimate construction of such facilities are independent of the financing of the Project. The Borrower has no control over this process and no assurance can be given that this process will be concluded on a satisfactory or timely basis. Any failure or delay in the construction of the golf facilities could impact the competitiveness of the hotel as a destination resort.

## **Helms - Burton Act**

Under current United States law, in particular under the Helms - Burton Act (22 U.S.C. §6021-6091), a foreign company that engages or profits from certain activities involving Cuban property confiscated from a United States national by the Government of Cuba may be subject to a suit for money damages by the former property owner. Sol Meliá, the majority owner of Meliá Inversiones, which in turn is the sole owner of the Majority Partners in the Borrower, has ownership interests in certain entities currently engaged in business in Cuba. The Borrower believes, based on the advice of its counsel, that for a number of reasons, including the fact that these activities are being carried out by entities which are distinct and separate from it, any action brought against Sol Meliá under this statute, even if successful, should not result in any liability being imposed against it. However, in the event that such a challenge were to prove successful, it could have a material adverse effect on the operations and management of Borrower. For a more detailed description of the Helms - Burton Act and its potential impact on the Borrower see "Appendix A."

## **Reliance on Private Utility Company**

The Project will depend for the treatment of its waste-water on the development, construction and operation of a new waste-water treatment plant. These services will be provided by a private utility company (the "Utility Company") to be created as a subsidiary of Betterroads. The successful construction and operation of the Utility Company will depend on a variety of factors not directly or indirectly within the control of the Borrower or its affiliates, such as the obtention of the applicable franchise, permits, licenses and adequate financing, the hiring and retention of qualified personnel and continuous compliance with applicable environmental laws. In addition, neither the Utility Company nor Betterroads has previous experience in the business of waste-water treatment. Betterroads will assign to the Borrower and TDF the payment and performance bond to be provided by the contractor in charge of the construction of the new waste-water treatment plant, in an amount equal to the construction budget. If the construction or operation of the new waste water treatment plant fails for any reason, the Project will not be able to operate unless an alternate source for waste-water treatment becomes available. If for any reason construction of the new waste water treatment plant has not commenced by a date to be agreed upon by Betterroads, the Borrower and TDF, or its operation ceases, the Borrower has the right to assume control of the Utility Company or to find alternate sources of waste-water treatment, including constructing its own waste-water treatment facility. However, the Borrower has no funds allocated in its budget for the construction of a waste-water treatment plant.

## **Environmental Risks**

Under various United States federal and Puerto Rico environmental laws, ordinances and regulations, the Borrower may be liable for the costs of removal or remediation of hazardous or toxic substances in the Project. Such laws often impose liability whether or not the Borrower knew of, or was responsible for, the presence of such hazardous or toxic substances. In addition, persons who arrange for the disposal or treatment of hazardous or toxic substances may also be liable for the costs of removal or remediation of such substances at the disposal or treatment facility, whether or not such facility is or ever was owned or operated by such person.

## **Enforcement of Remedies**

If the Letter of Credit Issuer fails to honor any claim made and presented pursuant to and in strict compliance with the Letter of Credit, the Trustee may proceed to enforce any remedies under the Trust Agreement, the Loan Agreement and the Security Agreements. The enforcement of such remedies may be limited or restricted by laws relating to bankruptcy and rights of creditors generally and by general principles of equity applicable to the availability of certain remedies and may be substantially delayed and subject to judicial discretion in the event of litigation or statutory remedy procedures. Furthermore, no assurance can be given that the proceeds of any sale of the Project and the assets of the Borrower upon foreclosure would be sufficient to pay the outstanding principal and interest on the Bonds. See "SOURCES OF PAYMENT AND SECURITY FOR THE BONDS." The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified as to the enforceability of the various legal instruments by reference to limitations imposed by bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting the rights of creditors and the availability of equitable remedies. Any such limitations, if imposed, may adversely affect the ability of the Trustee and the Bondholders to enforce their claims and assert their rights against the Borrower.

## **Payments Relating to Event of Taxability Not Covered by the Letter of Credit**

The Borrower will covenant that during each taxable year it will conduct its business so that at all times interest payable on the Bonds will constitute income from sources within Puerto Rico for purposes of the Code, as in effect on the date of initial issuance and delivery of the Bonds (the "Source of Income Requirements"). Failure to comply with the Source of Income Requirements (an "Event of Taxability") could cause interest on the Bonds to be included in the gross income of certain recipients for federal income tax purposes. Any remedies that the Bondholders may have for violation of the Source of Income

Requirements would have to be pursued by the Bondholders directly against the Borrower. The TDF Letter of Credit does not cover any amount which may be required to be paid by the Borrower to the Bondholders as result of such an Event of Taxability.

#### **Absence of Secondary Market for the Bonds; No Assurance of Rating Maintenance**

There is currently no secondary market for the Bonds, and there can be no assurance that a secondary market will develop, or if it does develop, that it will provide the Bondholders with liquidity for their investment or that it will continue for the life of the Bonds.

There is no assurance that the investment grade rating initially assigned to the Bonds will not be lowered or withdrawn, which could adversely affect the value of and market for the Bonds. See "RATING."

### **THE AUTHORITY AND GOVERNING BOARD**

#### **The Authority**

The Authority is a body corporate and politic constituting a public corporation and governmental instrumentality of Puerto Rico. The Legislature of Puerto Rico determined that the development and expansion of commerce, industry and health and educational services within Puerto Rico are essential to the economic growth of Puerto Rico and to attain full employment and preserve the health, welfare, safety and prosperity of all its citizens. The Legislature also determined that new methods of financing capital investments were required to promote industry in Puerto Rico. Accordingly, the Authority was created under Act No. 121 of the Legislature of Puerto Rico, approved June 27, 1977, as amended (the "Act"), for the purpose of promoting the economic development, health, welfare and safety of the citizens of Puerto Rico. The Authority is authorized to borrow money through the issuance of revenue bonds and to loan the proceeds thereof to finance the acquisition, construction and equipping of industrial, tourist, educational, medical, pollution control and solid waste disposal facilities. The Authority has no taxing power. The Authority's offices are located at Minillas Government Center, De Diego Avenue, Stop 22, San Juan, Puerto Rico 00940. The Authority's telephone number is (787) 722-4060.

#### **Governing Board**

The Act provides that the governing board of the Authority (the "Governing Board") shall consist of seven members. The President of Government Development Bank for Puerto Rico ("GDB"), the Executive Director of the Puerto Rico Industrial Development Company, the Executive Director of the Puerto Rico Infrastructure Financing Authority, the President of the Puerto Rico Environmental Quality Board and the Executive Director of the Puerto Rico Tourism Company are each *ex officio* members of the Governing Board. The remaining two members of the Governing Board are appointed by the Governor of the Commonwealth for terms of four years. The following individuals are the current members of the Governing Board:



<u>Name</u>	<u>Position</u>	<u>Term</u>	<u>Occupation</u>
Lourdes Rovira-Rizek	Chairperson	Indefinite	President, Government Development Bank for Puerto Rico
Héctor Russé-Martínez	Member	Indefinite	President, Puerto Rico Environmental Quality Board
José Corujo	Member	Indefinite	Executive Director, Puerto Rico Tourism Company
Xavier Romeu	Member	Indefinite	Secretary of Economic Development and Commerce, and Executive Director, Puerto Rico Industrial Development Company
Miguel A. Cordero	Member	Indefinite	Executive Director, Puerto Rico Infrastructure Financing Authority
James Thordsen	Member	June 27, 2002	President, James Thordsen, Inc.
José Salas-Soler	Member	October 22, 2001	Attorney-at-Law

The Act provides that the affirmative vote of four members is sufficient for any action taken by the Governing Board.

The following individuals are currently officers of the Authority:

**Carlos Colón De Armas**, Executive Director of the Authority, is also Executive Vice President of GDB. He was appointed to these positions in February 1999. Mr. Colón de Armas received a PhD in finance from Purdue University in 1992. Prior to his appointment, he was Deputy Executive Director of the Puerto Rico Highway and Transportation Authority.

**Javier Ramos-Luiña**, Assistant Executive Director of the Authority, is also a Financing Principal of GDB. He has been associated with GDB since February 1997. Mr. Ramos-Luiña received a Masters of Business Administration from Atlanta University in 1990 and a Bachelor of Science Degree in Business Administration from Bryant College in 1988. Prior to his appointment, he worked in investment banking firms in Puerto Rico.

**Delfina Betancourt-Capó**, Secretary and General Counsel of the Authority, is also Senior Vice President and General Counsel of GDB. Ms. Betancourt has been associated with GDB since 1984 and received a law degree from Cornell University in 1982.

#### **Outstanding Revenue Bonds and Notes of the Authority**

As of June 30, 2000, the Authority had revenue bonds and notes issued and outstanding in the principal amount of approximately \$2.1 billion.

All such bond and note issues have been authorized and issued pursuant to trust agreements or resolutions separate from and unrelated to the Trust Agreement relating to the Bonds and are payable from sources other than the payments under the Loan Agreement.

Under the Act, the Authority may issue additional bonds and notes from time to time to finance industrial, tourist, educational, medical, pollution control or solid waste facilities. However, any such bonds and notes would be authorized and issued pursuant to other trust agreements or resolutions separate from and related to the Trust Agreement relating to the Bonds and would be payable from sources other than the payments under the Loan Agreement.

## **GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO**

As required by Act No. 272 of the Legislature of Puerto Rico, approved May 15, 1945, as amended, GDB has acted as a financial advisor to the Authority in connection with the issuance and sale of the Bonds.

GDB is a public corporation with varied governmental financial functions. Its principal functions are to act as financial advisor to and fiscal agent for Puerto Rico, its municipalities and its public corporations in connection with the issuance of bonds and notes, to make advances to public corporations and to make loans to private enterprises that will aid in the economic development of Puerto Rico. The Underwriters have been selected by GDB to serve from time to time as Underwriters of its obligations and the obligations of the Commonwealth, its instrumentalities and public corporations. The Underwriters or their affiliates also participate in other financial transactions with GDB.

### **THE BORROWER**

The Borrower is a mercantile partnership organized under the laws of Puerto Rico that has elected to be treated as a special partnership in accordance with the provisions of the Puerto Rico Internal Revenue Code of 1994, as amended, and Act. No. 3 of September 27, 1985, as amended. Pursuant to such election, the liability of the partners of the Borrower is limited to their paid-in capital. The Majority Partners in the Borrower are wholly owned subsidiaries of Meliá Inversiones, a majority owned subsidiary of Sol Meliá. Sol Meliá is a company based in Spain engaged in the ownership and operation of hotels throughout the world, including luxury, moderate and "all inclusive" hotel properties under the names Gran Meliá, Meliá and Paradisus Resort. CBM Investment, a wholly owned subsidiary of Coco Beach Holdings, Inc., a company which is wholly owned by Betterroads, will initially own a non voting minority equity interest in the Borrower. Betterroads owns and is engaged, together with its subsidiaries Coco Beach Development Corporation and CBM Investment, in the development of the Coco Beach Resort and Community Development. For a more detailed description of the Borrower and its operations, including a summary of certain financial information, see "Appendix A."

### **THE PROJECT**

The Project consists of the development, construction and equipping of a 491-room, luxury "all-inclusive" resort hotel and related facilities to be located in Río Grande, Puerto Rico. The Project will be owned by the Borrower which will engage the Hotel Operator to manage and operate the Project. The Borrower expects that the construction of the Project will take approximately 24 months to complete and that the Project will commence operations in the third quarter of 2002. The Borrower estimates that the total aggregate cost of the Project will be approximately \$106.9 million. The Project will be constructed on a 43.25 *cuerdas* parcel of land located within the larger 980 *cuerdas* Coco Beach Resort and Community development, and will be adjacent to the proposed Coco Beach Golf & Country Club project consisting of two golf courses and a clubhouse.

The Borrower will enter into a Use and Access Agreement (the "Use Agreement") with the owner and the operator of the Coco Beach Golf & Country Club pursuant to which it will be granted a revocable license for the use by its hotel guests of the recreational facilities of the Coco Beach Golf & Country Club, subject to payment of applicable green fees, cart fees and other charges. In exchange, the Borrower and the Hotel Operator will grant the operator of the Coco Beach Golf & Country Club a revocable license which will permit members of the Coco Beach Golf & Country Club to use the hotel facilities, subject to the payment of any applicable charges. The Use Agreement will have a duration of 10 years and will be renewable by the parties for additional periods of 1 year. Under the terms of the Use Agreement, if at any time either party defaults in the performance of its obligations and such default is not cured within the time period specified under the Use Agreement, the non-defaulting party may, among other remedies, revoke the license granted to the defaulting party for the use of its facilities.

The Borrower will enter into the Construction Agreement with the General Contractor in the amount of \$54.8 million. The General Contractor will provide a payment and performance bond in the amount of the Construction Agreement to be issued by United States Fidelity & Guaranty Company. The Construction Agreement covers substantially all of the items of the construction budget of the Project. Certain items of such construction budget, in the amount of approximately \$8.9 million, will be acquired directly by the Borrower and installed at the Project by the General Contractor. The Borrower's obligations in connection with the completion of the construction of the Project, including the acquisition of those certain items of the construction budget, will be guaranteed by Meliá Inversiones under a completion guarantee to be executed by Meliá Inversiones in favor of TDF.

The Borrower's current development plan also contemplates the possibility of expanding the hotel in the future through the construction of approximately 500 rooms to be located in a parcel adjacent to the Project. If the Borrower determines to proceed with any such expansion, it may, subject to certain conditions, issue Additional Bonds under the Trust Agreement. See "THE BONDS – Additional Bonds."

## SOURCES AND USES OF FUNDS

### Sources of Funds

<b>Equity</b>		
Land <sup>(1)</sup>	\$ 4,758,259	
Cash Contribution from Partners	<u>34,155,809</u>	
Total Equity		\$ 38,914,068
<b>Debt</b>		
Principal Amount of Bonds	68,290,000	
Original Issue Discount	<u>(267,192)</u>	
Total Debt		<u>68,022,808</u>
<b>Total Sources</b>		<u><u>\$106,936,876</u></u>

### Uses of Funds

Land Cost	\$ 4,758,259
Deposit to Construction Fund	52,241,259
Deposit to Equity Construction Fund <sup>(2)</sup>	33,326,075
Deposit to Debt Service Reserve Fund	2,895,282
Deposit to Operating Deficit Reserve Fund	3,000,000
Capitalized Interest <sup>(3)</sup>	4,948,222
Capitalized Letter of Credit Fees <sup>(4)</sup>	2,189,838
Authority Fee	682,900
Costs of Issuance <sup>(5)</sup>	<u>2,895,041</u>
<b>Total Uses</b>	<u><u>\$106,936,876</u></u>

- (1) Represents 43.2569 cuerdas of land at appraised value. Source: Robert F. McCloskey Associates land appraisal dated February 28, 2000.
- (2) Not established pursuant to the Trust Agreement.
- (3) Represents a portion of the interest accruing on the Bonds through May 20, 2003. These moneys will be deposited in the Bond Fund.
- (4) Represents a portion of the letter of credit fees payable to TDF through February 20, 2003. These moneys will be deposited in the Construction Fund.
- (5) Includes underwriters' discount, fee payable to TDF on the date of issuance of the Bonds, mortgage recording fees and title insurance fees.

## **THE BONDS**

### **General**

The Bonds will be dated the date of delivery thereof and will bear interest at such rates and will mature (subject to the rights of redemption described below) in such amounts on June 20 and December 20 of such years, as set forth on page (i) of this Official Statement. Interest on the Bonds will be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds will accrue from the date of delivery thereof and will be paid on the twentieth day of each month commencing on October 20, 2000 until maturity or prior redemption.

Payments of principal, premium, if any, and interest on the Bonds must be made with Eligible Moneys. As used herein, "Eligible Moneys" means with respect to any date on which any payment of principal, premium, if any, and interest is required to be made on the Bonds: (i) all amounts drawn by the Trustee under the Letter of Credit, or otherwise received from the Letter of Credit Issuer, and deposited to the credit of the Bond Fund or the Debt Service Reserve Fund; (ii) all amounts in respect of accrued interest, if any, deposited to the credit of the Bond Fund from the proceeds of the initial sale of the Bonds; (iii) all amounts in respect of capitalized interest deposited to the credit of the Bond Fund from the proceeds of the initial sale of the Bonds and used by the Trustee to pay a portion of the interest due on the Bonds during the construction of the Project; (iv) all other amounts on deposit in the Construction Fund, the Bond Fund or the Debt Service Reserve Fund prior to the termination of the Letter of Credit: (a) to the extent such amounts constitute proceeds of the Bonds deposited with the Trustee contemporaneously with the issuance and sale of the Bonds, or investment income generated by the funds described in (i) to (iii) above or this clause (iv), deposited in the Debt Service Reserve Fund and the Construction Fund, or which have been on deposit with the Trustee in such separate and segregated accounts or sub-accounts in which no other moneys are held for a period of ninety-four (94) consecutive days prior to the applicable payment date without the occurrence of an intervening Act of Bankruptcy (as defined in the Trust Agreement); or (b) as to which the Trustee has received an opinion of counsel experienced in bankruptcy matters to the effect that payment to the Bondholders of such moneys would not constitute a transfer that may be voided as a preference under any provision of the United States Bankruptcy Code in the event of an Act of Bankruptcy; and (v) after expiration of the Letter of Credit, the Bonds still being outstanding, all amounts on deposit in any fund under the Trust Agreement from whatever source.

### **Additional Bonds**

The Trust Agreement provides for the issuance of Additional Bonds to complete the Project or to finance any addition, extension or improvement to the Project. Any such Additional Bonds will have such maturities, bear interest at such rates, be subject to redemption at such times and shall otherwise be subject to such terms and conditions as are set forth in the resolution of the Authority providing for the issuance of Additional Bonds.

As a condition precedent to the issuance of any Additional Bonds, S&P must confirm that the issuance of Additional Bonds will not result in a withdrawal, suspension or reduction of the then current rating on the Bonds and that such Bonds will not be rated below "BBB". Any Additional Bonds issued will be entitled to the same benefits and security as the other Bonds then outstanding.

### **Book-Entry Only System**

The following information concerning DTC and DTC's book-entry system has been obtained from DTC, and the Authority, the Borrower, TDF and the Underwriters do not take any responsibility for the accuracy thereof.

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully registered bonds in the name of Cede & Co., DTC's partnership nominee. One fully registered Bond will be issued for each maturity of the Bonds in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds securities that its participants (the "Direct Participants") deposit with DTC. DTC also facilitates the settlement of securities transactions among Direct Participants, such as transfers and pledges, in deposited securities through electronic book-entry changes in accounts of the Direct Participants, thereby eliminating the need for physical movement of securities. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of the Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as banks, brokers, dealers and trust companies that clear transactions through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (the "Indirect Participants" and, together with the Direct Participants, the "Participants"). The rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Bonds under the DTC system must be made by or through Direct Participants which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the DTC system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Bonds with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds. DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all of the Bonds of any maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the Bonds. Under its usual procedures, DTC mails an "Omnibus Proxy" to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy). **Certain actions for which a vote of the Beneficial Owners is required under the Trust Agreement are also subject to the consent of the Letter of Credit Issuer, which has issued the Letter of Credit to secure payment of principal of and interest on the Bonds as more fully described herein.**

Principal of and redemption premium, if any, and interest payments on the Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts on each Payment Date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on such date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, the Borrower, the Letter of Credit Issuer or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Trustee, disbursement of such payments to Direct Participants is the responsibility of DTC, and disbursement of such payments to the Beneficial Owners is the responsibility of Direct and Indirect Participants.

Each person for which a Participant acquires an interest in the Bonds, as nominee, may desire to make arrangements with such Participant to receive a credit balance in the records of such Participant, and may desire to make arrangements with such Participant to have all notices of redemption or other communications to DTC which may affect such persons forwarded in writing by such Participant and to have notification made of all interest payments.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Authority or the Trustee. In such event, the Authority will try to find a substitute securities depository and, if unsuccessful, definitive Bonds will be printed and delivered. In addition, the Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC as securities depository with respect to the Bonds if the Authority determines that Beneficial Owners of such Bonds shall be able to obtain definitive Bonds. In such event, definitive Bonds will be printed and delivered as provided in the Trust Agreement and registered in accordance with the instructions of the Beneficial Owners.

So long as Cede & Co., as nominee of DTC (or any other nominee of DTC), is the registered owner of the Bonds, all references herein to the Bondholders or registered owners of the Bonds (other than under the heading "TAX MATTERS") shall mean Cede & Co., or such other nominee, in the capacity of nominee for DTC, and shall not mean the Beneficial Owners of the Bonds.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they shall be sent by the Authority or the Trustee to DTC only.

*For every registration of transfer or exchange of the Book-Entry Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.*

THE AUTHORITY, THE TRUSTEE, THE LETTER OF CREDIT ISSUER AND THE BORROWER SHALL HAVE NO RESPONSIBILITY OR OBLIGATION TO ANY PARTICIPANT OR ANY BENEFICIAL OWNER WITH RESPECT TO: (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT, AS DESCRIBED ABOVE; (2) THE PAYMENT OR TIMELINESS OF PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OR REDEMPTION PRICE OF OR INTEREST ON THE BONDS; (3) THE DELIVERY OR TIMELINESS OF DELIVERY BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE TRUST AGREEMENT TO BE GIVEN TO BONDHOLDERS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE BONDS; OR (5) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS BONDHOLDER.

In the event that the book-entry only system is discontinued and the Beneficial Owners become registered owners of the Bonds, the following provisions will apply: The principal of the Bonds and premium, if any, thereon when due will be payable upon presentation of the Bonds at the corporate trust office of the Trustee in San Juan, Puerto Rico, and interest on the Bonds will be paid by check mailed to the persons who were the registered owners as of the fifth (5<sup>th</sup>) day of the month that contains the related payment date, as provided in the Trust Agreement. Bonds may be exchanged for an equal aggregate principal amount of Bonds in other authorized denominations and of the same maturity and interest rate, upon surrender thereof at the Trustee's corporate trust office in San Juan, Puerto Rico. The transfer of any Bond may be registered only upon surrender thereof to the Trustee along with a duly executed assignment in form satisfactory to the Trustee. Upon any such registration of transfer, a new Bond or Bonds of authorized denominations in an equal aggregate principal amount, of the same maturity, bearing interest at the same rate and registered in the name of the transferee will be executed by the Authority and authenticated by the Trustee. No charge may be made to the Bondholders for any exchange or registration of transfer of the Bonds, but any Bondholder requesting any such exchange shall pay any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer. The Trustee will not be required to exchange or to register the transfer of any Bond during the period of 15 days preceding the date of giving of notice of redemption or after any Bond or portion thereof has been selected for redemption.

## **Redemption**

### **Mandatory Redemption**

The Bonds will be subject to mandatory redemption as described below.

*Excess Bond Proceeds.* The Bonds will be subject to mandatory redemption, in part, at a price equal to the principal amount thereof plus accrued and unpaid interest up to the redemption date, without premium, to the extent of any funds remaining in the Construction Fund and transferred to the Bond Fund for the redemption of Bonds pursuant to the Trust Agreement, on the earlier of: (a) the third anniversary of the date of issuance of the Bonds (subject to extension by the Authority); (b) the date of completion of the Project as certified by the Borrower; or (c) receipt by the Trustee of a certificate signed by the Borrower and approved by the Authority and the Letter of Credit Issuer, certifying that the Project will not be completed. Such redemption shall be effected on the next interest payment date occurring not less than forty-five (45) days after the date of said transfer and of sufficient Eligible Moneys on deposit with the Trustee to effect such redemption.

*Condemnation, Destruction or Damage of the Project.* The Bonds will be subject to mandatory redemption, in whole or in part, at a price equal to the principal amount thereof plus accrued and unpaid interest up to the redemption date, without premium, to the extent of any condemnation, casualty or insurance proceeds, upon the occurrence of an event of condemnation, destruction of, or damage to, the Project to the extent such proceeds are not utilized for the repair and reconstruction of the Project under the terms and conditions set forth in the Pledge Agreement. Such redemption will occur on the next interest payment date occurring not less than forty-five (45) days after receipt by the Trustee of the notice required to be delivered by the Borrower under the Loan Agreement and of sufficient Eligible Moneys on deposit with the Trustee to effect such redemption.

*Expiration of Successor Letter of Credit.* The Bonds will be subject to mandatory redemption in whole, upon the failure of the Borrower to extend, renew or replace a Successor Letter of Credit on or prior to the sixtieth (60<sup>th</sup>) day preceding its expiration. Said redemption will be effected on the interest payment date immediately preceding the expiration date of the then outstanding Successor Letter of Credit.

A Successor Letter of Credit issued by a bank or other financial institution will not be subject to the requirement that it provide for automatic renewal, but may rather be for a fixed term renewable at the option of such bank or financial institution for minimum periods of one year.

**Amortization Requirements.** The Term Bonds maturing on December 20, 2018, December 20, 2028 and December 20, 2030 outstanding at the time are subject to mandatory redemption in part commencing on June 20, 2012, June 20, 2019 and June 20, 2029, respectively, and on each June 20 and December 20 thereafter in amounts equal to the following amortization requirements (less the principal amount of such Bonds previously retired by purchase or redemption):

<b><u>Term Bonds Due December 20, 2018</u></b>			<b><u>Term Bonds Due December 20, 2028</u></b>		
<b><u>Year</u></b>	<b><u>June 20</u></b>	<b><u>December 20</u></b>	<b><u>Year</u></b>	<b><u>June 20</u></b>	<b><u>December 20</u></b>
2012	\$ 770,000	\$ 800,000	2019	\$1,250,000	\$1,295,000
2013	825,000	855,000	2020	1,340,000	1,385,000
2014	885,000	915,000	2021	1,435,000	1,490,000
2015	950,000	980,000	2022	1,540,000	1,595,000
2016	1,015,000	1,050,000	2023	1,650,000	1,710,000
2017	1,090,000	1,125,000	2024	1,770,000	1,835,000
2018	1,165,000	1,205,000†	2025	1,900,000	1,970,000
			2026	2,040,000	2,110,000
			2027	2,185,000	2,265,000
			2028	2,345,000	2,430,000†

  

<b><u>Term Bonds Due December 20, 2030</u></b>		
<b><u>Year</u></b>	<b><u>June 20</u></b>	<b><u>December 20</u></b>
2029	\$2,515,000	\$2,605,000
2030	2,695,000	2,795,000†

† Stated Maturity.

The amounts deposited in the Bond Fund to satisfy the amortization requirements for any Term Bonds may be applied by the Trustee prior to the 45th day preceding any June 20 or December 20 fixed for redemption to the purchase of Bonds of such maturity. In addition, the Borrower, at its option, may direct the Trustee to credit against the amortization requirement for the Term Bonds of any maturity the principal amount of Term Bonds of such maturity purchased by the Trustee (otherwise than from moneys deposited in the Bond Fund), redeemed pursuant to the optional redemption provisions of the Loan Agreement and the Trust Agreement or delivered by the Borrower to the Trustee for cancellation.

### **Optional Redemption**

The Bonds may be redeemed by the Borrower at its option, in whole or in part, at any time on or after June 20, 2008, on any interest payment date selected by the Borrower occurring not less than ninety four (94) days from the date the notice of redemption is received by the Trustee, at the redemption prices set forth below (expressed as percentages of the principal amount of such Bonds), plus accrued interest to the redemption date:

<b><u>Redemption Period</u></b> (All Dates Inclusive)	<b><u>Price</u></b>
June 20, 2008 to June 19, 2009	102%
June 20, 2009 to June 19, 2010	101%
June 20, 2010 and thereafter	100%

To exercise the foregoing optional redemption, the Borrower must deposit with the Trustee moneys necessary to effect such redemption not later than the ninety-fourth (94th) day immediately preceding the date on which the corresponding redemption price is due and payable. The written consent of the Letter of



Credit Issuer shall be required for any optional redemption in whole or in part if there exists an event of default or an event has occurred which if not cured would constitute an event of default under the Reimbursement Agreement. The Letter of Credit does not cover any premium payable in connection with any such optional redemption.

### **Selection and Notice of Redemption**

Except with respect to the mandatory redemption of the Term Bonds in accordance with the amortization requirements described above, if less than all of the outstanding Bonds shall be called for redemption, such Bonds will be redeemed in inverse order of maturity unless otherwise requested by the Borrower and agreed to in writing by the Letter of Credit Issuer. If less than all Bonds of one maturity are called for redemption, the particular Bonds or portions thereof to be redeemed will be selected by the Trustee by such method as the Trustee deems fair and appropriate in integral multiples of \$5,000.

At least thirty (30) days before any redemption date, notice thereof will be sent by the Trustee via first-mail, postage prepaid, to DTC, or if the Book-Entry Only System is discontinued as described above, by first-class mail, postage prepaid, to the registered owners of the Bonds to be redeemed. If less than all of the Bonds are called for redemption, the particular Bonds or portions thereof to be redeemed will be selected as provided above, except that so long as the Book-Entry Only System shall remain in effect, in the event of any such partial redemption, DTC shall reduce the credit balances of the applicable DTC Participants in respect of the Bonds, and such Participants shall in turn select those Beneficial Owners whose ownership interests are to be extinguished by such partial redemption, each by such method as DTC or such Participants, as the case may be, in their sole discretion deem fair and appropriate.

Each notice of redemption shall set forth: (a) the redemption date; (b) the redemption price; (c) if fewer than all of the Bonds then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed; (d) that on the date fixed for redemption such redemption price will become due and payable upon each Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue on and after said redemption date; and (e) the place where such Bonds or portions thereof called for redemption are to be surrendered for payment of such redemption price. In case any Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in principal amount equal to the unredeemed portion of such Bond will be issued. Failure to mail such notice to any Holder or any defect in any notice so mailed shall not affect the validity of the proceedings for the redemption of the Bonds of any other Holders.

If notice of redemption is given and if sufficient funds are on deposit with the Trustee to provide for the payment of the principal of and premium, if any, and interest on the Bonds (or portions thereof) to be redeemed, then the Bonds (or portions thereof) so called for redemption will, on the redemption date, cease to bear interest and shall no longer be deemed outstanding or be entitled to any benefit or security under the Trust Agreement.

### **SOURCES OF PAYMENT AND SECURITY FOR THE BONDS**

The Bonds are limited obligations of the Authority payable solely from revenues derived pursuant to the Loan Agreement, from funds drawn under the Letter of Credit, and from such other amounts as may be available to the Trustee under the Trust Agreement. The Bonds will not constitute a charge against the general credit of the Authority and will not constitute an indebtedness of the Government of Puerto Rico or any of its political subdivisions other than the Authority with respect to the Bonds and TDF with respect to the TDF Letter of Credit. Neither the Government Development Bank for Puerto Rico nor any other affiliate of TDF is obligated to make payments under the TDF Letter of Credit. The partners and affiliates of the Borrower are not liable with respect to the payment of the Bonds.

## **The Loan Agreement**

Under the Loan Agreement, the Borrower will agree to deposit with the Trustee in the Bond Fund amounts sufficient to pay, together with the amounts on deposit therein, principal of, premium, if any, and interest on the Bonds when due. Such deposits are required to be made at least ninety-four (94) days prior to the date on which the corresponding amounts of principal, premium, if any, and interest on the Bonds are due and payable.

Pursuant to the Trust Agreement, the Authority will assign its interest in the Loan Agreement (except certain consent or approval rights and rights of the Authority to indemnification, exemption from liabilities, the right to receive notices and the payment of costs and expenses) to the Trustee as security for the Bonds. See "THE LOAN AGREEMENT."

## **Debt Service Reserve Fund**

On the date of issuance of the Bonds, the Borrower shall deposit from the proceeds of the Bonds to the credit of the Debt Service Reserve Fund the amount of \$2,895,282.48. The cash deposited will be invested in securities and investment agreements that will provide at all times an amount at least equal to the maximum debt service during any six months period. Moneys held to the credit of the Debt Service Reserve Fund shall be used for the purpose of paying the principal of and interest on the Bonds when due, whenever and to the extent that moneys held to the credit of the Bond Fund shall be insufficient for such purposes. In accordance with the Loan Agreement, the Borrower has the obligation to replenish the Debt Service Reserve Fund within one Business Day of the existence of a Debt Service Reserve Fund Deficiency caused by the withdrawal of funds from the Debt Service Reserve Fund. If the Borrower fails to deposit an amount sufficient in the Debt Service Reserve Fund to meet the Debt Service Reserve Fund Requirement within such period of time, the Trustee shall make a draw under the Letter of Credit to pay the Debt Service Reserve Fund Deficiency on the second Business Day immediately after the Debt Service Reserve Fund Deficiency arises. Such draw shall be honored by the Letter of Credit Issuer on the July 15 or December 26 immediately succeeding the date on which such draw is made, so long as such draw was made and presented to it in strict compliance with the terms of the Letter of Credit.

The Borrower shall direct the Trustee to cause the moneys held in the Debt Service Reserve Fund to be invested in Investment Obligations (as defined in the Trust Agreement) of such long-term or short-term maturities as the Borrower elects; provided that, such Investment Obligations deposited in the Debt Service Reserve Fund shall mature or be subject to redemption no later than the second Business Day preceding the Payment Date on which the funds could be needed. In the event of a reduction in the market value of the Investment Obligations held in the Debt Service Reserve Fund to an amount lower than the Debt Service Reserve Fund Requirement, the Borrower will also be required to replenish the Debt Service Reserve Fund within three (3) Business Days of receiving notice thereof. If the Borrower fails to deposit an amount sufficient in the Debt Service Reserve Fund to meet the Debt Service Reserve Fund Requirement within such period of time, the Trustee shall make a draw under the Letter of Credit to pay the Debt Service Reserve Fund Deficiency on the fourth Business Day immediately after the Debt Service Reserve Fund Deficiency arises. Such draw shall be honored by the Letter of Credit Issuer on the July 15 or December 26 immediately succeeding the date on which such draw is made, so as long as such draw was made and presented pursuant to and in strict compliance with the terms of the Letter of Credit.

## **The Pledge Agreement and the Mortgage**

The Bonds will be secured by a pledge of an interest bearing mortgage note in an aggregate principal amount equal to the principal amount of the Bonds (the "Mortgage Note"). The Mortgage Note will be secured by a first priority mortgage lien (the "Mortgage") on the real property comprising the Project (the "Property"), subject only to certain permitted encumbrances.

The Mortgage Note will be pledged to the Authority and the Letter of Credit Issuer pursuant to a Pledge and Security Agreement (the "Pledge Agreement") as security for the obligations of the Borrower under the

Loan Agreement and the Initial Reimbursement Agreement, respectively. The Authority will assign its rights under the Pledge Agreement and the Mortgage Note to the Trustee for the benefit of the Bondholders.

A mortgagee title insurance policy insuring the Mortgage as a first priority lien on the Property, subject only to certain permitted encumbrances, will be delivered on the date of issuance of the Bonds in an amount equal to the principal amount of the Mortgage Note.

The Pledge Agreement contains covenants of the Borrower normally required of mortgagors with respect to properties similar to that of the Project, including covenants with respect to compliance with environmental laws and regulations and maintenance of insurance. The Pledge Agreement permits the Borrower to restore or replace the Project or portions thereof in the event of any damage due to casualty or loss due to condemnation to the extent provided and upon compliance with the terms and certain conditions set forth therein.

### **Other Security Agreements**

The Bonds are additionally secured by the Security Agreements which create a first priority security interest in substantially all the personal property of the Borrower, including tangible personal property, accounts receivable, contractual rights, leases, subleases, concessions and other agreements related to the operations of the Project.

The Pledge Agreement and the other Security Agreements provide that so long as the Letter of Credit Issuer is in compliance with its obligations under the Letter of Credit, the Letter of Credit Issuer may modify, change or otherwise amend the Security Agreements without the consent of the Authority, the Bondholders or the Trustee, and may release up to 5% of the real property comprising the Project, upon payment of the appraised value of the land being released as determined by an appraisal of the property carried out by an appraiser acceptable to the Letter of Credit Issuer. The proceeds of any such release shall be used as directed by the Letter of Credit Issuer. Any such change, amendment or modification, shall be subject to the additional requirement that immediately thereafter the Authority continues to be a mortgagee of a first mortgage in the amount of the mortgage note on the land and buildings comprising the Project.

The Security Agreements may also be amended upon the issuance of Additional Bonds, to provide for the increase of the Mortgage Note in an amount sufficient to secure such Additional Bonds and to otherwise grant the bondholders of such Additional Bonds equal rights and priority in the Mortgage Note and the other collateral securing the Bonds.

The Pledge Agreement and the other Security Agreements provide that in the event the Letter of Credit Issuer shall fail to honor any draw made and presented pursuant to and in strict compliance with the terms of the Letter of Credit, the Bondholders shall have control and access to such collateral (except to the extent of any outstanding reimbursement obligations under the Reimbursement Agreement). Accordingly, upon such failure by the Letter of Credit Issuer, if sufficient moneys were otherwise not available in the Bond Fund and the Debt Service Reserve Fund for the payment of principal of and interest on the Bonds, the Trustee may institute proceedings to cause the enforcement of security interests under the Security Agreements, including the foreclosure of the Pledge Agreement and the Mortgage.

## **THE TDF LETTER OF CREDIT AND THE TOURISM DEVELOPMENT FUND**

### **The TDF Letter of Credit**

On the date of issuance of the Bonds, the Borrower will cause TDF to issue the TDF Letter of Credit in favor of the Trustee for the benefit of the Bondholders. The TDF Letter of Credit is an irrevocable transferable stand-by obligation of TDF to pay to the Trustee, upon request and in accordance with the terms thereof, an aggregate amount sufficient to pay when due (whether at maturity or upon acceleration or redemption) the principal amount of the Bonds outstanding and up to 195 days of accrued interest thereon. The Trust Agreement provides that two (2) Business Days prior to each payment date, the Trustee is required

to make drawings under the Letter of Credit to the extent that sufficient Eligible Moneys are not otherwise available therefor in the Bond Fund or the Debt Service Reserve Fund to pay the principal amount of, and interest on the Bonds due on such payment date. The Trust Agreement further provides that whenever a Debt Service Reserve Fund Deficiency shall exist, the Trustee shall make a draw on the Letter of Credit to eliminate such deficiency, to the extent that funds have not been provided by the Borrower, on the second Business Day immediately following the date such Debt Service Reserve Fund Deficiency shall arise if such Debt Service Reserve Fund Deficiency was caused by a withdrawal of funds, or on the fourth Business Day immediately following the date such Debt Service Reserve Fund Deficiency shall arise if such Debt Service Reserve Fund Deficiency was caused by a loss resulting from a decline in the value of the Investment Obligations held to the credit of the Debt Service Reserve Fund. The Letter of Credit does not provide for payment of any redemption premium or for payment of any other amounts in connection with any other indemnity that may be required to be paid with respect to the Bonds.

Draws made under the TDF Letter of Credit relating to the payment of principal and interest on the Bonds shall be honored by the TDF Letter of Credit on the Business Day next succeeding the dates on which draws are made. A draw made under the TDF Letter of Credit relating to a Debt Service Reserve Fund Deficiency shall be honored by TDF on the July 15 or December 26 immediately succeeding such draw. If July 15 or December 26 is not a Business Day, the payment will occur on the immediately succeeding Business Day.

The obligations of TDF under the TDF Letter of Credit will be reduced to the extent of any payments made by the Borrower and any drawing thereunder, subject to automatic reinstatement and adjustment of amounts available to be drawn with respect to the payment of interest on the Bonds or Debt Service Reserve Fund Deficiency; provided, however, that TDF may notify the Trustee following a drawing with respect to the payment of interest on the Bonds or a Debt Service Reserve Fund Deficiency that a reinstatement will not occur because the Borrower has failed to reimburse TDF in respect of such drawing or that certain events of default under the Initial Reimbursement Agreement have occurred and are continuing. The Trustee is required, upon receipt from TDF of such notice of non-reinstatement and of an amount sufficient, together with Eligible Moneys on deposit with the Trustee, to pay the outstanding principal amount of and interest on the Bonds, to declare the Bonds immediately due and payable (without prior notice to the Bondholders).

Upon the occurrence and continuance of certain events of default under the Initial Reimbursement Agreement, TDF may notify the Trustee thereof and give a notice of termination with respect to the TDF Letter of Credit. The Trustee is required, upon receipt from TDF of such notice of termination and of an amount sufficient, together with Eligible Moneys on deposit with the Trustee, to pay the outstanding principal amount of and interest on the Bonds, and to declare the Bonds immediately due and payable (without prior notice to the Bondholders).

The TDF Letter of Credit expires on December 30, 2015, subject to earlier termination upon the occurrence and continuance of certain events of default under the Initial Reimbursement Agreement. The TDF Letter of Credit will be automatically extended beyond its expiration date for three additional periods of five years each.

## **TDF**

TDF is a subsidiary of GDB and a government instrumentality of Puerto Rico. TDF was created on November 17, 1993, pursuant to Resolution No. 6275, adopted by the Board of Directors of GDB. TDF was created for the purpose of promoting the hotel and tourism industry of Puerto Rico by making capital investments in, or by providing financing directly or indirectly to, entities that contribute or could contribute to the development of said industry. Under its enabling resolution, TDF is specifically authorized to issue, execute and deliver guarantees and letters of credit to secure payment on bonds. Pursuant to the Enabling Resolution, the initial capitalization of TDF was \$50,000,000. In accordance with the law pursuant to which it was created, the Board of Directors of TDF is composed of the President of GDB, the Executive Director of the Puerto Rico Tourism Company and the Secretary of the Treasury of Puerto Rico. The audited financial statements of TDF for the years ended June 30, 1999 and 1998 are set forth in "Appendix C."

While the TDF Letter of Credit is outstanding, payment of the Bonds will depend, to the extent the Borrower's financial condition does not permit it to do so, upon the financial condition of TDF. As of the date hereof, TDF has made payments under its guarantees and letters of credit in an aggregate amount of approximately \$1.8 million with respect to two projects, of which \$800,000 has been reimbursed to it by one borrower. In addition, in August 1999, TDF paid \$7.8 million to GDB for GDB's participation in a loan to the former owners of a hotel property in Carolina, Puerto Rico, formerly known as the Isla Verde Crowne Plaza Hotel. The previous owner of this property executed a deed in lieu of foreclosure pursuant to which the property was transferred to Sunshine Isle Inn, LLC. As a result of a restructuring of the debt of the Isla Verde Crowne Plaza Hotel, TDF received an equity participation in Sunshine Isle Inn, LLC.

Pursuant to the legislation under which TDF was created, each year, the Executive Director of TDF is required to certify to the Director of the Puerto Rico Office of Management and Budget (the "Budget Director"), on or before December 31 of each year, the amount, if any, deemed necessary to reimburse TDF for sums disbursed during the previous year, in excess of certain earnings of TDF from fees and charges collected in connection with the issuance of guarantees or letters of credit, to cover the payment of principal of and interest on obligations guaranteed by TDF. The Budget Director is required to include the amount so certified in the Puerto Rico General Budget for the following fiscal year. The certificate issued by the Executive Director of TDF must be based on an evaluation of the disbursements made and the earnings from fees and charges collected by TDF and of the obligations of TDF for the coming year and shall be final. The payment of the amount so certified shall be subject to the consideration of the Puerto Rico Legislature. The Puerto Rico Legislature is not legally obligated to appropriate funds for TDF. There is no assurance that the Puerto Rico Legislature will appropriate sufficient funds to reimburse TDF for all disbursements made by it in excess of earnings from fees and charges collected under its guarantees and letters of credit. If the Puerto Rico Legislature were not to appropriate sufficient funds to reimburse TDF for all disbursements made by it in excess of earnings from fees and charges collected under its guarantees and letters of credit, TDF would have insufficient funds to pay future draws under the TDF Letter of Credit.

On the date of issuance of the Bonds, TDF will allocate in its books a portion of its capital in an amount equal to the maximum annual principal and interest payable on the Bonds for payments required under the TDF Letter of Credit. However, there is no legal or contractual restriction limiting TDF's use of such allocated funds for the payment of the Bonds.

## **SUMMARY OF THE LOAN AGREEMENT**

The Loan Agreement will provide for the financing of a portion of the costs of the Project. Pursuant to the Loan Agreement, the Authority will issue the Bonds and loan the proceeds from the sale thereof to the Borrower. The Borrower will agree to make payments directly to the Trustee which, together with amounts then held in the Bond Fund established under the Trust Agreement, will be sufficient to make the payments of principal of and premium, if any, and interest on the Bonds as the same become due on an interest payment date, at maturity, upon redemption or acceleration. If sufficient Eligible Moneys are not deposited to the credit of the Bond Fund to cover the principal of and premium, if any, and interest on the Bonds when due and payable on any payment date, the Trustee is authorized to transfer Eligible Moneys from the Debt Service Reserve Fund to the Bond Fund in the amount necessary to pay the principal of and interest due or to become due on each such payment date. The Borrower must replenish any amount so transferred. See "SOURCES OF PAYMENT AND SECURITY FOR THE BONDS - Debt Service Reserve Fund."

The obligations of the Borrower under the Loan Agreement are stated to be absolute and unconditional without right of set-off for any reason. Draws made under the Letter of Credit will be deemed to satisfy the obligations of the Borrower under the Loan Agreement to make payments of principal of and interest on the Bonds and to cover any Debt Service Reserve Fund Deficiency. The Letter of Credit ~~does not cover any~~ premium payable on the Bonds.

### **Assignment by Authority**

The Authority will assign all of its rights, title and interest in the Loan Agreement (except for certain rights reserved under the Loan Agreement) and will pledge and assign to the Trustee any payments, receipts and revenues receivable by it (except as aforesaid) under or pursuant to the Loan Agreement and the income earned by the investment of funds held under the Trust Agreement, as security for payment of the principal of and premium, if any, and interest on the Bonds. Except as provided in the preceding sentence, the Authority will not sell, assign or otherwise dispose of its interest in the Loan Agreement or the payments, receipts and revenues of the Authority derived under the Loan Agreement.

### **Construction of the Project**

The Borrower will cause the Project to be constructed and equipped substantially in accordance with the Plans and Specifications (as defined in the Loan Agreement) therefor with all reasonable dispatch. The Authority and the Borrower agree that the moneys in the Construction Fund shall be applied to the payment of the cost of the Project and otherwise as provided in the Trust Agreement. If the moneys in the Construction Fund available for the payment of the cost of the Project should not be sufficient to pay or cause to be paid the cost of the Project, the Borrower agrees to cause the Project to be completed and to pay that portion of the cost of the Project as may be in excess of the moneys available therefor in the Construction Fund. The Authority does not make any warranty, either express or implied, that the moneys which will be paid into the Construction Fund will be sufficient to pay the cost of the Project. The Borrower agrees that if, after exhaustion of the moneys in the Construction Fund, the Borrower should pay or cause to be paid any portion of the cost of the Project, it shall not be entitled to any reimbursement therefor from the Authority or from the Trustee, and it shall not be entitled to any abatement, diminution or postponement of the payments required to be made by the Borrower under the Loan Agreement.

### **Inspections; Reports**

The Borrower will allow the Authority, the Trustee and the Letter of Credit Issuer, through their respective officers, employees, consultants and other authorized representatives, to have access, during normal business hours and upon reasonable prior notice, to make an inspection of the Project and examine certain books and records of the Borrower for purposes of ascertaining whether the Borrower has complied with the agreements and obligations under the Loan Agreement.

### **Maintenance and Operation of the Project**

The Borrower will cause the Project to be operated at all times as an Industrial Facility (as defined in the Act) and to be maintained, preserved and kept in good repair, working order and condition and will from time to time cause to be made all reasonably necessary and proper repairs, replacements and renewals; provided, however, that the Borrower will have no obligation to cause to be maintained, preserved, repaired, replaced or renewed any element or unit of the Project, the maintenance, repair, replacement or renewal of which, in the opinion of the Borrower, becomes uneconomic to the Borrower because of damage or destruction or obsolescence, or change in economic or business conditions or change in government standards and regulations. The Borrower shall not permit, commit or suffer any waste of the whole or any major part of the Project and shall not use or permit the use of the Project, or any part thereof, for any unlawful purpose or permit any nuisance to exist thereon.

### **Covenants as to Existence, Disposition of Assets and Assignments**

The Borrower, so long as the Bonds are outstanding, will maintain its existence, will not dispose of all or substantially all of their assets and will not acquire, consolidate with or merge into another person; provided, however, that the Borrower may acquire, consolidate with or merge into another person, or transfer to another person all or substantially all of its assets and thereafter dissolve, if: (i) the Letter of Credit Issuer gives its prior written consent to the extent such consent is required under the Reimbursement Agreement; (ii) the successor or transferee is solvent and irrevocably and unconditionally assumes in writing all the

obligations of the Borrower under the Loan Agreement; (iii) such consolidation, merger or transfer shall not cause an Event of Taxability; and (iv) immediately after such consolidation, merger or transfer neither the Borrower nor such successor or transferee (if other than the Borrower) shall be in default in the performance or observance of any duties, obligations or covenants under the Loan Agreement.

The Borrower may sell, lease or otherwise transfer or encumber the Project, as a whole or in part, or it may assign its interest in the Loan Agreement, in whole or in part, without the consent of the Authority or the Trustee, but subject to the consent of the Letter of Credit Issuer (which consent may be given or withheld in accordance with the terms of the Reimbursement Agreement), if it meets the following requirements:

(a) prior to the proposed sale, lease or other transfer of the Project, as a whole or substantially as a whole, the Trustee, the Authority, and the Letter of Credit Issuer are provided with proof satisfactory to them by the Borrower (which may include an opinion from counsel knowledgeable in Federal and Commonwealth tax matters approved by the Trustee) that, as a result of such transfer or assignment or the terms thereof, interest payable on the Bonds would constitute Puerto Rico source income under the Code as in effect on the date of issuance of the Bonds;

(b) the Borrower shall within 10 days after such sale, lease, transfer or encumbrance of the Project, or such assignment of the Loan Agreement, notify the Authority, the Trustee and the Letter of Credit Issuer thereof;

(c) the assignee shall, in a certificate delivered to the Authority, the Trustee and the Letter of Credit Issuer, which certificate shall be in a form reasonably satisfactory to the Authority, the Trustee and the Letter of Credit Issuer, expressly assume, and agree to pay and to perform, all of the obligations of the Borrower under the Loan Agreement that shall have been assigned to it; and

(d) the assignee shall deliver to the Authority, the Trustee and the Letter of Credit Issuer a certificate executed by its chief financial officer (or other executive officer performing similar functions) stating that none of the obligations, covenants and performances under the Loan Agreement and the Reimbursement Agreement assumed by it will conflict with or constitute on the part of such assignee a breach of, or default under, any indenture, mortgage, agreement or other instrument to which such assignee is a party or by which it is bound, or under any existing law, rule, regulation, judgment, order or decree to which such assignee is subject.

Notwithstanding any of the foregoing, no sale, lease or other transfer or encumbrance of the Project or assignment of the Loan Agreement shall: (i) relieve the Borrower of the obligation to make the payments required by the Loan Agreement, unless the Borrower obtains the prior written consent of the Authority, the Trustee and the Letter of Credit Issuer; (ii) relieve the Letter of Credit Issuer from its obligations under the Letter of Credit; or (iii) affect in any way the validity or enforceability of the Letter of Credit or any of the Security Agreements.

### **Maintenance of Source of Income**

In the Loan Agreement, the Borrower covenants that during each taxable year when the Bonds are outstanding it will conduct its business so that at all times all interest paid or payable on the Bonds will constitute income from sources within Puerto Rico under the general sourcing rules of the Code as in effect on the date of issuance of the Bonds. The Borrower is required to provide evidence annually in the form of an independent accountant certificate of whether it has complied with this covenant. If at any time such certificate shall show that interest paid or payable on the Bonds has ceased to constitute income from sources within Puerto Rico under the general sourcing rules of the Code as in effect on the date of issuance of the Bonds, and such interest would not otherwise be exempt from U.S. income tax when received by a Qualifying Bondholder, an "Event of Taxability" shall be deemed to have occurred and the Trustee shall send written notice to each person who is a Bondholder or who was a Bondholder during the preceding taxable year within five (5) business days of the receipt of such certificate or a Borrower's certificate stating that an Event of Taxability has occurred. A "Qualifying Bondholder" is: (i) an individual who during the

entire taxable year with respect to which an Event of Taxability occurred was a bona fide resident of Puerto Rico; or (ii) a Puerto Rico corporation or other foreign corporation (for purposes of the Code) that is not engaged in any trade or business in the United States.

### **Indemnity**

Under the Loan Agreement, the Borrower will agree to indemnify the Authority and the Trustee against certain claims or liabilities arising from the construction and operation of the Project or its participation in the financing of the Project and certain other liabilities, and will agree to pay the fees and expenses of the Authority and the Trustee.

### **Limitation on Partners' Liability**

The partners and affiliates of the Borrower are not liable with respect to the payment of principal of and interest on the Bonds.

### **Events of Default and Remedies**

Each of the following is an event of default under the Loan Agreement:

(a) failure by the Borrower to pay the principal of and premium, if any, or interest on the Bonds when the same shall become due and payable;

(b) failure by the Borrower to replenish the Debt Service Reserve Fund within one (1) Business Day from the date of the existence of a Debt Service Reserve Fund Deficiency; provided, however, that if such Debt Service Reserve Fund Deficiency arises solely as a result of a decline in the market value of the investments held to the credit of the Debt Service Reserve Fund, the Borrower shall have three (3) Business Days after receipt of notice of such deficiency from the Trustee to replenish the Debt Service Reserve Fund;

(c) failure by the Borrower to make other payments (excluding the payments under (a) and (b) above) required by the Loan Agreement if such failure shall continue for a period of thirty (30) days after written notice thereof is given to the Borrower by the Authority or the Trustee, unless a written extension is granted by the Authority or the Trustee prior to its expiration;

(d) failure by the Borrower to comply in any material respect, with certain covenants related to the maintenance of the corporate existence of the Borrower and the disposition of all or substantially all of their assets;

(e) failure by the Borrower to observe or perform certain other covenants, conditions or agreements under the Loan Agreement or under the Security Agreements (except the covenant to maintain insurance on the Project contained in the Security Agreements), other than those covered under (a), (b), (c) or (d) above, and continuation of such failure for thirty (30) days after written notice thereof, unless a written extension thereof is granted by the Authority and the Trustee prior to its expiration; provided, however, that if such failure cannot be corrected within such thirty (30) day period, it will not constitute an event of default if corrective action is commenced by the Borrower during such period and diligently and continuously pursued until such failure is corrected;

(f) certain events of bankruptcy, liquidation or similar proceedings involving the Borrower or the Letter of Credit Issuer; or

(g) (i) the Letter of Credit Issuer shall fail to honor a draft under the Letter of Credit complying with the terms thereof; or (ii) the Trustee shall have received from the Letter of Credit Issuer a notice to the effect that an event of default has occurred and is continuing under the Reimbursement Agreement or a notice that the interest portion of the Letter of Credit will not be reinstated after a draw on such Letter of Credit, in each case accompanied by instructions in writing from the Letter of Credit Issuer to accelerate the Bonds and



sufficient funds from the Letter of Credit Issuer to pay the principal of and any interest on the Bonds; (iii) the Letter of Credit shall for any reason cease to be in full force and effect, or shall be declared to be null and void in whole or in part, or the validity or enforceability thereof shall be contested by the Letter of Credit Issuer, or the Letter of Credit Issuer shall renounce the same or deny that it has any further liability thereunder.

If by reason of Force Majeure (as defined in the Loan Agreement), the Borrower is unable to perform any of its obligations under (e) above, the Borrower will not be deemed to be in default during the continuance of such inability, including a reasonable time for the removal of the effect thereof.

The Authority has no power to waive any default under the Loan Agreement or extend the time for the correction of any default which could become an event of default without the consent of the Trustee and the Letter of Credit Issuer.

Upon the occurrence of an event of default, subject to the provisions of the Trust Agreement, the Trustee, as assignee of the Authority's rights, may declare all unpaid amounts payable under the Loan Agreement in respect of the Bonds to be immediately due and payable and may take any action at law or equity necessary to enforce any obligation of the Borrower under the Loan Agreement or Security Agreements and of the Letter of Credit Issuer under the Letter of Credit.

### **Successor Letter of Credit**

The Loan Agreement provides that at any time on or prior to the sixtieth (60th) day preceding the expiration date of the then existing Letter of Credit, the Borrower may, at its option, provide for the delivery to the Trustee of a successor letter of credit (the "Successor Letter of Credit") issued by any financial institution or by an instrumentality of Puerto Rico (the "Successor Letter of Credit Issuer"). The Trustee will accept the Successor Letter of Credit if it shall have received:

- (a) An executed copy of the Reimbursement Agreement in relation to the Successor Letter of Credit;
- (b) An opinion of counsel to the Borrower, acceptable to the Authority and the Trustee to the effect that: (i) acceptance by the Trustee of the Successor Letter of Credit will not require registration of the Bonds, the obligations of the Borrower under the Loan Agreement or the Successor Letter of Credit under the Securities Act of 1933, as amended, or the Puerto Rico Uniform Securities Act, as amended, nor the qualification of the Trust Agreement under the Trust Indenture Act of 1939; or (ii) any registration statement required to be filed thereunder with respect to the Bonds, the Borrower's obligations under the Loan Agreement or the Successor Letter of Credit is effective, and the Trust Agreement has been duly qualified under such Trust Indenture Act;
- (c) An opinion of counsel to the Successor Letter of Credit Issuer to the effect that the Successor Letter of Credit is a legal, valid and binding obligation of the issuer thereof (subject to customary bankruptcy, creditor's rights and general principles of equity exceptions);
- (d) Written confirmation from S&P to the effect that the delivery of such Successor Letter of Credit will not cause the then current rating on the Bonds to be lowered by S&P; provided, however, that upon delivery of any such Successor Letter of Credit, the Bonds must be rated not lower than "A-" by S&P (or any equivalent rating then used by S&P), unless such Successor Letter of Credit is to be issued by an instrumentality of Puerto Rico in which case the Bonds may not be rated lower than "BBB" by S&P (or any equivalent rating then used by S&P);
- (e) A representation from the Successor Letter of Credit Issuer or an opinion from its legal counsel to the effect that the Successor Letter of Credit Issuer and the Borrower, as to each other, ~~are not insiders or~~ affiliates, as those terms are defined in the applicable statutory provisions of the United States Bankruptcy Code, as amended;

(f) An opinion of counsel to the Authority to the effect that: (i) all documents and opinions required to be delivered to the Trustee in connection with the delivery of the Successor Letter of Credit on their face comply with the Loan Agreement and the Trust Agreement; and (ii) that the acceptance of the Successor Letter of Credit by the Trustee does not adversely affect the tax treatment of the Bonds; and

(g) Such other documents and opinions as the Trustee may reasonably request.

Upon the fulfillment of such conditions, the Trustee shall return the Letter of Credit then in effect to its issuer.

Failure to provide for the delivery of a Successor Letter of Credit on or prior to the sixtieth (60th) day preceding the expiration of the then existing Successor Letter of Credit will result in a mandatory redemption of the Bonds. If on or prior to the sixtieth (60th) day preceding the expiration date of the then existing Letter of Credit (including any Successor Letter of Credit), the Letter of Credit has not been extended or a Successor Letter of Credit has not been obtained as described above, the Trust Agreement provides that the Trustee must draw under the Letter of Credit an amount sufficient, together with any Eligible Moneys on deposit in the funds maintained under the Trust Agreement, to redeem the Bonds in whole. See "THE BONDS - Mandatory Redemption."

### **Amendments**

The Loan Agreement may not be amended, changed, modified, altered or terminated, except in accordance with the terms of the Trust Agreement.

## **SUMMARY OF THE TRUST AGREEMENT**

Under the Trust Agreement, the Authority will assign to the Trustee for the benefit of the Bondholders all of the Authority's right, title and interest in the Loan Agreement (except for certain rights of the Authority under the Loan Agreement to indemnification, exemption from liability, notices and the payment of costs and expenses) in trust to provide for the payment of the principal of and premium, if any, and interest on the Bonds.

### **Construction Fund**

The proceeds from the sale of the Bonds, other than amounts to be deposited to the credit of the Debt Service Reserve Fund and an operating deficit reserve fund required under the Initial Reimbursement Agreement, accrued interest on the Bonds and the fee payable to the Authority and other charges and costs of issuance, will be deposited with the Trustee in the Construction Fund established under the Trust Agreement.

Payments of the costs of the construction, development and equipping of the Project will be made from the Construction Fund upon requisitions signed by the Borrower, authorized by the Letter of Credit Issuer, and presented to the Trustee.

### **Bond Fund**

There shall be deposited to the credit of the Bond Fund: (i) accrued interest, if any, on the Bonds paid by purchasers thereof; (ii) all amounts paid as repayment or optional or mandatory prepayment under the Loan Agreement; (iii) any amount in the Construction Fund and the Debt Service Reserve Fund to be transferred to the Bond Fund in accordance with the provisions of the Trust Agreement; (iv) amounts received under the Letter of Credit for the payment of the principal of or interest on the Bonds; (v) amounts representing the portion of the proceeds from the sale of the Bonds to be used by the Trustee to pay interest on the Bonds during the construction of the Project; (vi) all amounts derived by the Trustee for the benefit of the Bondholders from the Security Agreements to be utilized to pay principal of and interest on the Bonds; and (vii) all other moneys received by the Trustee under and pursuant to any of the provisions of the Loan Agreement or otherwise which are permitted or required or are accompanied by directions from the Borrower

or the Authority that such moneys are to be paid into the Bond Fund. Notwithstanding the foregoing, any funds paid by the Borrower on any payment date and deposited into the Bond Fund for the payment of principal and interest on the Bonds which do not constitute Eligible Moneys shall be transferred to the Debt Service Reserve Fund.

### **Debt Service Reserve Fund**

On the date of issuance of the Bonds, the Borrower shall cause to be deposited from the proceeds of the Bonds to the credit of the Debt Service Reserve Fund the amount of \$2,895,282.48, equivalent to the maximum six months debt service on the Bonds. See "SOURCES OF PAYMENT AND SECURITY FOR THE BONDS - Debt Service Reserve Fund."

The Loan Agreement provides that to the extent any amounts are disbursed from the Debt Service Reserve Fund, the Borrower will be obligated to replenish the amounts so disbursed within one (1) Business Day after the occurrence of any Debt Service Reserve Fund Deficiency. To the extent, however, that a Debt Service Reserve Fund Deficiency arises from a reduction in the market value of the Investment Obligations held in the Debt Service Reserve Fund, the Borrower will be obligated to replenish the Debt Service Reserve Fund within three (3) Business Days of receiving notice thereof.

### **Investment of Funds**

Money held for the credit of all funds and accounts under the Trust Agreement shall be invested in Investment Obligations in accordance with the instructions of the Borrower. Any such Investment Obligations shall mature not later than the respective dates when the money held for the credit of such funds or accounts will be required for the purposes intended.

Investment Obligations are defined in the Trust Agreement as Government Obligations and obligations of any agency or instrumentality whose obligations are backed by the full faith and credit of the United States of America and, to the extent from time to time permitted by law: (A) the obligations of: (i) Federal National Mortgage Association; (ii) Federal Home Loan Banks; (iii) Federal Farm Credit System; (iv) Federal Home Loan Mortgage Corporation; (v) Government National Mortgage Association; (vi) Federal Housing Administration; and (vii) Farmers Home Administration, provided, that any such obligations are rated in one of the four highest rating categories by S&P (without regard to any gradations within such categories); (B) repurchase agreements with financial institutions that are members of the Federal Reserve System or primary dealers in the United States Treasury market the short-term obligations of which institutions or dealers are rated at least "A-1" by S&P (or any equivalent rating to which it may be changed by S&P) or whose long-term obligations are rated in one of the four highest rating categories by S&P (without regard to any gradations within such categories) secured by any combination of the investments or securities referred to in clause (A); provided, that the market value of the margin amount required on the trade/settlement date shall always be a minimum of 102% of the purchase price and not less than 100% of the repurchase price thereafter during the remaining tenure of the agreement, the Trustee shall be given a first priority security interest, no independent third party shall have a lien, such obligations purchased must be transferred to the Trustee or an independent third party agent by physical delivery or by an entry made on the records of the issuer of such obligations, in either case, the entity should receive confirmation from the independent third party that those securities are being held in a safe-keeping account in the name of the entity and such repurchase agreement shall constitute a "repurchase agreement" within the meaning of Section 101 of the United States Bankruptcy Code, as amended (the trust or safe-keeping departments of broker-dealers or financial institutions selling investments or pledging collateral or underlying securities, or their custodial agents, are not considered independent third parties for the foregoing purposes), and any investment in a repurchase agreement shall be considered to mature on the date the bank, trust company or recognized securities dealer providing the repurchase agreement is obligated to repurchase the Investment Obligations, (C) debt obligations and commercial paper rated at least "A-1" by S&P (or any similar rating to which it may be changed by S&P); (D) investment agreements in the form of interest bearing time deposits, repurchase agreements or similar arrangements rated, or guaranteed by a letter of credit or guaranty from a financial institution rated, within the four highest rating categories (without regard to gradations within such

categories) by S&P in respect of money in the Debt Service Reserve Fund or the Construction Fund; (E) money market accounts of the Trustee or any state or federally chartered bank, banking association, trust company or subsidiary trust company that is rated or whose parent state bank is rated in one of the two highest short-term rating categories or in one of the four highest long-term rating categories by S&P (without regard to gradations within such categories); and (F) any other investment obligations rated by S&P in one of the four highest rating categories (without regard to any gradations within such categories) or otherwise approved in writing by S&P.

Government Obligations are defined in the Trust Agreement as: (i) direct obligations of, or obligations the timely payment of principal of and interest on which are fully and unconditionally guaranteed by, the United States of America; and (ii) any certificates or other evidences of ownership interest in obligations or in specified portions thereof (which may consist of specified portions of the principal thereof or the interest thereon) of the character described in clause (i), which certificates are rated in the highest rating category by S&P.

### **Events of Default**

Each of the following events is an event of default under the Trust Agreement:

(a) payment of the principal or interest on the Bonds shall not be made when the same shall become due and payable;

(b) the Letter of Credit Issuer instructs the Trustee in writing to accelerate the Bonds as a result of the occurrence and continuance of an event of default under the Reimbursement Agreement or the non-reinstatement by the Letter of Credit Issuer of the interest portion of the Letter of Credit after a draw on such Letter of Credit; provided however, in each case, that the Letter of Credit Issuer deposits with the Trustee, prior to or concurrently with such instructions, funds sufficient, together with Eligible Moneys deposited with the Trustee, to pay the principal of and interest on the Bonds then outstanding;

(c) (i) the Letter of Credit Issuer shall fail to honor a draft under the Letter of Credit complying with the terms thereof; or (ii) the Letter of Credit shall for any reason cease to be in full force and effect, or shall be declared to be null and void in whole or in part, or the validity or enforceability thereof shall be contested by the Letter of Credit Issuer, or the Letter of Credit Issuer shall renounce the same or deny that it has any further liability thereunder.

(d) the occurrence of certain events of bankruptcy, liquidation, insolvency or similar proceedings involving the Borrower or the Letter of Credit Issuer; or

(e) any event of default under the Loan Agreement (other than described in (a), (b), (c) or (d) above) shall have occurred and such event of default shall not have been remedied or waived.

### **Acceleration of Maturities**

Upon: (i) the happening and continuance of an event of default specified in paragraph (b) above, the Trustee shall, and upon (ii) the happening and continuance of any other event of default specified above, the Trustee may, and upon the written request of Holders of not less than 25% in aggregate principal amount of Bonds then outstanding shall, but only after receiving the written consent of the Letter of Credit Issuer (except upon the occurrence and continuance of any of the events of default specified in (c) or (d) above, to the extent that it relates to the Letter of Credit Issuer), by notice in writing to the Authority and the Letter of Credit Issuer, declare the principal of all the Bonds then outstanding (if not due and payable) to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable.

If at any time after the principal of the Bonds shall have been declared to be due and payable, and before the entry of a final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Trust Agreement, Eligible

Moneys shall have accumulated in the Bond Fund or the Debt Service Reserve Fund sufficient to pay the principal of all Bonds then outstanding (except the principal of any Bonds due and payable solely as a result of such acceleration) and the interest accrued on such Bonds since the last payment date to which interest shall have been paid or duly provided for, interest on overdue installments of interest (to the extent permitted by law) at the rate or rates then borne by the Bonds, and the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee, and all other amounts then payable by the Authority under the Trust Agreement shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other default known to the Trustee in the observance or performance of any covenant, condition, agreement or provision contained in the Bonds or in the Trust Agreement shall have been cured or waived, then and in every such case the Trustee may, and upon the written direction of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall, by a notice in writing to the Authority, the Letter of Credit Issuer, the Borrower and S&P, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any right consequent thereon. Notwithstanding the foregoing, the Trustee shall not annul or waive any such declaration of acceleration unless the Letter of Credit Issuer confirms in writing to the Trustee that its Letter of Credit remains in full force and effect.

### **Enforcement of Remedies**

Upon the happening and continuance of any event of default and the acceleration of the Bonds, then and in every such case the Trustee may, and upon the written direction of the Holders of not less 25% in aggregate principal amount of the Bonds then outstanding under the Trust Agreement, shall, with the consent of the Letter of Credit Issuer (so long as the event of default shall not be of the type described in clauses (c) or (d) above, to the extent it relates to the Letter of Credit Issuer), proceed, subject to the provision of indemnification satisfactory to the Trustee, to protect and enforce its rights and the rights of the Bondholders under applicable laws, under the Loan Agreement, the Security Agreements and under the Trust Agreement by such suits, actions or special proceedings in equity or at law, as the Trustee, upon the advice of the counsel, shall deem most effective to protect such rights.

In the enforcement of any remedy under the Trust Agreement, the Trustee in its own name and as trustee of an express trust shall be entitled to sue for, enforce payment of and recover judgment for, any and all amounts then or after any default becoming, and at any time remaining, due from the Authority for principal, premium, if any, interest or otherwise under any of the provisions of the Trust Agreement or the Bonds and unpaid, with interest on overdue payments of principal, premium, if any, and interest (to the extent permitted by law) at the rate or rates of interest specified in the Bonds, together with any and all costs and expenses of collection and of all proceedings under the Trust Agreement and the Bonds, without prejudice to any other right or remedy of the Trustee or of the Bondholders, and to recover and enforce any judgment or decree against the Authority, but solely as provided in the Trust Agreement and in the Bonds, for any portion of such amounts remaining unpaid and interest, the costs and expenses as above provided, and to collect (but solely from moneys in the Bond Fund and any other moneys available for such purpose), in any manner provided by law, the moneys adjudged or decreed to be payable.

Subject to the provisions of the Trust Agreement described in the preceding two paragraphs, the Holders of a majority of the aggregate principal of Bonds then outstanding will have, subject to certain limitations, the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee. Except upon the occurrence of an Event of Taxability in the case of Qualifying Bondholders, no Bondholder will have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust under the Trust Agreement, or for any other remedy under the Trust Agreement unless: (i) such Holder has previously given to the Trustee notice of the event of default on account of which such suit, action or proceeding is to be instituted; (ii) the Holders of not less than 25% of the aggregate principal of Bonds then outstanding have requested of the Trustee, after the right to exercise such powers or right of action, as the case may be, has accrued, and have afforded the Trustee a reasonable opportunity, either to proceed to exercise such powers or to institute such action, suit or proceeding in its or their name; (iii) the Trustee has been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred (including without limitation, indemnification for environmental liability); and (iv) the Trustee

has refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are declared in every such case, at the option of the Trustee, to be a condition precedent to the execution of the powers and trust of the Trust Agreement or to any other remedy thereunder. No one or more Bondholders will have any right, in any manner, to affect, disturb or prejudice any rights under the Trust Agreement, or to enforce any right thereunder, except in the manner therein provided. All suits, actions and proceedings at law or in equity must be instituted, had and maintained in the manner provided in the Trust Agreement and for the benefit of the Bondholders. Any individual right of action or other right given to one or more Bondholders by law is restricted by the Trust Agreement to the rights and remedies therein provided. Nothing in the Trust Agreement shall impair the right of a Bondholder to enforce the payment of the principal amount, of premium, if any, and interest on any Bond.

### **Supplemental Trust Agreements**

The Trust Agreement may be amended or supplemented without the consent of the Bondholders: (a) to cure any ambiguity or formal defect or omission or to make any other changes with respect to matters or questions arising under the Trust Agreement which shall not be inconsistent with the provisions of the Trust Agreement; or (b) to grant or confer upon the Trustee for the benefit of the Bondholders or the Letter of Credit Issuer any additional rights, remedies, powers, benefits, authority or security that may lawfully be so granted or conferred; or (c) to add to the covenants of the Authority for the benefit of the Bondholders or to surrender any right or power conferred upon the Authority under the Trust Agreement; or (d) to provide for the issuance of Additional Bonds in accordance with the Trust Agreement and to make such other changes as may be necessary to adjust the terms of the Trust Agreement to reflect the issuance of such Additional Bonds; or (e) to permit the qualification of the Trust Agreement under the Trust Indenture Act of 1939 or any similar Federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States, and to add to the Trust Agreement or any supplement or amendment thereto such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939 or similar Federal statute; or (f) to permit the delivery to the Trustee of a Successor Letter of Credit.

Other than for purposes of the above paragraph, the Trust Agreement may be amended or supplemented also with the consent of the holders of a majority of the principal amount of the Bonds at the time outstanding; provided, however, without the consent of each Bondholder affected, any amendment to the Trust Agreement may not: (a) extend the time for the payment of the principal of and premium, if any, or the interest on any Bond; or (b) reduce the principal of any Bond or the redemption premium, if any, or the rate of interest or yield thereon; or (c) create any lien or security interest with respect to the Loan Agreement or the payments thereunder, other than the lien created by the Trust Agreement; or (d) give a preference or priority to any Bond or Bonds over any other Bond or Bonds; or (e) modify the Trust Agreement in any way which adversely affects the rights of the Bondholders under the Letter of Credit or the rights of the Bondholders with respect to the real and personal property (other than reserves required by the Letter of Credit Issuer exclusively for its benefit under the Reimbursement Agreement) under the Security Agreements (it being understood that any such amendment or supplement may terminate or modify the rights of the Bondholders to any such reserves); or (f) reduce the aggregate principal of the Bonds required for consent to such supplement or amendment or any waiver thereunder.

The Trustee is not obligated to execute any proposed supplement or amendment if its rights, obligations and interests would be affected thereby. Nothing herein will affect any preexisting rights to create liens set forth in the Trust Agreement.

No amendment or supplement to the Trust Agreement will become effective without the written consent of the Borrower and the Letter of Credit Issuer.

## **Amendments and Supplements to the Loan Agreement and the Security Agreements**

The Loan Agreement and the Security Agreements may be amended or supplemented without the consent of the Bondholders: (a) to make changes in the description of, or identify more precisely the Project; (b) to cure any ambiguity or formal defect or omission therein or, in any supplement thereto; (c) to grant to or confer upon the Authority or the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, benefits, authority or security that may lawfully be granted to or conferred upon the Authority, the Trustee or the Bondholders; (d) to add to the covenants of the Borrower or in the case of the Letter of Credit, the Letter of Credit Issuer, for the benefit of the Bondholders or to surrender any right or power therein conferred upon the Borrower or the Letter of Credit Issuer; (e) in connection with any other change which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Borrower to make the payments under the Loan Agreement or to pay the principal of and premium, if any, and the interest on the Bonds or otherwise impair the security of the Bondholders under the Trust Agreement, provided such action shall not materially adversely affect the interests of the Bondholders; or (f) to provide for the issuance of Additional Bonds in accordance with the Trust Agreement.

Other than for the purposes of the above paragraph, the Loan Agreement or the Security Agreements may be amended or supplemented with the approval of the Holders of not less than a majority of the principal of the Bonds at the time outstanding; provided, however, that the approval of the Authority, the Trustee or the Bondholders shall not be required to any proposed amendment to the Security Agreements (except for certain amendments to the Pledge Agreement and the Mortgage which may require said consent as provided in the Pledge Agreement) so long as the Letter of Credit Issuer is in compliance with its obligations under the Letter of Credit and the Letter of Credit Issuer shall have approved any such amendment or supplement.

### **Defeasance**

Any Bond will be deemed paid and no longer entitled to any security under the Trust Agreement or the Letter of Credit upon satisfaction of certain conditions and the deposit with the Trustee of sufficient Eligible Moneys or Defeasance Obligations, which shall not contain provisions permitting the redemption thereof other than at the option of the holder, the principal of and the interest on which, when due (without any reinvestment thereof), will provide moneys which will be sufficient to pay when due the principal of and premium, if any, and interest due and to become due on such Bond. Defeasance Obligations means: (i) noncallable Government Obligations, (ii) obligations of state, territory or local government issuers which are rated in the highest rating category by S&P, provision for the payment of the principal of and interest on which shall have been made by deposit with a trustee or escrow agent of noncallable Government Obligations, the maturing principal of and interest on such Government Obligations, when due and payable, shall provide sufficient money to pay the principal of and redemption premium, if any, and interest on such obligations of state, territory or local government issuers, (iii) obligations of Federal Home Loan Mortgage Corp., Farm Credit System, Federal Home Loan Banks, Federal National Mortgage Association, Student Loan Marketing Association, Financing Corp. and Resolution Funding Corp., (iv) stripped debt securities where the principal-only and interest-only strips of noncallable obligations are issued by the U.S. Treasury and (v) Resolution Funding Corp. securities stripped by the Federal Reserve Bank of New York. If any Bond is not to be redeemed or does not mature within 60 days after such deposit, the Borrower must give irrevocable instructions to the Trustee to give notice, in the same manner as notice of redemption, that such deposit has been made. The Bonds shall not be deemed paid unless the Trustee shall have received an opinion of counsel experienced in bankruptcy matters to the effect that payment to the Bondholders would not constitute a preference which may be avoided under the provisions of the United States Bankruptcy Code, an opinion of counsel experienced in tax matters under the Code to the effect that, assuming continuing compliance by the Borrower with the source of income covenants of the Loan Agreement, the deposit of said obligations or moneys would not adversely affect the interest received by the Bondholders as income from sources within the Commonwealth and all outstanding obligations under the Reimbursement Agreement shall have been paid in full.

## SUMMARY OF THE INITIAL REIMBURSEMENT AGREEMENT

TDF will enter into a letter of credit and reimbursement agreement with the Borrower (the "Initial Reimbursement Agreement"), which provides that the Borrower will be obligated to reimburse TDF for any amounts funded pursuant to the TDF Letter of Credit and certain other matters.

### Operating Deficit Reserve Account

Under the Initial Reimbursement Agreement, the Borrower will be required to deposit in the Operating Deficit Reserve an amount equal to \$3,000,000 (the "Operating Reserve"). Moneys held to the credit of the Operating Reserve shall be used for purposes of meeting the operating expenses of the Project whenever and to the extent other moneys available from the operation of the Project are not sufficient for such purposes. The Operating Reserve will not be held by the Trustee (in its capacity as trustee under the Trust Agreement) nor constitute security for the payment of the Bonds.

### Events of Default

It shall be deemed an event of default under the Initial Reimbursement Agreement if any of the following events shall occur and be continuing, unless such event has been previously consented to in writing by TDF (capitalized terms used below and not otherwise defined herein shall have the meanings ascribed to them in the Initial Reimbursement Agreement):

(a) any amount payable by the Borrower under the Initial Reimbursement Agreement shall not be paid when due; or

(b) any representation, warranty or other statement made or deemed to have been made by the Borrower under or in connection with the Initial Reimbursement Agreement, any of the other Operative Documents or any document, instrument or certificate executed or delivered in connection therewith shall prove to have been incorrect or misleading in any material respect when made or deemed to have been made; or

(c) the Borrower shall fail to perform or observe any term, covenant or agreement contained in the Initial Reimbursement Agreement or in any other Operative Documents or Project Document (in any such cases, other than as specifically addressed in other event of default provisions of the Initial Reimbursement Agreement) and: (i) with respect to any such term, covenant or agreement contained in the Initial Reimbursement Agreement, any such failure shall remain unremedied for ten (10) days in the case of a default which can be cured by the payment of a sum of money and for thirty (30) days after notice, in the case of default which cannot be cured by payment of a sum of money; and (ii) with respect to any such term, covenant or agreement contained in the Initial Reimbursement Agreement or in any of the other Operative Documents or Project Document, and such failure remains unremedied after any applicable grace period specified in such documents; provided, however, that if such failure with respect to any term, covenant or agreement contained in the Initial Reimbursement Agreement is of a nature such that it cannot be cured by the payment of money and if such failure requires work to be performed, acts to be done or conditions to be removed which cannot by their nature, with due diligence, be performed, done or removed, as the case may be, within such thirty-day period, and such default is capable of cure by the Borrower, and the Borrower shall have commenced to cure such failure within such thirty-day period, such period shall be deemed extended for so long as shall be required by the Borrower, in the exercise of due diligence, to cure such failure; or

(d) the Borrower shall fail to perform or observe their covenants in connection with restrictions set forth in the Initial Reimbursement Agreement pertaining to the sale or other transfer of the Project or any direct or indirect legal or equitable interest in the Borrower, including any interest in the partners of the Borrower or any interest therein (subject to certain exceptions) and the same shall not be cured or waived within ten (10) days after notice thereof; or



(e) there shall have been asserted in writing by or on behalf of the Borrower, the Hotel Operator, or General Contractor, that any material provision of the Initial Reimbursement Agreement, the Management Agreement or the Construction Agreement, as the case may be, is not valid and binding on the Borrower, the Hotel Operator or General Contractor, as the case may be, or declaration shall have been sought by or on behalf of any of them that any such provision is null and void, or there shall have been commenced by or on behalf of any of them a proceeding to contest the validity or enforceability thereof, or there shall have been a denial by or on behalf of any of them that it has any further liability or obligation under the Initial Reimbursement Agreement, the Management Agreement or the Construction Agreement, as the case may be; or

(f) the Borrower: (i) shall suffer or permit to be entered a decree or order a court or agency or supervisory authority having jurisdiction determining it to be insolvent or providing for the appointment of a conservator, receiver, liquidator, trustee or any similar person appointed in connection with any insolvency, readjustment of debt, marshaling of assets and liabilities, bankruptcy, reorganization or similar proceedings of or relating to it or of relating to all, or substantially all, of its property, or for the winding-up or liquidation of its affairs; or (ii) shall suffer or permit to be instituted against it proceedings under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors and such proceedings remain undismissed or pending and unstayed for a period of ninety (90) days; or

(g) the Borrower shall: (i) consent to the appointment of a conservator, receiver, trustee, liquidator or custodian in any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings of or relating to it or relating to all, or substantially all, of its property or for the winding-up or liquidation of its affairs; (ii) admit in writing its inability to pay its debts generally as they become due; (iii) file a petition, or otherwise institute, or consent to the institution against it of, proceedings to take advantage of any law relating to bankruptcy, insolvency or reorganization or the relief of debtors; (iv) make an assignment for the benefit of its creditors; or (v) suspend payment of its obligations; or

(h) the rendering of a final and unappealable judgment for the payment of money against the Borrower in excess of \$50,000.00 in the aggregate and the continuance of any such judgment unsatisfied and without stay of execution thereon for a period of ninety (90) days after the entry of such judgment, or the continuance of such judgment unsatisfied for a period of thirty (30) days after the termination of any stay of execution thereon entered within such first mentioned ninety (90) days.

## **Remedies of TDF**

If an Event of Default shall have occurred under the Initial Reimbursement Agreement then, and in any such event at any time thereafter if such Event of Default is continuing, TDF may, in its discretion:

(a) by notice to the Borrower declare all amounts payable under the Initial Reimbursement Agreement or under any Operative Document to be immediately due and payable, whereupon the same shall become immediately due and payable without demand, presentment, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; and/or

(b) exercise all or any of its rights and remedies under or in respect of the Operative Documents, including, without limitation, its rights and remedies under the Security Documents and any indemnity; and/or

(c) by notice to the Trustee and the Authority, require the Trustee to accelerate payment of all Bonds and interest accrued thereon; and/or

(d) in the event that TDF or its designees or assignees undertake to complete the Project, TDF or its designees or assignees shall have the right to cause the proceeds of the Bonds to be disbursed on the same terms and conditions as if TDF or such designees and assignees of TDF were the Borrower; and/or

(e) exercise any or all other rights and remedies existing at law or in equity or by statute including, without limitation, the rights and remedies of a secured creditor under the laws of Puerto Rico.

In addition to any other rights and remedies TDF may have pursuant to the Operative Documents, or as provided by law, and without limitation thereof, if any Default or Event of Default under the Initial Reimbursement Agreement shall occur, then TDF shall not be obligated to instruct the Trustee to make any further disbursements until such Default or Event of Default is remedied; provided, however, that TDF may instruct the Trustee to make any disbursement so long as any such Default or Event of Default shall exist, without thereby waiving the right to demand payment of the indebtedness and to exercise its rights and remedies pursuant to the Initial Reimbursement Agreement and/or any or more of the Operative Documents and/or exercise any other remedies available to TDF pursuant to any one or more of the Security Documents or as provided by law, and without becoming liable to instruct the Trustee to make any other or further advance or disbursement.

### **Letter of Credit Fees**

Pursuant to the Initial Reimbursement Agreement, the Borrower will be obligated to pay to TDF an annual fee equal to the applicable percentage set forth below based on the outstanding principal amount of the Bonds and interest on the Bonds for a period of one hundred and ninety-five (195) days, net of amounts in the Debt Service Reserve Fund, the Operating Reserve and other reserves created pursuant to the Initial Reimbursement Agreement:

<u>Period</u>	<u>Percentage</u>
September 28, 2000 to September 19, 2007	1.50%*
September 20, 2007 to September 19, 2015	2.00%
September 20, 2015 to September 19, 2020	2.50%
September 20, 2020 to September 19, 2025	3.00%
September 20, 2025 to December 30, 2030	3.50%

\*Except that if in the years between September 20, 2005 and September 19, 2007 the debt service coverage is below 1.5x, the fee will be 2.00%.

Such fees will be payable in twelve (12) monthly installments on each interest payment date. The Borrower will also pay an upfront fee of 0.25% of the principal amount of the Bonds, payable on the date of delivery of the Bonds.

### **TAX MATTERS**

In the opinion of Pietrantonio Méndez & Alvarez LLP, Bond Counsel, under the provisions of the Acts of Congress and the laws of Puerto Rico now in force:

1. Interest on, and gain on the disposition of, the Bonds is exempt from Puerto Rico income and withholding taxes, including the alternative minimum tax imposed by the Puerto Rico Internal Revenue Code of 1994, as amended (the "PR Code").

2. The Bonds are exempt from Puerto Rico property taxes imposed by the Municipal Property Tax Act of 1991, as amended, and the interest thereon is exempt from municipal license taxes imposed by the Municipal License Tax Act of 1974, as amended.

3. The Bonds are exempt from Puerto Rico gift tax with respect to donors who are residents of Puerto Rico at the time the gift is made and exempt from Puerto Rico estate tax with respect to estates of decedents who are residents of Puerto Rico at the time of death, except for United States citizens who did not acquire their United States citizenship solely by reason of birth or residence in Puerto Rico. Other individuals should

consult their tax advisors with respect to the precise determination of the estate and gift tax consequences arising from a transfer of the Bonds by inheritance or gift.

4. The Bonds will be considered an obligation of an instrumentality of Puerto Rico for purposes of: (i) the non-recognition of gain rules of Section 1112(f)(2)(A) of the PR Code applicable to certain involuntary conversions; and (ii) the exemption from the surtax imposed by Section 1102 of the PR Code available to corporations and partnerships that have a certain percentage of their net income invested in obligations of instrumentalities of Puerto Rico and certain other investments.

5. Interest on the Bonds constitutes “industrial development income” under Section 2(j) of the Puerto Rico Industrial Incentives Act of 1963, the Puerto Rico Industrial Incentives Act of 1978, the Puerto Rico Tax Incentives Act of 1987, and the Puerto Rico Tax Incentives Act of 1998, as amended (collectively, the “Acts”), when received by a holder of a grant of tax exemption issued under any of the Acts that acquired the Bonds with “eligible funds”, as such term is defined in the Acts.

The PR Code does not provide rules with respect to the treatment of the excess of the amount due at maturity of a Bond over its initial offering price (“original issue discount”). Under current administrative practice followed by the Puerto Rico Department of the Treasury, original issue discount is treated as interest. Prospective owners of the Bonds, including but not limited to financial institutions, should be aware that ownership of the Bonds may result in having a portion of their interest expense allocable to interest or original issue discount on the Bonds disallowed for purposes of computing the regular tax and the alternative minimum tax for Puerto Rico income tax purposes.

In the opinion of Bond Counsel, based upon the provisions of the Code now in force:

1. Interest on the Bonds is not excludable from the gross income of the recipients thereof for federal income tax purposes under Section 103(a) of the Code.

2. If (i) the Borrower is engaged in trade or business only in Puerto Rico during each taxable year when interest on the Bonds is paid or payable; (ii) for the three-year period ending with the close of the Borrower’s taxable year immediately preceding the payment of interest on the Bonds less than 80% of the Borrower’s gross income is, was or will be (a) derived from sources outside Puerto Rico, as determined under subchapter N of the Code and (b) attributable to the active conduct of a trade or business outside Puerto Rico, such determination to be made under Section 861(c)(1)(B)(ii) of the Code and (iii) such interest is not treated as paid by a trade or business conducted by the Borrower outside Puerto Rico, such determination to be made under Section 884(f)(1)(A) of the Code and the regulations thereunder, then (a) in the case of an individual who is a bona fide resident of Puerto Rico during an entire taxable year, interest on the Bonds received by, or “original issue discount” (within the meaning of the Code and hereafter referred to as “OID”) on the Bonds otherwise required to be recognized as gross income and accrued to, such individual during such taxable year, will constitute gross income from sources within Puerto Rico and therefore, is excludable from gross income for purposes of the Code pursuant to Section 933(1) thereof, and (b) interest on the Bonds derived by, or OID on the Bonds otherwise required to be recognized as gross income and accrued to, a corporation organized under the laws of Puerto Rico or any other foreign country, as determined for purposes of the Code (“foreign corporations”), is not subject to taxation under the Code, provided that (x) such foreign corporation is not a foreign personal holding company, a controlled foreign corporation or a passive foreign investment company under the Code, (y) such foreign corporation is not treated as a domestic corporation for purposes of the Code and (z) interest on the Bonds and OID is not effectively connected with the conduct of a trade or business in the United States by such foreign corporation.

United States taxpayers, other than individuals who are *bona fide* residents of Puerto Rico during the *entire taxable year*, may be subject to federal income tax on any gain realized upon the sale or exchange of the Bonds. Pursuant to Notice 89-40, issued by the United States Internal Revenue Service on March 27, 1989, gain from the sale or exchange of the Bonds (excluding OID accrued under the Code as of the date of such sale or exchange) by an individual who is a *bona fide* resident of Puerto Rico during the *entire taxable*

year and that is a resident of Puerto Rico for purposes of Section 865(g)(1) of the Code will constitute Puerto Rico source income and, therefore, qualify for the exclusion provided in Section 933(1) of the Code, provided said the Bonds do not constitute inventory in the hands of such individual.

A portion of the interest expense incurred by an owner of the Bonds and allocable to interest received on the Bonds may be disallowed as a deduction for purposes of computing the regular tax and the alternative minimum tax under the PR Code.

The opinion of Bond Counsel regarding the tax consequences under the Code and the PR Code arising from ownership or disposition of the Bonds is limited to the above.

## LEGAL INVESTMENT

The Bonds will be eligible for deposit by banks in the Commonwealth to secure public funds and will be approved investments for insurance companies to qualify them to do business in the Commonwealth as required by law.

## RATING

The Bonds are rated “BBB” by S&P with the understanding that, upon delivery of the Bonds, the TDF Letter of Credit will be executed and delivered by TDF. The rating reflects only the views of such organization and an explanation of the significance of such rating may be obtained from Standard & Poor’s Rating Services, 25 Broadway, New York, New York 10004, telephone number (212) 208-8000.

There is no assurance that the rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely by S&P, if in the judgment of such rating agency, circumstances so warrant. Neither the Authority nor the Underwriters undertake any responsibility either to bring to the attention of the Bondholders the downward revision or withdrawal of any rating obtained or to oppose any such revision or withdrawal. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Bonds.

## UNDERWRITING

Subject to the terms and conditions of a bond purchase agreement among the Authority, the Borrower and the Underwriters (the “Bond Purchase Agreement”), the Authority has agreed to sell to the Underwriters, and the Underwriters have agreed, subject to certain conditions, to purchase from the Authority, the aggregate principal amount of Bonds set forth opposite its name below:

<u>Underwriter</u>	<u>Principal Amount of Bonds</u>
Popular Securities	\$25,608,750
PaineWebber Incorporated of Puerto Rico	25,608,750
Salomon Smith Barney	<u>17,072,500</u>
Total	<u>\$68,290,000</u>

The Underwriters propose initially to offer the Bonds to the public, when, as and if issued by the Authority and accepted by the Underwriters, at the initial public offering prices set forth on the cover of this Official Statement. The initial offering prices may be changed from time to time by the Underwriters. The Underwriters may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts) and others at prices lower than the initial public reoffering prices stated or derived from information shown on the front cover page of this Official Statement.

In connection with this offering, the Underwriters may over-allot or engage in transactions that stabilize, maintain or otherwise affect the market price of the Bonds, including stabilizing, syndicate short covering and penalty bid transactions. Such stabilizing, if commenced, may be discontinued at any time.

The Bonds are a new issue of securities with no established trading market. The Underwriters have advised the Borrower that they presently intend to make a market as permitted by applicable laws and regulations. The Underwriters are not obligated, however, to make a market in the Bonds and any such market making may be discontinued at any time at the sole discretion of the Underwriters. Accordingly, no assurance can be given as to the liquidity of, or trading markets for, the Bonds.

The Bond Purchase Agreement provides that the obligations of the Underwriters thereunder are subject to approval of certain legal matters by its counsel and to various other conditions. The Underwriters are committed to purchase all of the Bonds if any are purchased.

The Borrower has agreed to indemnify the Underwriters and the Authority against certain civil liabilities, including liabilities under the Securities Act.

## **LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale by the Authority of the Bonds and with regard to the tax-exempt status thereof are subject to the approving opinion of Pietrantonio Méndez & Alvarez LLP, San Juan, Puerto Rico, Bond Counsel. Certain legal matters will be passed upon for the Borrower by Correa, Collazo, Herrero, Jiménez & Fortuño, San Juan, Puerto Rico and for the Underwriters by Martínez Odell & Calabria, San Juan, Puerto Rico. Legal matters incidental to the TDF Letter of Credit will be passed upon by O'Neill & Borges, San Juan, Puerto Rico.

## **CONTINUING DISCLOSURE COVENANT**

The Borrower and TDF will enter into a Continuing Disclosure Agreement with the Trustee wherein the Borrower and TDF will covenant for the benefit of the Bondholders and the Beneficial Owners of the Bonds to file within 120 days, in the case of the Borrower, and within 305 days, in the case of TDF, after the end of each of their respective fiscal years, with each nationally recognized municipal securities information repository ("NRMSIR") and with any Commonwealth state information depository ("SID"), core financial information and operating data for such fiscal year, including: (i) audited financial statements, prepared in accordance with generally accepted accounting principles in effect from time to time; and (ii) operating data and data relating to its revenues, expenditures, financial operations and indebtedness of the type generally found in this Official Statement.

The Borrower will covenant also to file in a timely manner, with each NRMSIR or with the Municipal Securities Rulemaking Board ("MSRB"), and with any Puerto Rico SID, notice of any of the following events with respect to the Bonds, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax-exempt status of the Bonds, including the occurrence of an Event of Taxability;
- (vii) modifications to rights of holders of the Bonds;
- (viii) bond calls;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds; and
- (xi) rating changes.

The Borrower and TDF will also covenant to file in a timely manner with each NRMSIR and with any Puerto Rico SID, notice of a failure by the Borrower or TDF, respectively, to provide the required annual financial information on or before the specified period.

These covenants have been made in order to assist the Underwriters in complying with paragraph (b)(5) of Rule 15c2-12 (the "Rule") of the Securities and Exchange Commission (the "SEC").

Neither the Borrower or TDF undertake to provide the above-described event notice of a scheduled redemption, not otherwise contingent upon the occurrence of an event, if the terms, dates and amounts of redemption are set forth in detail in this Official Statement under "THE BONDS - Mandatory Redemption."

The Borrower and TDF expect to provide the core financial information and operating data described above by delivering their respective audited financial statements prepared in accordance with generally accepted accounting principles for the applicable fiscal year and a supplemental report containing other information to the extent necessary to provide the core financial information and operating data described above by such deadline.

TDF entered into similar continuing disclosure agreements in connection with the issuance of other bonds guaranteed or supported by letters of credit issued by TDF. Due to an inadvertent omission, TDF did not file its financial statements for the fiscal years ended June 30, 1996, 1997, 1998 or 1999 with the NRMSIRs prior to the due date for such filings. TDF has now filed all such financial statements and has put in place a mechanism that it believes will facilitate compliance with its continuing disclosure obligations in the future.

As of August 1, 2000, there was no Commonwealth SID, and the nationally recognized municipal securities information repositories are: Bloomberg Municipal Repository, P.O. Box 840, Princeton, New Jersey 08542-0840; Kenny Information Systems, Inc., Attn.: Kenny Repository Service, 65 Broadway, New York, New York 10006; Thompson NRMSIR, 395 Hudson Street, New York, New York 10004, Attn: Municipal Disclosure; and DPC Data Inc., One Executive Drive, Fort Lee, New Jersey 07024.

The Borrower may from time to time choose to provide notice of the occurrence of certain other events in addition to those listed above if, in their judgment such other events are material with respect to the Bonds, but the Borrower does not undertake to provide any such notice of the occurrence of any material event except those events listed above.

The Borrower and TDF acknowledge that their undertakings pursuant to the Rule described above are intended to be for the benefit of the Bondholders, and shall be enforceable by any such Bondholders; provided that the right to enforce the provisions of their respective undertakings shall be limited to a right to obtain specific enforcement of their obligations hereunder. Failure by the Borrower or TDF to comply with the undertakings will not constitute an event of default under the Loan Agreement, the Trust Agreement or the Bonds. Failure by the Borrower or TDF to comply with the undertakings must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, any such failure may adversely affect the transferability and liquidity of the Bonds and their market prices.

No Bondholder may institute any suit, action or proceeding at law or in equity ("Proceeding") for the enforcement of the foregoing covenants or for any remedy for breach thereof, unless such Bondholder shall have filed with the Borrower or TDF written notice of a request to cure such breach, and the Borrower or TDF shall have refused to comply within a reasonable time. All Proceedings shall be instituted only as specified in such Continuing Disclosure Agreement in any Federal or Commonwealth court located in the Municipality of San Juan, and for the equal benefit of all Bondholders of the outstanding Bonds benefited by the same or a substantially similar covenant, and no remedy shall be sought or granted other than specific performance by the Borrower or TDF of the covenant at issue. Notwithstanding the foregoing, no challenge to the adequacy of the information provided in accordance with the filings mentioned above may be

prosecuted by any Bondholder except in compliance with the remedial and enforcement provisions contained in the Trust Agreement.

The above covenants may only be amended or waived if:

(1) the amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Borrower or TDF; the covenants, as amended, or the provision as waived, would have complied with the requirements of the Rule at the time of award of the Bonds, after taking into account any amendments or change in circumstances; and the amendment does not materially impair the interests of the Bondholders, as determined by parties unaffiliated with the Borrower or TDF, or

(2) all or any part of the Rule, as interpreted by the staff of the SEC at the date of the adoption of such interpretation, ceases to be in effect for any reason, and the members of the Borrower elect that the above covenants shall be deemed amended accordingly.

Any assertion of beneficial ownership must be filed, with full documentary support, as part of the written request described above.

### **MISCELLANEOUS**

There are appended to this Official Statement information concerning the Borrower, the Project, the financial statements for the years ended June 30, 1999 and 1998 of TDF, and the form of opinion of Pietrantoní Méndez & Alvarez LLP, Bond Counsel. The financial statements of TDF, contained in Appendix C, have been audited by Deloitte & Touche LLP, independent auditors, as stated in their report appearing therein. The information set forth in this Official Statement in Appendices A and B and all other information herein relating to the Borrower and the Project were obtained from the Borrower. The Borrower has reviewed the information contained herein which relates to it and the Project and has approved the use of all such information in this Official Statement. While such information is believed to be reliable, the Authority and the Underwriters make no representations or warranties whatsoever with respect to it, and have themselves relied upon it. At the closing for the Bonds, the Borrower will certify that such information does not contain a misstatement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they are made, not misleading. The Borrower has agreed to indemnify the Underwriters and the Authority against certain liabilities.

Information relating to DTC and the book-entry system described under the heading "THE BONDS," has been furnished by DTC and is believed to be reliable, but the Authority, the Borrower, the Underwriters and TDF make no representations or warranties whatsoever with respect to such information.

The execution and delivery of this Official Statement by its Executive Director have been duly authorized by the Authority, and this Official Statement has been approved by the Borrower.

This Official Statement will be filed with each NRMSIR and with the repository established by the MSRB.

**PUERTO RICO INDUSTRIAL, TOURIST,  
EDUCATIONAL, MEDICAL AND  
ENVIRONMENTAL CONTROL FACILITIES  
FINANCING AUTHORITY**

By: \_\_\_\_\_  
Carlos Colón De Armas  
Executive Director

Approved:

**DESARROLLADORA DEL NORTE, S. en C., S.E.**

By: Desarrollos Hoteleros San Juan, B.V.  
its Managing Partner

By: \_\_\_\_\_  
Evagrio Sánchez  
President



## THE BORROWER

### General

Desarrolladora del Norte, S. en C. S.E. (the "Borrower") is a partnership organized under the laws of Puerto Rico, which has elected to be treated as a special partnership under Subchapter K of Subtitle A of the PR Code. The Borrower was organized by Deed of Constitution of Partnership on March 2, 1999 and converted into a mercantile partnership under the Puerto Rico Commerce Code ("sociedad en comandita") by Deed of Amended and Restated Partnership Agreement of August 28, 2000 (the "Partnership Agreement"). The Borrower was constituted for the sole purpose of developing, owning and operating Paradisus Coco Beach Resort, a 491-room, luxury "all-inclusive" resort hotel and related facilities (the "Project") to be located on approximately 43.2569 *cuerdas* of land in the Municipality of Río Grande, on the northeast coast of Puerto Rico (the "Property"). The Borrower's mailing address in Puerto Rico is P.O. Box 70212, San Juan, Puerto Rico 00936-8212. The Partnership Agreement will continue to be in effect until January 20, 2099, unless previously terminated in accordance with its terms. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Official Statement.

The Borrower is currently owned in equal parts by Desarrollos Hoteleros San Juan, B.V. and San Juan Investments, B.V. As of the date of issuance of the Bonds, the Borrower will be owned by Desarrollos Hoteleros San Juan, B.V. (47.5% of the partnership interests), San Juan Investments, B.V. (47.5% of the partnership interests), and CBM Investment Corporation (5% of the partnership interests), (collectively, the "Partners"). Desarrollos Hoteleros San Juan, B.V. is the sole managing partner (the "Managing Partner"). San Juan Investments, B.V. and CBM Investment Corporation will be special partners with limited liability. The special partners are not entitled to vote on any decision which must be made or approved by the Managing Partner.

The Borrower has no current revenue producing operations and will have no operating revenues until the completion of the Project.

### The Partners

#### *Desarrollos Hoteleros San Juan, B.V. and San Juan Investments, B.V.*

Both Desarrollos Hoteleros San Juan, B.V. and San Juan Investments, B.V. are private companies with limited liability organized under the laws of The Netherlands and are wholly-owned by Meliá Inversiones Americanas, N.V. ("Meliá Inversiones"). Meliá Inversiones is a company organized under the laws of The Netherlands and is dedicated to the ownership, operation, development and acquisition of luxury and full-service city and resort hotel properties in Latin America and the Caribbean. Sol Meliá, S.A. owns approximately 98% of Meliá Inversiones' shares, while the remaining 2% are publicly held. Sol Meliá, S.A. is a publicly traded Spanish corporation based in Palma de Mallorca, which owns and operates one of the largest hotel chains in the world in terms of market capitalization.

Meliá Inversiones currently owns several hotels and resorts in Mexico, Venezuela and the Dominican Republic with a total room inventory of approximately 4,200 rooms. For the year ended December 31, 1999, Meliá Inversiones' properties had an occupancy rate of approximately 70%, gross revenues of \$146.1 million and net income of \$4.4 million. As of such date, Meliá Inversiones had total assets of \$540.6 million and total equity of \$256.3 million.

Sol Meliá, S.A. is one of the leading global hotel chains with 262 hotels in 25 different countries and over forty years of experience. It currently manages over 68,000 hotel rooms worldwide. As of December

31, 1999, Sol Meliá, S.A. had consolidated assets of \$2,099 million\* and declared consolidated net profits of \$100.9 million\*\* on revenues of \$705.8 million.\*\*

On or before the date of issuance of the Bonds, Desarrollos Hoteleros San Juan, B.V. and San Juan Investments, B.V. will contribute to the Borrower \$13,128,349 and \$13,128,349, respectively.

### ***Helms-Burton Act***

Certain subsidiaries of Sol Meliá, S.A., are currently engaged in business in Cuba, which could subject Sol Meliá, S.A. to possible legal action under Title III of the Helms Burton Act (22 U.S.C. 6021-6091). Under Title III of the Act, a foreign company may be subject to a claim for money damages by U.S. nationals that were former owners of confiscated property in Cuba, if such company engages in certain types of business activities, broadly defined as trafficking under the statute, in connection with such confiscated property (a "Title III action"). Title III actions, however, have been suspended by Presidential order since the statute was adopted in 1996. Consequently, at this time it is not possible to file a Title III action against Sol Meliá, S.A.

Nevertheless, even if the suspension were lifted by President Clinton, or were to expire without being renewed by him or a successor President, the Borrower believes, based on the memoranda of counsel, that Sol Meliá, S.A. has various defenses to a Title III action that may allow it to prevail if such a lawsuit were to be brought against it. These defenses include the argument that Sol Meliá, S.A., is not engaged in trafficking as defined in the Helms Burton Act, and that the Act violates the due process provisions of the Fifth Amendment to the U.S. Constitution and principles of international law.

Furthermore, the Borrower believes, based on a reasoned memorandum prepared by its counsel for Helms-Burton Act matters, Jones, Day, Reavis & Pogue, as well as a memorandum prepared by its Puerto Rico counsel, Correa, Collazo, Herrero, Jiménez & Fortuño discussing applicable Puerto Rico law, that even if a Title III action against Sol Meliá S.A. were successful it should not affect its property. This view is based primarily on the fact that the Borrower and the Partners are separate and distinct entities from Sol Meliá, S.A. which do not do business in Cuba.

Under general principles of corporate law, except in the case where fraud or other similar actions are involved, it is unlikely that courts will make a separate legal entity responsible for the debts of its shareholders or parent company (commonly referred to as piercing the corporate veil). Therefore, the Borrower believes it is unlikely that courts will pierce corporate veil to allow creditors of Sol Meliá, S.A. to enforce a judgment against the Borrower, Desarrollos Hoteleros San Juan, B.V., San Juan Investments, B.V. or Meliá Inversiones, so long as the legal requirements for maintaining the separate status of Borrower are fully observed. The recognized indicia of separate corporate status, include maintaining required corporate formalities and separate decision-making functions, and separate and adequate capital, as well as their distinct identities in their day-to-day operations. The Borrower has covenanted under the terms of the Loan Agreement to maintain at all times its separateness from its Partners and affiliates, including Sol Meliá, S.A.

Under general partnership law principles, it is possible for a judgment creditor to attach a partner's right to distributions. However, for a judgment creditor to attach distribution interests in the Borrower, in Desarrollos Hoteleros San Juan, B.V. or in San Juan Investments, B.V., it is highly likely that the creditor would have to persuade a court with appropriate jurisdiction to pierce the corporate veil of Sol Meliá, S.A. to establish that such entities should be responsible for a Title III judgment against Sol Meliá, S.A. Moreover, actions to enforce a Helms-Burton judgment against Sol Meliá, S.A., including attempts to attach its

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\* Based on an exchange rate of 165.7 pesetas per dollar as of December 31, 1999.

\*\* Based on an average exchange rate of 155.2486 pesetas per dollar for the period from January 1 to December 31, 1999.

shareholder interest in Meliá Inversiones, or against Desarrollos Hoteleros San Juan, B.V., San Juan Investments, B.V., or Meliá Inversiones in the jurisdictions in which they were organized (The Netherlands and Spain) or other Member States of the European Union are unlikely to be approved in view of the European Union Council Regulations barring the recognition or enforcement by courts within the European Union of judgments under Helms-Burton issued by a court, tribunal or administrative authority located outside the European Union. (Council Regulation (EC) No. 2271/96 of November 22, 1996, Article 4).

For foreign companies engaged in the types of business referred to above, the Helms Burton law, in Title IV, also provides that the Secretary of State may act to exclude officers, directors, and principal shareholders of such companies from the United States. Even though Sol Meliá, S.A. believes that it is not engaged in activities that could result in such exclusions, it is possible that such exclusions may occur. Even if such event were to occur, the Borrower should be largely unaffected since it is not engaged in business in Cuba. The Borrower, indirectly majority-owned by Sol Meliá, S.A., could, however, be the subject of unfavorable publicity that could affect the business of the Borrower directly or indirectly.

### ***CBM Investment Corporation***

CBM Investment Corporation ("CBM") is a corporation organized under the laws of the Commonwealth of Puerto Rico and a wholly owned subsidiary of Betterroads Asphalt Corporation ("Betterroads"). Betterroads intends to transfer its interest in CBM to a newly created affiliate of Betterroads, Coco Beach Holdings, Inc., the sole shareholder of which will be Mr. Arturo Díaz, Jr.

CBM will contribute the land (the "Land") on which the Project will be located pursuant to that certain Amended and Restated Land Contribution Agreement to be executed on or before the date of issuance of the Bonds by and among the Borrower, CBM, Betterroads, Coco Beach Development Corporation and Meliá Inversiones (the "Land Contribution Agreement"). In exchange for its contribution of the Land, CBM will acquire a 5% partnership interest in the Borrower and become entitled to a non-cumulative preferred return equal to 5% of any cash distributions declared by the Managing Partner and actually paid by the Managing Partner prior to the Redemption Date (as hereinafter defined). In addition, CBM will be allocated a portion of the tax credits generated from equity investments to be made by the Partners.

CBM shall be indemnified by the Borrower, Desarrollos Hoteleros San Juan, B.V., and San Juan Investments, B.V. and held harmless from and against all claims, causes of action, suits, liabilities, proceedings, charges, litigation, judgments, losses, damages, disbursements, taxes, fines and penalties, costs and expenses of any kind whatsoever, including without limitation, attorneys' fees (including those incurred on any appeal), that CBM may suffer, sustain, incur or become subject to, arising out of, based on or related to (a) all events, transactions or occurrences or non-occurrences, whether before or after the date of the Partnership Agreement, related to the development, construction and operation of the Project by the Borrower, its employees, agents, representatives or designees, (b) all obligations of the Borrower, Desarrollos Hoteleros San Juan, B.V., or San Juan Investments, B.V., of any kind whatsoever to any person (including Desarrollos Hoteleros San Juan, B.V., or San Juan Investments, B.V.), whether absolute or contingent and whether incurred before or after the date of the Partnership Agreement.

CBM will cease being a Partner upon the Borrower's redemption of its ownership interest in the Partnership for a price equal to \$782,246 (the "Redemption Price") on or before September 28, 2003 (the "Redemption Date"). In the event the Redemption Price is not paid on the Redemption Date, CBM's preferred return referred to above shall be increased, effective on the Redemption Date and until payment in full of the Redemption Price, to a return on the value of its capital contribution equal to 15% of any cash distributions declared by the Managing Partner and actually paid by the Managing Partner.

Betterroads, CBM or an affiliate thereof will have a controlling equity interest in the Coco Beach Crowne Plaza Resort expected to be developed adjacent to the Project and which, if developed, may compete with the Project. See, "BONDHOLDERS RISKS-Competition".

On or before the date of issuance of the Bonds, CBM will contribute to the Borrower land with an appraised value of \$4,758,259. CBM is under no obligation to make any further capital contribution to the Borrower.

#### **Management and Control of the Borrower**

The Managing Partner is responsible for the management and administration of the Borrower. The management services of the Managing Partner will include supervising the General Contractor and the Hotel Operator; arranging any debt financing for capital improvements or in connection with the purchase of assets; executing any and all agreements, contracts, documents, certificates and instruments necessary or convenient in connection with the development, construction and financing of the Project; conducting physical inspections, market surveys and continual reviews to determine if and when the Project should be sold; preparing economic surveys, projections of cash flow, taxable income or loss and working capital requirements; preparing and reviewing Borrower reports; supervising and reviewing Borrower bookkeeping, accounting and audits; supervising and reviewing Borrower tax returns; serving as "tax matters partner" for the Borrower; and supervising professionals employed by the Borrower in connection with any of the foregoing, including attorneys, accountants and appraisers.

## **THE PROJECT**

The project consists of the development, construction and equipping of Paradisus Coco Beach Resort, a 491-room, luxury “all-inclusive” resort hotel and related facilities to be located in the Municipality of Río Grande, Puerto Rico (the “Project”). The Project will be the first “all-inclusive” resort and the only European-affiliated hotel operating in Puerto Rico. The Project will be owned by the Borrower, which will engage Operadora San Juan, S.E., a partnership organized pursuant to the Civil Code of Puerto Rico and a subsidiary of Sol Meliá, S.A. (the “Hotel Operator”), to manage and operate the Project. The Borrower expects that the construction of the Project will take approximately 24 months and that the Project will commence operations in the third quarter of 2002. The Borrower estimates that the total aggregate cost of the Project will be approximately \$106.9 million.

Capitalized terms not otherwise defined herein shall have the meanings assigned to them in Appendix A to the Official Statement.

### **The “All-Inclusive” Concept**

The “all-inclusive” concept offers a one-stop, one-charge vacation option. The concept thrives by allowing the consumers to pre-pay for all of their vacation. This allows vacationers to accurately budget for their trips by having all of their accommodations, food and beverage, and entertainment charges paid for in advance. Advantages of operating an “all-inclusive” resort include increased marketing and promotion by travel agents, wholesalers and group planners, as their commission is based on the whole vacation package rather than just the hotel room. Traditionally, “all-inclusive” resorts cater to price sensitive travelers, but it has increasingly gained acceptance from sophisticated vacationers by offering more features and quality service.

### **Project Site**

The Project will be constructed on a property with a total area of approximately 43.2569 *cuerdas* (the “Property”) located in the northeastern portion of the Punta Miquillo peninsula of the Municipality of Río Grande, Puerto Rico. The Property is a beachfront property with an elongated shape, which enjoys a very high rate of linear feet of beach area per *cuerda*. The Property is located within the larger 980 *cuerdas* Coco Beach Resort and Community parcel (the “Parcel”) owned by Betterroads Asphalt Corporation (“Betterroads”). Betterroads' current development plans for the Parcel include tourist residential units, two golf courses, a clubhouse and a hotel and/or time-share project, all of them to be developed, owned and managed independently of the Project, and an additional hotel in an adjacent parcel, which will be developed either by the Borrower or one of its affiliates pursuant to an option agreement or by a third party. The Property is currently undeveloped. The Property has direct access to highway P.R. No. 3.

### **Project Facilities**

The Project will have 491 rooms distributed in 20 split level bungalows, including 10 junior suites, 9 royal suites and 1 presidential suite. The design of the Project’s facilities and guest lodging is intended to convey a residential feeling in the style of island plantation homes. The Project will provide a uniquely tropical ambiance for travelers who prefer a relaxed and exotic surrounding. The Project will include numerous features and amenities, including a lake-like swimming pool, six tennis courts, a clubhouse, casino, spa and fitness center, convention and banquet facilities, pub with karaoke, lobby bar, theatre, discotheque, game room, water sports facilities, four restaurants and a coffee shop. The Project’s public areas will be designed to take maximum advantage of the ocean views and trade winds, minimizing the use of air-conditioned public interior spaces. Each standard guest room will average 400 square feet of space, including a balcony or terrace, and will be furnished in tropical Caribbean decor.

## **Construction of the Project**

The Borrower will enter into a guaranteed maximum price construction agreement for the construction of the Project (the "Construction Agreement") with Cobián & Agustín, S.E. (the "General Contractor"), a special partnership constituted under the laws of Puerto Rico, in the amount of \$54.8 million. To assure the performance of its obligations under the Construction Agreement, the General Contractor will provide a payment and performance bond (the "Payment and Performance Bond") from United States Fidelity & Guaranty Company (the "Payment and Performance Bond Provider"). The Payment and Performance Bond Provider currently has a long-term debt rating of "A+" by Standard & Poor's Ratings Services and "A1" by Moody's Investors Service. The Payment and Performance Bond will be for the total amount of the Construction Agreement.

Certain items of the construction budget, in the amount of approximately \$8.9 million, will be acquired directly by the Borrower and installed at the Project by the General Contractor. The Borrower's obligations in connection with the completion of the construction of the Project, including acquisition of those certain items of the construction budget, will be guaranteed by Meliá Inversiones Americanas, N.V. under a certain completion guarantee to be executed by Meliá Inversiones Americanas, N.V. in favor of TDF. The Borrower will obtain builder's risk insurance at its cost.

The Borrower has contracted the services of Mr. José Luzunaris for the architectural and design work of the Project. As an additional resource, the Project relies on the expertise of world renown architect Mr. Alvaro Sans.

## **Operation of the Project**

The Borrower will engage the Hotel Operator to operate the Project under the Paradisus brand name pursuant to an operating and management agreement (the "Management Agreement"). The Paradisus brand name has been successfully marketed in key feeder European markets such as Spain, Germany, France, Italy, Scandinavia, and the United Kingdom.

## **Management Agreement**

The Borrower and the Hotel Operator will execute a Management Agreement for the operation of the Project under the five-star all-inclusive category. The Management Agreement will be effective during a term of thirty years and renewable for one-year periods thereafter. Under the Management Agreement, the Project will be included in the Sol Meliá reservations system and will benefit from Sol Meliá's global marketing efforts. The Hotel Operator will be in charge of managing the Project and supervising services provided to the customers thereof. This also includes internal accounting, financial reporting, marketing and promotional activities, purchase of supplies, quality control, inventory management, human resources, maintenance and general consulting in areas relating to hotel management. In exchange for these services, the Hotel Operator will be paid a basic management-fee equal to 4% of the gross revenues resulting from the operation of the Project to be paid on a monthly basis, plus a yearly incentive management-fee equal to 10% of gross operating profit for the prior year. Fees payable to the Hotel Operator under the Management Agreement will be subordinated to TDF.

## **Future Expansion**

The Borrower's current business plan contemplates the possibility of future expansions to the Project. These may include segregating a portion of not more than five percent (5%) of the Property for the development of an additional bungalow or the acquisition of an adjacent parcel of land for the development of approximately 500 additional hotel rooms and other related facilities.

**INDEPENDENT AUDITORS' REPORT**

Board of Directors of  
Puerto Rico Tourism Development Fund:

We have audited the accompanying balance sheets of Puerto Rico Tourism Development Fund (the "Tourism Fund") as of June 30, 1999 and 1998, and the related statements of income and changes in retained earnings and of cash flows for the years then ended. These financial statements are the responsibility of the Tourism Fund's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such financial statements present fairly, in all material respects, the financial position of Puerto Rico Tourism Development Fund as of June 30, 1999 and 1998, and the results of its operations and its cash flows of the years then ended in conformity with generally accepted accounting principles.

As discussed in Note 1 to the financial statements, the concentration of risk in the guarantees issued by the Tourism Fund, as well as the limited historical loss experience and other factors compound the uncertainty of management's estimate of the allowance for losses on guarantees. As a result, the aggregate losses ultimately incurred by the Tourism Fund may differ from the allowance for losses on guarantees as reflected in the accompanying financial statements, and such differences may be material. As also discussed in Note 1 to the financial statements, losses on guarantees exceeding the fees and charges collected by the Tourism Fund are subject to reimbursement by the Commonwealth of Puerto Rico, however, the legislature of the Commonwealth is not legally obligated to authorize such appropriations if and when they are required.

*Deloitte & Touche LLP*

August 27, 1999

Stamp No. 1677037  
affixed to original.

# PUERTO RICO TOURISM DEVELOPMENT FUND

## BALANCE SHEETS JUNE 30, 1999 AND 1998

	1999	1998
<b>ASSETS</b>		
Cash, interest-bearing demand deposits with Government Development Bank for Puerto Rico (Note 2)	\$ 11,643,705	\$ 238,029
Interest-bearing time deposits and investment contract, including \$7,838,224 in 1999 and 1998 with Government Development Bank for Puerto Rico (Note 3)	7,838,224	27,838,224
Investments (Note 4)	61,060,153	45,346,378
Accrued interest receivable	801,087	814,636
Guarantee fees receivable		56,089
Other assets	4,682	6,253
<b>TOTAL</b>	<b>\$ 81,347,851</b>	<b>\$ 74,299,609</b>
<b>LIABILITIES AND CAPITAL</b>		
<b>Liabilities:</b>		
Allowance for losses on guarantees and letter of credits	\$ 25,690,604	\$ 23,178,000
Unearned guarantee fees	376,260	619,234
Other liabilities	251,087	105,107
<b>Total liabilities</b>	<b>26,317,951</b>	<b>23,902,341</b>
<b>Commitments (Note 5)</b>		
<b>Capital:</b>		
Contributed capital, including \$28,216,123 in 1999 and \$26,773,928 in 1998 designated for debt service on bond issuances (Note 7)	50,000,000	50,000,000
Retained earnings	5,029,900	397,268
<b>Total capital</b>	<b>55,029,900</b>	<b>50,397,268</b>
<b>TOTAL</b>	<b>\$ 81,347,851</b>	<b>\$ 74,299,609</b>

See notes to financial statements.



**PUERTO RICO TOURISM DEVELOPMENT FUND**

**STATEMENTS OF INCOME AND CHANGES IN RETAINED EARNINGS  
YEARS ENDED JUNE 30, 1999 AND 1998**

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	<b>1999</b>	<b>1998</b>
<b>REVENUES</b>		
Investment income	\$ 4,321,966	\$ 4,178,724
Net increase (decrease) in fair value of investments	(661,895)	192,865
Guarantee fees	<u>4,486,790</u>	<u>3,537,831</u>
Total	<u>8,146,861</u>	<u>7,909,420</u>
<b>EXPENSES</b>		
Provision for losses on guarantees and letters of credit	2,715,374	1,981,417
Salaries and fringe benefits	221,398	235,502
Professional fees	460,270	640,984
Management fees to Government Development Bank for Puerto Rico (Note 6)	95,453	92,440
Other	<u>21,734</u>	<u>23,310</u>
Total	<u>3,514,229</u>	<u>2,973,653</u>
<b>NET INCOME</b>	<u>4,632,632</u>	<u>4,935,767</u>
<b>RETAINED EARNINGS (DEFICIT), BEGINNING OF YEAR</b>	<u>397,268</u>	<u>(4,538,499)</u>
<b>RETAINED EARNINGS END OF YEAR</b>	<u>\$ 5,029,900</u>	<u>\$ 397,268</u>

See notes to financial statements.

**PUERTO RICO TOURISM DEVELOPMENT FUND**

**STATEMENTS OF CASH FLOWS**  
**YEARS ENDED JUNE 30, 1999 AND 1998**

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	<b>1999</b>	<b>1998</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 4,632,632	\$ 4,935,767
Adjustments to reconcile net income to net cash provided by operating activities:		
Net investment income	(3,660,071)	(4,371,589)
Provision for losses on guarantees and letter of credits	2,715,374	1,981,417
Disbursements for obligations guaranteed	(202,770)	(702,417)
Depreciation	1,571	1,567
Changes in operating assets and liabilities:		
Decrease (increase) in guarantee fees receivable	56,089	(40,842)
Increase (decrease) in unearned guarantee fees	(242,974)	51,537
Increase in other liabilities	<u>145,980</u>	<u>80,505</u>
Net cash provided by operating activities	<u>3,445,831</u>	<u>1,935,945</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Interest collected	4,335,515	4,101,267
Net change in deposits placed with banks and other	20,000,000	3,302,610
Proceeds from redemptions and maturities of investments	62,110,910	18,496,558
Purchases of investments	<u>(78,486,580)</u>	<u>(29,982,120)</u>
Net cash provided by (used in) investing activities	<u>7,959,845</u>	<u>(4,081,685)</u>
<b>NET CHANGE IN CASH</b>	11,405,676	(2,145,740)
<b>CASH, BEGINNING OF YEAR</b>	<u>238,029</u>	<u>2,383,769</u>
<b>CASH, END OF YEAR</b>	<u>\$ 11,643,705</u>	<u>\$ 238,029</u>

See notes to financial statements.

# PUERTO RICO TOURISM DEVELOPMENT FUND

## NOTES TO FINANCIAL STATEMENTS YEARS ENDED JUNE 30, 1999 AND 1998

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### 1. ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES

#### Organization

Puerto Rico Tourism Development Fund (the "Tourism Fund") is a component unit of Government Development Bank for Puerto Rico (the "Bank"). The Tourism Fund's financial statements are an integral part of the financial statements of the Bank. The Bank is a component unit of the Commonwealth of Puerto Rico (the "Commonwealth").

The Tourism Fund was created by resolution of the Bank's board of directors in 1993 to promote the hotel and tourism industry of the Commonwealth by making capital investments in, or by providing financing directly or indirectly (through the use of letters of credit and guarantees) to entities that can contribute to the development of this industry. The Tourism Fund is exempt from taxation in Puerto Rico.

The Executive Director of the Tourism Fund shall certify each year to the Director of the Office of Management and Budget of the Commonwealth of Puerto Rico the amount, if any, that is necessary to reimburse the Tourism Fund for disbursements made, in connection with obligations guaranteed by the Tourism Fund, in excess of fees and charges collected on such guarantees. The Director of the Office of Management and Budget shall include such amount in the General Budget of the Commonwealth for the following fiscal year for the legislature's consideration and approval. The legislature is not legally obligated to make such appropriations.

#### Summary of Accounting Policies

The accounting and reporting policies of the Tourism Fund conform to generally accepted accounting principles, as applicable to governmental entities. Following is a description of the Tourism Fund's most significant accounting policies:

**Use of Estimates** - The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Revenue and Expense Recognition** - Guarantee fees collected in advance are amortized over the life of the related guarantees. Interest is recognized as income when earned. Expenses are recognized when incurred.

**Investments and Investment Contracts** - Investments and investment contracts are carried at fair value, except for money market investments and participating investment contracts with a remaining maturity at the time of purchase of one year or less and nonparticipating investment contracts which are carried at cost; and an investment position in a 2a-7 like external investment pool which is carried at the pool's share price. Fair value is determined based on quoted market prices.

The Tourism Fund adopted Governmental Accounting Standards Board Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*, in fiscal year 1998. This statement establishes accounting and financial reporting standards for all investments held by governmental entities, including governmental external investment pools. It requires that most investments be reported at fair value in the balance sheet.

**Allowance for Losses on Guarantees** - The Tourism Fund periodically evaluates the credit risk inherent in the guarantees and letters of credit issued. The Tourism Fund charges to expense the amount required to cover estimated losses by establishing a specific allowance component for guarantees and letters of credit relating to loans in default (determined on the basis of the present value of estimated future net cash outlays in connection with the related guarantees), and a general component for the risk inherent in the other guarantees and letters of credit outstanding (established as a percentage of the principal amount of the underlying loans based on management's best judgment).

The concentration of risk in the guarantees and letters of credit issued (small number of large guarantees, geographical concentration in Puerto Rico, industry concentration in hotel and tourism) as well as the limited historical loss experience and other factors compound the uncertainty inherent in the estimate of the allowance for losses on guarantees and letters of credit. As a result, the aggregate losses on guarantees and letters of credit ultimately incurred by the Tourism Fund may differ from the allowance for losses as reflected in the accompanying financial statements, and such differences may be material.

Losses on guarantees and letters of credit exceeding the fees and charges collected by the Tourism Fund are subject to reimbursement by the Commonwealth of Puerto Rico, however, the legislature of the Commonwealth is not legally obligated to authorize such appropriations if and when they may be required. Reimbursements from the Commonwealth, if any, are recorded as a receivable once appropriated by the Commonwealth's legislature.

**Furniture and Equipment** - Furniture and equipment are stated at cost. Depreciation is computed under the straight-line method over the estimated useful lives of the corresponding assets.

**Statements of Cash Flows** - The accompanying statements of cash flows are presented in accordance with Governmental Accounting Standards Board Statement No. 9, *Reporting Cash Flows of Proprietary and Nonexpendable Trust Funds and Governmental Entities that Use Proprietary Fund Accounting*. For purposes of reporting cash flows, cash includes cash on hand and interest-bearing demand deposits.

## 2. CASH

As of June 30, 1999 and 1998, the bank balance reported as interest-bearing demand deposits with the Bank was \$11,642,780 and \$238,029, respectively, and was uninsured and uncollateralized.

## 3. INTEREST-BEARING TIME DEPOSITS AND INVESTMENT CONTRACT

Interest-bearing time deposits and investment contract, which were uninsured and uncollateralized, as of June 30, 1999 and 1998, consist of:

	1999	1998
Interest-bearing time deposits	\$	\$ 20,000,000
Nonparticipating investment contract with Government Development Bank for Puerto Rico	<u>7,838,224</u>	<u>7,838,224</u>
Total	<u>\$ 7,838,224</u>	<u>\$ 27,838,224</u>

#### 4. INVESTMENTS

Investment securities as of June 30, 1999 and 1998 consist of:

	1999	1998
Obligations of the U.S. Government, its agencies and instrumentalities	\$ 27,833,475	\$ 29,993,875
Asset-backed securities	15,225,187	10,460,625
Corporate bonds	12,014,133	
External investment pool (2a-7 like)	3,983,198	4,891,878
Capital appreciation bonds of the Bank	<u>2,004,160</u>	<u></u>
Total	<u>\$ 61,060,153</u>	<u>\$ 45,346,378</u>

All investment securities as of June 30, 1999 and 1998 were insured and/or held by the Tourism Fund or its agent in the Tourism Fund's name.

#### 5. COMMITMENTS

At June 30, 1999, the Tourism Fund has the following outstanding guarantees and letters of credit:

Rio Mar Resort Project	\$ 147,734,306	December 20, 2028
Ritz-Carlton San Juan Hotel & Casino Project	85,135,000	September 1, 2025
Dorado del Mar Project	33,000,000	April 1, 2019
Martineau Bay Resort Project	27,130,000	September 1, 2028
Hampton Inn Hotel Project	11,435,000	September 1, 2020
Hostal El Convento Project	<u>9,090,000</u>	<u>September 1, 2020</u>
Total	<u>\$ 313,524,306</u>	

The Tourism Fund guarantees the timely payment of interest on and the principal of obligations issued to finance the tourism projects described above.

#### 6. TRANSACTIONS WITH GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO

The Bank provides certain management and administrative services to the Tourism Fund for which the Bank charged approximately \$95,000 and \$92,000 at June 30, 1999 and 1998 respectively. The Bank charges a monthly management fee of \$5,000, and .01% of the Tourism Fund's deposits as a financial administrative fee.

See Note 3 regarding interest-bearing time deposits and investment contract with the Bank.

#### 7. ALLOCATION OF CAPITAL

In connection with guarantees (see Note 5) for certain bonds issued by the Puerto Rico Industrial, Tourist, Educational, Medical and Environmental Control Facilities Financing Authority (an affiliate of the Bank), the Tourism Fund has designated \$28,216,123 and \$26,773,928 at June 30, 1999 and 1998, respectively, representing the maximum annual principal and interest payments on the bonds.

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**[FORM OF OPINION OF BOND COUNSEL]**

September , 2000

Puerto Rico Industrial, Tourist,  
Educational, Medical and Environmental  
Control Facilities Financing Authority  
San Juan, Puerto Rico

Ladies and Gentlemen:

We have examined Act No. 121 of the Legislature of Puerto Rico, approved June 27, 1977, as amended (the "Act"), creating the Puerto Rico Industrial, Tourist, Educational, Medical and Environmental Control Facilities Financing Authority (the "Authority"), a body corporate and politic constituting a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico (the "Commonwealth").

We have also examined certified copies of the resolution of the Authority authorizing the execution and delivery of the Trust Agreement and the Loan Agreement, each hereinafter referred to, and certified copies of the proceedings and other proofs submitted relative to the authorization, issuance and sale of the following bonds (the "Bonds"):

**\$68,290,000**  
**Puerto Rico Industrial, Tourist, Educational, Medical and**  
**Environmental Control Facilities Financing Authority**  
**Tourism Revenue Bonds, 2000 Series A**  
**(Paradisus Coco Beach Resort Project)**

maturing on the dates, bearing interest at the rates, subject to redemption and having such other details, all as set forth in a Trust Agreement, dated the date hereof (the "Trust Agreement"), by and between the Authority and Banco Popular de Puerto Rico, trustee (the "Trustee"), and the resolution of the Authority authorizing the issuance and sale of the Bonds.

The Bonds are being issued : (i) to pay a portion of the cost of the development, construction and equipping of a resort hotel and related facilities to be located in Río Grande, Puerto Rico (the "Project"), including, but not limited to, a portion of the interest due on the Bonds and fees due to the Letter of Credit Issuer (as defined herein); (ii) fund a debt service reserve fund established under the Trust Agreement for the Bonds; (iii) fund an operating deficit reserve fund required by the Letter of Credit Issuer; and (iv) pay certain expenses incurred in connection with the issuance of the Bonds.

The Authority will lend the proceeds of the Bonds to Desarrolladora del Norte, S. en C., S.E. (the "Borrower"), pursuant to a Loan Agreement, dated as of the date hereof (the "Loan Agreement"), by and between the Authority and the Borrower. Pursuant to the Loan Agreement, the Borrower is obligated to make payments in installments sufficient to pay the principal of, premium, if any, and the interest on the Bonds as the same shall become due and payable. The Loan Agreement and the Trust Agreement provide that the installments shall be paid directly to the Trustee and shall be deposited to the credit of a special fund created by the Trust Agreement and designated "Tourism Revenue Bonds, (Paradisus Coco Beach Resort Project) Bond Fund" (the "Bond Fund"), which special fund is charged with the payment of the principal of, premium, if any, and interest on the Bonds. In addition, the rights of the Authority under the Loan Agreement, except for certain rights of the Authority, have been assigned to the Trustee pursuant to the Trust Agreement.

In connection with the Borrower's obligation to make payments under the Loan Agreement, the Borrower has caused to be delivered to the Trustee an irrevocable, transferrable, stand-by letter of credit (the "Letter of Credit") issued by Puerto Rico Tourism Development Fund (the "Letter of Credit Issuer"), under which the Trustee is permitted to make draws for the amounts required to pay the principal of and interest on the Bonds as provided in the Trust Agreement. The Trust Agreement requires the Trustee to make a draw under the Letter of Credit upon a failure by the Borrower to make the required payments under the Loan Agreement. To secure its obligations to the Authority and the Letter of Credit Issuer, the Borrower has executed certain Security Agreements (as defined in the Trust Agreement) for the benefit of the Authority and the Letter of Credit Issuer.

Reference is made to the opinion of even date hereof of Correa, Collazo, Herrero, Jiménez & Fortuño, San Juan, Puerto Rico, counsel to the Borrower, with respect to, among other matters, the organization and good standing of the Borrower, the power of the Borrower to enter into and perform the Loan Agreement and the Security Agreements, the due authorization, execution and delivery of said agreements by the Borrower, and as to the valid and binding nature and effect thereof with respect to the Borrower.

As to any questions of fact material to our opinion, we have relied upon representations of the Authority and the Borrower contained in the Trust Agreement and the Loan Agreement, the certified proceedings and other certifications of the Borrower (including certifications as to the use of Bond proceeds), without undertaking to verify the same by independent investigation. For purposes of this opinion, we have assumed that the Borrower will comply with all of its covenants



in the Loan Agreement, particularly those dealing with the source of income and that the proceeds of the Bonds will be used in accordance with the provisions of the Trust Agreement.

We have also examined one of the Bonds as executed and authenticated.

From such examination and based on the provisions of the laws of the Commonwealth and the United States as now in force, we are of the opinion that:

1. The Act is valid.
2. The proceedings of the Authority in connection with the authorization, issuance and sale of the Bonds and the authorization, execution and delivery by the Authority of the Loan Agreement and the Trust Agreement have been validly and legally taken.
3. The Trust Agreement and the Loan Agreement have been duly authorized, executed and delivered by the Authority and constitute legal, valid and binding obligations of the Authority enforceable in accordance with their terms.
4. The Bonds have been duly authorized, executed and delivered by the Authority and, upon authentication by the Trustee, constitute legal, valid and binding obligations of the Authority, payable solely from the Bond Fund and other available funds to the extent provided in the Trust Agreement, and are entitled to the benefit and security of the Trust Agreement.
5. All rights, title and interest of the Authority in and to the Loan Agreement (except certain rights of the Authority, including its rights to payment of expenses and indemnity) have been validly assigned to the Trustee.
6. The Bonds are not a debt of either the Commonwealth or any of its political subdivisions, other than the Authority, and neither the Commonwealth nor any such political subdivision, other than the Authority, shall be liable thereon.
7. Interest on, and gain on the disposition of, the Bonds is exempt from Commonwealth income and withholding taxes, including the alternative minimum tax imposed by the Puerto Rico Internal Revenue Code of 1994, as amended (the "PR Code").
8. The Bonds are exempt from Commonwealth property taxes imposed by the Municipal Property Tax Act of 1991, as amended, and interest thereon is exempt from municipal license taxes imposed by the Municipal License Tax Act of 1974, as amended.
9. The Bonds are exempt from Commonwealth gift tax with respect to donors who are residents of the Commonwealth at the time the gift is made and exempt from Commonwealth estate tax with respect to estates of decedents who are residents of the Commonwealth at the time of death, except for *United States citizens* who did not acquire their *United States citizenship solely by reason*

of birth or residence in the Commonwealth. Other individuals should consult their tax advisors with respect to the precise determination of the estate and gift tax consequences arising from a transfer of the Bonds by inheritance or gift.

10. The Bonds will be considered an obligation of an instrumentality of Puerto Rico for purposes of (i) the non-recognition of gain rules of Section 1112(f)(2)(A) of the PR Code applicable to certain involuntary conversions and (ii) the exemption from the surtax imposed by Section 1102 of the PR Code available to corporations and partnerships that have a certain percentage of their net income invested in obligations of instrumentalities of Puerto Rico and certain other investments.

11. Interest on the Bonds constitutes “industrial development income” under Section 2(j) of the Puerto Rico Industrial Incentives Act of 1963, the Puerto Rico Industrial Incentives Act of 1978, the Puerto Rico Tax Incentives Act of 1987, and the Puerto Rico Tax Incentives Act of 1998, as amended (collectively, the “Acts”), when received by a holder of a grant of tax exemption under any of the Acts that acquired the Bonds with “eligible funds”, as such term is defined in the Acts.

12. Interest on the Bonds is not excludable from the gross income of the recipients thereof for federal income tax purposes under Section 103(a) of the United States Internal Revenue Code of 1986, as amended (the “Code”).

13. If (i) the Borrower is engaged in trade or business only in the Commonwealth during each taxable year when interest on the Bonds is paid; (ii) for the three-year period ending with the close of the Borrower’s taxable year immediately preceding the payment of interest on the Bonds less than 20% of the Borrower’s gross income is, was or will be (a) derived from sources outside the Commonwealth, as determined under subchapter N of the Code, and (b) attributable to the active conduct of a trade or business outside the Commonwealth, such determination to be made under Section 861(c)(1)(B)(ii) of the Code; and (iii) such interest is not treated as paid by a trade or business conducted by the Borrower outside the Commonwealth, such determination to be made under Section 884(f)(1)(A) of the Code and the regulations thereunder, then (a) in the case of an individual who is a *bona fide* resident of the Commonwealth during an entire taxable year, interest on the Bonds received by, or “original issue discount” (within the meaning of the Code and hereafter referred to as “OID”) on the Bonds otherwise required to be recognized as gross income and accrued to, such individual during such taxable year, will constitute gross income from sources within the Commonwealth and therefore, is excludable from gross income for purposes of the Code pursuant to section 933(1) thereof, and (b) interest on the Bonds derived by, or OID on the Bonds otherwise required to be recognized as gross income and accrued to, a corporation organized under the laws of the Commonwealth or any other foreign country, as determined for purposes of the Code (“foreign corporations”), is not subject to taxation under the Code, provided that (x) such foreign corporation is not a foreign personal holding company, a controlled foreign corporation or a passive foreign investment company under the Code, (y) such foreign corporation is not treated as a domestic corporation for purposes of the Code and (z) interest on the Bonds and OID is not effectively connected with the conduct of a trade or business in the United States by such foreign corporation.

United States taxpayers, other than individuals who are *bona fide* residents of the Commonwealth during the entire taxable year, may be subject to federal income tax on any gain realized upon the sale or exchange of the Bonds. Pursuant to Notice 89-40, issued by the United States Internal Revenue Service on March 27, 1989, realized gain on the sale or exchange of Bonds (excluding OID accrued under the Code as of the date of such sale or exchange) by an individual who is a *bona fide* resident of the Commonwealth during the entire taxable year and that is a resident of the Commonwealth for purposes of Section 865(g)(1) of the Code will constitute Commonwealth source income and, therefore, qualify for the exclusion under Section 933(1) of the Code, provided said Bonds do not constitute inventory in the hands of such individual.

The PR Code does not provide rules with respect to the treatment of the excess of the amount due at maturity of a Bond over its initial offering price ("original issue discount"). Under the current administrative practice followed by the Puerto Rico Department of the Treasury, original issue discount is treated as interest. Prospective owners of the Bonds, including but not limited to financial institutions, should be aware that ownership of the Bonds may result in having a portion of their interest expense and other expenses allocable to interest or original issue discount on, and any gain derived on the sale or exchange of, the Bonds disallowed for purposes of computing the regular tax and the alternative minimum tax for Commonwealth income tax purposes.

Other than as described herein, we have not addressed, and we are not opining upon, the federal or Commonwealth income tax consequences to any investor of the ownership of, receipt or accrual on interest on, or disposition of the Bonds.

The enforceability of the Trust Agreement and the Loan Agreement and the obligations of the parties thereto with respect to such documents are subject to bankruptcy, insolvency, fraudulent conveyance, moratorium or reorganization laws and other laws affecting creditors' rights generally. To the extent that the remedies under the Trust Agreement and the Loan Agreement require or may require enforcement by a court of equity, the enforceability thereof may be limited by such principles of equity as the court having jurisdiction may impose.

Respectfully yours,

[To be signed "Pietrantoní Méndez & Álvarez LLP"]

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No dealer, salesperson or other person is authorized to give any information or to make any representation not contained or incorporated by reference in this Official Statement and, if given or made, such information or representation must not be relied upon as having been authorized by the Authority, the Borrower, TDF or the Underwriters. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy the Bonds offered hereby in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. Neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority, the Borrower or TDF since the date hereof or that the other information contained herein is correct as of any time subsequent to the date hereof.

**\$68,290,000**

**AFICA  
TOURISM REVENUE BONDS,  
2000 SERIES A**

**(PARADISUS COCO BEACH  
RESORT PROJECT)**

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**OFFICIAL STATEMENT**

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**POPULAR SECURITIES**

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PUERTO RICO**

**SALOMON SMITH BARNEY**

**(Joint Lead Managers)**