

**DAC Bond**<sup>®</sup>

*In the opinion of Bond Counsel, under existing statutes, regulations, administrative interpretations and court decisions and subject to conditions described in “TAX MATTERS” herein, interest on the Series 2003A Bonds (a) will not be included in gross income for federal income tax purposes and (b) will not be an “item of tax preference” for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, interest on the Series 2003A Bonds held by certain corporations may be subject to federal income tax under certain circumstances described herein. Under existing law, interest on all Series 2003A Bonds is exempt from personal income taxes imposed by the United States Virgin Islands, by any state, other territory or possession of the United States or any political subdivision thereof, or by the District of Columbia, as described in the section “TAX MATTERS” herein.*

**\$268,020,000**

**VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY**  
**Revenue Bonds**  
**(Virgin Islands Gross Receipts Taxes Loan Note)**  
**Series 2003A**

**Dated: Date of Delivery****Due: October 1, as shown on the inside cover**

The Series 2003A Bonds (as hereinafter defined) are issuable in minimum denominations of \$5,000 and integral multiples of \$5,000 in excess thereof and will be issued initially as a single registered bond for each maturity registered in the name of Cede & Co., the nominee of The Depository Trust Company (“DTC”), New York, New York. Beneficial ownership interests in the Series 2003A Bonds will be available for purchase in book-entry form only. Except in limited circumstances, purchasers of Series 2003A Bonds will not receive physical delivery of the Series 2003A Bond certificates, as further described herein. Principal of, Redemption Price, if applicable, of, and interest (payable on April 1 and October 1 of each year, commencing on April 1, 2004) on the Series 2003A Bonds will be paid by the Paying Agent to DTC, who will remit payment to DTC Participants, with such payments to be subsequently disbursed to the beneficial owners of the Series 2003A Bonds, as further described herein. The Series 2003A Bonds will be subject to redemption prior to maturity as described herein. The Bank of New York Trust Company of Florida, N.A., located in Jacksonville, Florida, is the Trustee with respect to the Series 2003A Bonds. See “THE SERIES 2003A BONDS.”

The Series 2003A Bonds are being issued by the Virgin Islands Public Finance Authority (the “Authority”) to (i) repay the Authority’s Revenue Bond Anticipation Notes, Series 2003 (Virgin Islands Gross Receipts Taxes Loan Note), (ii) fund certain necessary public safety and other public sector capital development projects, (iii) fund the Debt Service Reserve Account in an amount necessary to satisfy the Debt Service Reserve Requirement, and (iv) pay the costs of issuing the Series 2003A Bonds (see “PLAN OF FINANCE”). The Series 2003A Bonds will be issued under and secured by an Indenture of Trust, dated as of November 1, 1999 (as heretofore supplemented and amended, the “Original Indenture”), by and between the Authority and The Bank of New York Trust Company of Florida, N.A., as successor trustee (the “Trustee”), and a Fourth Supplemental Indenture of Trust, dated as of December 1, 2003 (the “Fourth Supplemental Indenture” and together with the Original Indenture, the “Indenture”), by and between the Authority and the Trustee. The Trustee will act as Bond Registrar and Paying Agent for the Series 2003A Bonds. The Series 2003A Bonds will be payable from and secured by a pledge of the Trust Estate which includes certain funds established under the Indenture and the 2003 Gross Receipts Taxes Loan Note, Series A (the “Series 2003A Loan Note”) issued by the Government of the United States Virgin Islands (the “Government”) pursuant to a Loan Agreement, dated as of December 1, 2003 (the “Series 2003A Loan Agreement”), among the Government, the Trustee and the Authority.

**THE SERIES 2003A BONDS ARE LIMITED SPECIAL OBLIGATIONS OF THE AUTHORITY PAYABLE FROM AND SECURED BY A PLEDGE OF THE TRUST ESTATE, WHICH INCLUDES CERTAIN FUNDS ESTABLISHED UNDER THE INDENTURE, INCLUDING THE PLEDGED REVENUE ACCOUNT AND THE DEBT SERVICE RESERVE ACCOUNT. THE SERIES 2003A BONDS SHALL UNDER NO CIRCUMSTANCES CONSTITUTE A GENERAL OBLIGATION OF THE AUTHORITY OR OF THE UNITED STATES OF AMERICA. THE AUTHORITY HAS NO TAXING POWER. THE SERIES 2003A LOAN NOTE IS SECURED BY A PLEDGE OF GROSS RECEIPTS TAXES (AS HEREINAFTER DEFINED), IMPOSED AND COLLECTED UNDER THE VIRGIN ISLANDS CODE, AS AMENDED, WHICH PLEDGE SHALL BE SUBJECT TO THE REQUIRED ANNUAL MODERATE INCOME HOUSING FUND DEPOSIT (AS HEREINAFTER DEFINED). THE PLEDGE OF GROSS RECEIPTS TAXES MAY ALSO BE SUBJECT TO A PRIOR LIEN, PLEDGE OR OTHER RIGHTS, IF ANY, GRANTED BY THE GOVERNMENT TO FEMA (AS HEREINAFTER DEFINED) PURSUANT TO THE FEMA LOAN NOTE (AS HEREINAFTER DEFINED). (SEE “GROSS RECEIPTS TAXES” HEREIN.) THE SERIES 2003A LOAN NOTE WILL CONSTITUTE A GENERAL OBLIGATION OF THE GOVERNMENT FURTHER SECURED BY THE FULL FAITH AND CREDIT AND TAXING POWER OBLIGATION OF THE GOVERNMENT.**

As more fully described under “BOND INSURANCE” herein, scheduled payment of the principal of and interest on certain of the Series 2003A Bonds (the “Insured Bonds”) when due will be guaranteed by a municipal bond insurance policy to be issued simultaneously with the delivery of the Series 2003A Bonds by either FINANCIAL SECURITY ASSURANCE INC., RADIAN ASSET ASSURANCE INC. or ACA FINANCIAL GUARANTY CORPORATION. See also the Maturity Schedule on the inside cover page. The Series 2003A Bonds maturing on October 1, 2005, 2006 and 2007 are not insured.



Radian Asset Assurance Inc.

**RADIAN**

**THE PURCHASE AND OWNERSHIP OF THE SERIES 2003A BONDS INVOLVES CERTAIN INVESTMENT RISKS. SEE “BONDOWNER RISKS.” INFORMATION CONTAINED ON THIS COVER IS A SUMMARY ONLY. PROSPECTIVE PURCHASERS OF THE SERIES 2003A BONDS ARE ADVISED TO READ THIS OFFICIAL STATEMENT IN ITS ENTIRETY.**

*The Series 2003A Bonds are offered, subject to prior sale, when, as and if issued by the Authority and accepted by the Underwriter, subject to the approval of legality by Buchanan Ingersoll PC, New York, New York, Bond Counsel, and certain other conditions. Certain legal matters will be passed upon for the Underwriter by its counsel, Swidler Berlin Shereff Friedman, LLP, New York, New York. It is expected that the Series 2003A Bonds will be available for delivery to DTC in New York, New York on or about December 17, 2003.*

**UBS Financial Services Inc.**

Dated: December 5, 2003

## MATURITY SCHEDULE

**\$268,020,000**

### SERIES 2003A BONDS

<u>Maturity (October 1)</u>	<u>Principal Amount</u>	<u>Coupon</u>	<u>Yield</u>
2005	\$2,875,000	4.00%	2.03%
2006	2,990,000	4.00	2.40
2007	3,110,000	4.00	2.80
2008**	3,230,000	4.00	2.57
2009**	3,360,000	4.00	2.84
2010**	3,495,000	4.00	3.10
2011**	3,635,000	5.00	3.37
2012**	3,815,000	5.00	3.59
2013**	4,010,000	5.00	3.71
2014**	4,210,000	5.00	3.83
2015**	4,420,000	5.25	3.95*
2016**	4,655,000	5.25	4.07*
2017**	4,895,000	5.25	4.13*
2018**	5,155,000	5.25	4.20*
2019**	5,425,000	5.25	4.28*
2020**	5,710,000	5.25	4.33*
2021**	6,010,000	5.25	4.41*
2022**	6,325,000	5.00	4.54*

\$13,615,000 5.00% Term Bond maturing October 1, 2024 – Yield 4.93%\*†  
\$15,005,000 5.00% Term Bond maturing October 1, 2026 – Price 100.00%†  
\$90,430,000 5.00% Term Bond maturing October 1, 2031 – Yield 5.17%‡  
\$71,645,000 5.00% Term Bond maturing October 1, 2033 – Yield 5.10%†

\* Bonds priced to October 1, 2014, the first date on which the Bonds are subject to optional redemption. (See “THE SERIES 2003A BONDS – Redemption”).

\*\* Insured by Financial Security Assurance Inc. (See “BOND INSURANCE” herein.)

† Insured by Radian Asset Assurance Inc. (See “BOND INSURANCE” herein.)

‡ Insured by ACA Financial Guaranty Corporation. (See “BOND INSURANCE” herein.)

**VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY**

24 Honduras  
Frenchtown  
St. Thomas, United States Virgin Islands 00802  
[www.USVIPFA.com](http://www.USVIPFA.com)  
Kenneth E. Mapp, Director of Finance and Administration

**BOARD OF DIRECTORS**

The Honorable Charles W. Turnbull, Governor – Chairman  
Bernice A. Turnbull, Commissioner of Finance - Executive Director  
Ira R. Mills, Director of the Office of Management and Budget – Secretary  
Paul Arnold, St. Croix Representative  
Roy Jackson, St. Thomas/St. John Representative

**TRUSTEE**

The Bank of New York Trust Company of Florida, N.A.  
Jacksonville, Florida

**BOND COUNSEL**

Buchanan Ingersoll PC  
New York, New York

**FINANCIAL ADVISOR**

Banc of America Securities LLC  
New York, New York

**UNDERWRITER**

UBS Financial Services Inc.  
New York, New York

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The information contained in this Official Statement has been obtained from the Authority, the Government and other sources which are believed to be reliable. The Underwriter has reviewed the information in this Official Statement in accordance with, and otherwise has satisfied, its responsibilities under the federal securities laws with respect hereto, but does not guarantee the accuracy or completeness of this Official Statement and it is not to be construed as a representation by the Underwriter or by any of such sources as to information from any other source.

THE SERIES 2003A BONDS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

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**OTHER THAN WITH RESPECT TO INFORMATION CONCERNING FINANCIAL SECURITY ASSURANCE INC. ("FSA"), RADIANT ASSET ASSURANCE INC. ("RADIANT") AND ACA FINANCIAL GUARANTY CORPORATION ("ACA") FURNISHED BY EACH SUCH INSURER CONTAINED UNDER THE HEADING "BOND INSURANCE" HEREIN AND IN APPENDIX H HERETO, NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT HAS BEEN SUPPLIED OR VERIFIED BY FSA, RADIANT OR ACA, AND NONE OF FSA, RADIANT OR ACA MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO: (i) THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION; (ii) THE VALIDITY OF THE INSURED BONDS; OR (iii) THE TAX STATUS OF THE INTEREST ON THE INSURED BONDS.**

## TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
VIRGIN ISLANDS PUBLIC FINANCE	
AUTHORITY .....	3
PURPOSES AND POWERS .....	3
MANAGEMENT .....	3
OUTSTANDING INDEBTEDNESS OF THE AUTHORITY .....	4
AUDITED FINANCIAL STATEMENTS .....	5
DEPARTMENT OF THE INTERIOR REPORT .....	5
PLAN OF FINANCE .....	5
USE OF PROCEEDS OF THE SERIES 2003A BONDS .....	5
DESCRIPTION OF THE SERIES 2003A PROJECTS .....	6
THE SERIES 2003A BONDS .....	6
GENERAL .....	6
AUTHORIZATION .....	7
REDEMPTION .....	7
DEBT SERVICE REQUIREMENTS FOR THE BONDS .....	8
SECURITY FOR THE SERIES 2003A BONDS .....	9
GENERAL .....	9
SERIES 2003A LOAN NOTE .....	10
SERIES 2003A LOAN AGREEMENT .....	10
SPECIAL ESCROW AGREEMENT AND COLLECTING AGENT AGREEMENT .....	10
COVENANTS .....	11
FLOW OF FUNDS .....	12
DEBT SERVICE RESERVE ACCOUNT .....	13
SURPLUS AVAILABLE REVENUES .....	14
LIMITATIONS ON AVAILABLE REMEDIES .....	14
ADDITIONAL BONDS .....	14
AMENDMENTS .....	14
GROSS RECEIPTS TAXES .....	15
GENERAL .....	15
COLLECTION OF GROSS RECEIPTS TAXES .....	15
HISTORICAL GROSS RECEIPTS TAXES AND PRO FORMA DEBT SERVICE COVERAGE .....	17
BOND INSURANCE .....	18
FINANCIAL SECURITY ASSURANCE INC. ....	18
RADIAN ASSET ASSURANCE INC. ....	18
ACA FINANCIAL GUARANTY CORPORATION .....	20
UNITED STATES VIRGIN ISLANDS .....	22
GENERAL .....	22
FINANCIAL MANAGEMENT, BUDGETING AND CONTROLS .....	22
REVENUES OF THE GOVERNMENT .....	24
ADDITIONAL REVENUES OF THE GOVERNMENT .....	28
EXPENDITURES OF THE GOVERNMENT .....	31
FINANCIAL POSITION OF THE GOVERNMENT .....	31
FISCAL RECOVERY EFFORTS .....	39
OUTSTANDING INDEBTEDNESS OF THE GOVERNMENT .....	41
OTHER FACTORS .....	44
BONDOWNER RISKS .....	45
RISKS TO GROSS RECEIPTS TAXES .....	45
GOVERNMENT'S FINANCIAL CONDITION .....	46
FEDERAL BANKRUPTCY CODE PRESENTLY INAPPLICABLE .....	47
LIMITATION OF REMEDIES .....	47
TAX-EXEMPT STATUS OF THE SERIES 2003A BONDS .....	48
CONTINUING DISCLOSURE .....	48
LITIGATION .....	48
FRANCHISE TAX LITIGATION CASES .....	48
REAL PROPERTY TAX CASE .....	48
TAX MATTERS .....	49
FINANCIAL STATEMENTS OF THE GOVERNMENT .....	51
GENERAL .....	51
1999 AUDIT REPORT .....	51
2000 AUDIT REPORT .....	52
2001 AUDIT REPORT .....	53
FISCAL YEAR 2002 AUDITED FINANCIAL STATEMENTS .....	54
LEGAL OPINIONS .....	55
FINANCIAL ADVISOR .....	55
CONTINUING DISCLOSURE; DISCLOSURE DISSEMINATION .....	55
CONTINUING DISCLOSURE .....	55
DISCLOSURE DISSEMINATION AGENT .....	55
RATINGS .....	56
UNDERWRITING .....	56
MISCELLANEOUS .....	57
Appendix A: Glossary of Certain Defined Terms .....	A-1
Appendix B: Summary of Certain Provisions of the Original Indenture and the Fourth Supplemental Indenture .....	B-1
Appendix C: Summary of Certain Provisions of the Series 2003A Loan Agreement .....	C-1
Appendix D: Audited Financial Statements of the Government of the United States Virgin Islands for Fiscal Years 2001, 2000 and 1999 .....	D-1
Appendix E: United States Virgin Islands Economic and Demographic Information .....	E-1
Appendix F: DTC Book Entry Only System .....	F-1
Appendix G: Form of Authority Continuing Disclosure Agreement .....	G-1
Form of Government Continuing Disclosure Agreement .....	G-2
Appendix H: Specimens of Municipal Bond Insurance Policies .....	H-1
Appendix I: Form of Proposed Opinion of Bond Counsel .....	I-1

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# OFFICIAL STATEMENT

**\$268,020,000**

## **VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY**

### **Revenue Bonds**

### **(Virgin Islands Gross Receipts Taxes Loan Note)**

### **Series 2003A**

## INTRODUCTION

The purpose of this Official Statement, which includes the cover page and the appendices, is to furnish certain information concerning the Virgin Islands Public Finance Authority (the “Authority”) and the sale and delivery of its Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note) Series 2003A (the “Series 2003A Bonds”), in the aggregate principal amount of \$268,020,000. The Series 2003A Bonds are being issued pursuant to an Indenture of Trust, dated as of November 1, 1999 (as heretofore supplemented and amended, the “Original Indenture”), by and between the Authority and The Bank of New York Trust Company of Florida, N.A., Jacksonville, Florida, as successor trustee (together with any appointed successor trustee, the “Trustee”), as supplemented by a Fourth Supplemental Indenture of Trust, dated as of December 1, 2003 (the “Fourth Supplemental Indenture” and together with the Original Indenture, the “Indenture”), by and between the Authority and the Trustee. The Series 2003A Bonds are being issued pursuant to Sections 1574 through 1574c of the United States Virgin Islands Revised Organic Act of 1954, as amended (48 U.S.C. §§ 1541 *et seq.*) (the “Revised Organic Act”), Title 29 of the Virgin Islands Code, 2002 United States Virgin Islands Act No. 6514, as amended by 2002 United States Virgin Islands Act No. 6533, and 2003 United States Virgin Islands Act No. 6587, as amended by 2003 United States Virgin Islands Act No. 6591 and 2003 United States Virgin Islands Act No. 6593 (collectively with the Revised Organic Act, the “Act”), Resolution No. 02-08, adopted by the Authority on September 27, 2002, as amended by Resolution No. 03-02, adopted by the Authority on March 27, 2003, and Resolution No. 03-013, adopted by the Authority on November 26, 2003 (collectively, the “Resolutions”) and other applicable law. See “THE SERIES 2003A BONDS – Authorization.” All capitalized terms not defined in this Official Statement have meanings as defined in Appendix A entitled “Glossary of Certain Defined Terms.”

The proceeds of the Series 2003A Bonds will be loaned to the Government of the United States Virgin Islands (the “Government”) pursuant to the Loan Agreement, dated as of December 1, 2003 (the “Series 2003A Loan Agreement”), by and among the Authority, the Government and the Trustee. Proceeds from the Series 2003A Bonds will be used to: (i) repay the Authority’s outstanding \$100,000,000 principal amount Revenue Bond Anticipation Notes, Series 2003 (Virgin Islands Gross Receipts Taxes Loan Note) (the “Series 2003 BANs”), (ii) fund certain necessary public safety and other public sector capital development projects, (iii) fund the Debt Service Reserve Account in an amount necessary to satisfy the Debt Service Reserve Requirement, and (iv) pay the costs of issuing the Series 2003A Bonds.

Payment of scheduled principal of and interest on the Series 2003A Bonds maturing on October 1, 2008 through 2022 (the “FSA-Insured Bonds”) will be insured by Financial Security Assurance Inc. (“FSA”) pursuant to a municipal bond insurance policy (the “FSA Municipal Bond Insurance Policy”). Payment of scheduled principal of and interest on the Series 2003A Bonds maturing on October 1, 2024, 2026 and 2033 (the “Radian-Insured Bonds”) will be insured by Radian Asset Assurance Inc. (“Radian”) pursuant to a municipal bond insurance policy (the “Radian Municipal Bond Insurance Policy”). Payment of scheduled principal of and interest on the Series 2003A Bonds maturing on October 1, 2031 (the “ACA-Insured Bonds” and together with the FSA-Insured Bonds and Radian-Insured Bonds, the “Insured Bonds”) will be insured by ACA Financial Guaranty Corporation (“ACA”) pursuant to a municipal bond insurance policy (the “ACA Municipal Bond Insurance Policy”). The Series 2003A Bonds maturing on October 1, 2005, 2006 and 2007 are not insured (the “Uninsured Bonds”). Delivery of the FSA Municipal Bond Insurance Policy, the Radian Municipal Bond Insurance Policy and ACA Municipal Bond Insurance Policy (collectively, the “Municipal Bond Insurance Policies”) is a condition to the obligation of the Underwriter to purchase the Series 2003A Bonds. (See “Underwriting” herein.) See “BOND INSURANCE” herein

and Appendix H for a description of FSA, Radian and ACA (the “Bond Insurers”) and a form of each Municipal Bond Insurance Policy.

The Series 2003A Bonds are payable from and secured by a pledge of the Trust Estate, which includes certain funds established under the Original Indenture, the Fourth Supplemental Indenture and the 2003 Gross Receipts Taxes Loan Note, Series A issued by the Government pursuant to the Series 2003A Loan Agreement pledged to secure the Series 2003A Bonds (the “Series 2003A Loan Note”). The Series 2003A Loan Note is secured by a pledge of the Gross Receipts Taxes. The Series 2003A Loan Note is further secured by the full faith and credit and taxing power of the Government. The Government is obligated under the Series 2003A Loan Note to make payments to the Authority in amounts sufficient to pay all principal, premium, if any, and interest on the Series 2003A Bonds when due, to cause the amount on deposit in the Debt Service Reserve Account to equal the Debt Service Reserve Requirement pursuant to the terms of the Indenture and to pay all other amounts payable by the Authority under the Series 2003A Bonds or the Indenture. See “SECURITY FOR THE SERIES 2003A BONDS.” The Series 2003A Bonds are the third series of obligations to be issued under the Original Indenture. The Series 2003A Bonds are being issued on a parity with and shall be entitled to the same benefit and security of the Indenture as the Authority’s Revenue Bonds, Series 1999 A (Virgin Islands Gross Receipts Taxes Loan Note) (the “Series 1999 A Bonds”), with an outstanding principal amount of \$283,335,000 as of November 1, 2003 and any additional bonds which may hereafter be issued under the Indenture. The Series 2003 BANs (the second series of obligations under the Original Indenture) are anticipated to be refinanced from a portion of the proceeds of the Series 2003A Bonds. See “VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY — Outstanding Indebtedness of the Authority.”

The Gross Receipts Taxes over the full term of the Series 2003A Loan Note are anticipated to be sufficient to pay all of the principal of, and premium, if any, and interest on, the Series 2003A Loan Note and the Gross Receipts Taxes Loan Note (the “Series 1999 A Loan Note”) issued by the Government pursuant to a Loan Agreement, dated as of November 1, 1999, among the Government, the Trustee and the Authority (the “Series 1999 A Loan Agreement”) and other Bonds and any other parity indebtedness when due. However, no assurances can be given as to the sufficiency of Gross Receipts Taxes for such purpose. Pursuant to Title 33 of the Virgin Islands Code, Section 43 (the “Gross Receipts Tax Statute”), Gross Receipts Taxes are those revenues received by the Government from the payment by individuals and entities doing business in the United States Virgin Islands (the “Virgin Islands”) currently at a tax rate of 4.0% on the gross receipts of such business. The Gross Receipts Tax is broad and extends to most sellers of services and goods. According to the Gross Receipts Tax Statute, “gross receipts” means “all receipts, cash or accrued, of the taxpayer for services or derived from trade, business, commerce or sales, and the value accruing from the sale of tangible personal property or services, or both, including rentals, fees and other involvements, however designated, without any deduction on account of the cost of the property sold, the cost of materials used, labor cost, royalties, taxes, interest or discount paid, and any other expenses whatsoever.” Certain businesses are exempt from the application of the Gross Receipts Tax. In Fiscal Year 2003, the Government reported Gross Receipts Taxes deposited with the Collecting Agent (as hereinafter defined) of approximately \$100.9 million, such collections constituting approximately 19.8% of the Government’s general fund (budgetary basis) revenues. In Fiscal Year 2002, the Government reported Gross Receipts Taxes deposited with the Collecting Agent of approximately \$95.9 million, such collections constituting approximately 18.5% of the Government’s general fund (budgetary basis) revenues. In Fiscal Year 2001, the Government reported Gross Receipts Taxes deposited with the Collecting Agent of approximately \$99.6 million, such collections constituting approximately 18.5% of the Government’s general fund (budgetary basis) revenues. In Fiscal Year 2000, the Government reported Gross Receipts Taxes deposited with the Collecting Agent of approximately \$92.9 million, such collections constituting approximately 20.8% of the Government’s general fund (budgetary basis) revenues. In Fiscal Year 1999, the Government reported Gross Receipts Taxes deposited with the Collecting Agent of approximately \$85.2 million, such collections constituting approximately 20.7% of the Government’s general fund (budgetary basis) revenues. See “GROSS RECEIPTS TAXES.”

The proceeds of the Gross Receipts Taxes are paid to the Virgin Islands Bureau of Internal Revenue (the “BIR”) for deposit into the General Fund of the Government; except that the first \$250,000 of such tax collected during each Fiscal Year is required to be deposited into the Moderate Income Housing Fund pursuant to Title 33 of the Virgin Islands Code, Section 3027(a)(3) (the “Required Annual Moderate Income Housing Fund Deposit”). The pledge of the Gross Receipts Taxes securing the Series 2003A Loan Note may also be subject to a prior lien, pledge or other rights, if any, granted to the Federal Emergency Management Agency (“FEMA”) as security for the repayment of the FEMA Loan Note (as hereinafter defined). See “SECURITY FOR THE SERIES 2003A BONDS



— Series 2003A Loan Note” and “UNITED STATES VIRGIN ISLANDS — Outstanding Indebtedness of the Government — Federal Emergency Management Agency Loan Note.” Pursuant to authority granted by the United States Virgin Islands Legislature (the “Legislature”), the Government has entered into an agreement with the Authority and The Bank of New York Trust Company of Florida, N.A., Jacksonville, Florida, as the special escrow agent (the “Special Escrow Agent”), dated as of November 1, 1999 and amended as of February 28, 2003 (collectively, the “Special Escrow Agreement”), providing for the deposit of Gross Receipts Tax collections by the Government in the Special Escrow Account maintained by Banco Popular de Puerto Rico, as the collecting agent (the “Collecting Agent”), as agent of the Special Escrow Agent. See “SECURITY FOR THE SERIES 2003A BONDS” and “GROSS RECEIPTS TAXES.”

This Official Statement describes, among other items, the Series 2003A Bonds, the Original Indenture, the Fourth Supplemental Indenture, the Series 2003A Loan Agreement, the Series 2003A Loan Note, the Special Escrow Agreement, the Collecting Agent Agreement (as hereinafter defined), the Gross Receipts Taxes, the Authority, the Government and the Virgin Islands. The descriptions do not purport to be comprehensive or definitive and reference is made to the Original Indenture, the Fourth Supplemental Indenture, the Series 2003A Loan Agreement, the Series 2003A Loan Note, the Special Escrow Agreement and the Collecting Agent Agreement for full and complete statements of the provisions thereof. Copies of the Original Indenture, the Fourth Supplemental Indenture, the Series 2003A Loan Agreement, the Special Escrow Agreement and the Collecting Agent Agreement, including the form of the Series 2003A Bonds and the Series 2003A Loan Note, are available at the offices of the Trustee, 800 Brickell Avenue, Jacksonville, Florida, 33131 (904-645-1912), and at the offices of the Authority, 24 Honduras, Frenchtown, St. Thomas, United States Virgin Islands 00802 (340-714-1635); Attention: Kenneth E. Mapp, Director of Finance and Administration.

**THE PURCHASE AND OWNERSHIP OF THE SERIES 2003A BONDS INVOLVE INVESTMENT RISKS. PROSPECTIVE PURCHASERS OF THE SERIES 2003A BONDS ARE ADVISED TO READ THIS OFFICIAL STATEMENT IN ITS ENTIRETY. FOR A DISCUSSION OF CERTAIN RISKS RELATING TO THE SERIES 2003A BONDS, SEE “BONDOWNER RISKS” HEREIN.**

## **VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY**

### **Purposes and Powers**

The Authority was created in 1988 by United States Virgin Islands Act No. 5365 of the Legislature, as amended, as a public corporation and autonomous governmental instrumentality for the purposes of aiding the Government in the performance of its fiscal duties and in effectively carrying out its governmental responsibility of raising capital for essential public projects. Under its enabling legislation, the Authority is vested with, but not limited to, the following powers: (i) to have perpetual existence as a corporation, (ii) to borrow money and issue bonds, (iii) to lend the proceeds of its bonds or other money to the Government or any agency, authority or instrumentality thereof or private enterprise in the Virgin Islands subject to the approval of the Legislature, (iv) to establish one or more revolving loan funds with the proceeds of bonds issued by the Authority or issued by the Government or any agency, authority or instrumentality thereof, (v) to encourage economic development through the issuance of special obligations issued to finance a project for the benefit of private parties which special obligations are payable out of revenue generated by the involved project and are payable to the Authority by said private party, (vi) to invest its funds and to arrange for the investment of the funds of the Government or any agency, authority or instrumentality thereof, (vii) to enter into contracts and agreements with the government of the United States, the Government and any agency, authority or political subdivision thereof, (viii) to make, modify and repeal by-laws, rules and regulations, (ix) to acquire, sell, lease, mortgage, pledge, dispose of or encumber property or interests therein and (x) to sue and be sued.

### **Management**

The powers of the Authority are exercised by a board of directors (the “Board of Directors”) consisting of five members. The Governor of the Virgin Islands (the “Governor”), the Commissioner of Finance, and the Director of the Office of Management and Budget of the Virgin Islands are members and serve ex-officio. The two remaining members are appointed by the Governor with the advice and consent of the Legislature and represent the private sector. Of these two members, one must be a resident of the District of St. Thomas/St. John and one must be a resident of the District of St. Croix. Both must be experienced in the area of municipal finance. The Governor serves as Chairman of the Board of Directors while the Commissioner of Finance serves as the Authority’s

Executive Director and the Director of the Office of Management and Budget serves as Secretary to the Authority. Kenneth E. Mapp serves as the Director of Finance and Administration of the Authority and is responsible for the administration and operation of the Authority.

The following is a list of the current Board of Directors with their official posts or, for private sector representatives, their island of residency, and date of expiration of their current terms on the Board of Directors. The Governor of the Virgin Islands, the Commissioner of Finance and the Director of the Office of Management and Budget serve terms which are coincident with their terms in such offices. The Directors who represent the private sector serve 4-year terms.

Name	Government Post or Profession/Residency	Term Expiration
Hon. Charles W. Turnbull, Chairman.....	Governor of the Virgin Islands.....	Ex-officio
Bernice A. Turnbull, Executive Director.....	Commissioner of Finance.....	Ex-officio
Ira R. Mills, Secretary.....	Director of the Office of Management and Budget .....	Ex-officio
Paul Arnold.....	Personnel Manager, Virgin Islands Aluminum Co., St. Croix.....	2001 *
Roy Jackson.....	Certified Public Accountant, St. Thomas .....	2001 *

\* Members serve until the appointment and confirmation of a successor.

### **Outstanding Indebtedness of the Authority**

#### *Parity Bonds*

The Authority has issued and as of November 1, 2003 had \$283,335,000 outstanding principal amount of Series 1999 A Bonds which are equally secured and on a parity with and entitled to the same benefits as the Series 2003A Bonds and constitute “Bonds” under the Indenture. See also “—Swap Option Agreement” below for a discussion of the swap option entered into by the Authority with respect to a portion of the Series 1999 A Bonds. As of November 1, 2003, the Authority had \$100,000,000 outstanding principal amount of Series 2003 BANs, which constitute “Bonds” under the Indenture and are anticipated to be repaid in full from a portion of the proceeds of the Series 2003A Bonds.

#### *Swap Option Agreement*

In February 2003, the Authority entered into a Swap Option Agreement (the “Swap Option Agreement”) with Lehman Brothers Special Financing Inc. (“LBSF”) with respect to a portion of the Series 1999 A Bonds. The Authority received a premium payment from LBSF in the aggregate amount of \$8,367,000 in connection with the execution of the Swap Option Agreement. Under the terms of the Swap Option Agreement, on July 1, 2010, LBSF has the right to exercise its option to pay the Authority an amount equal to a variable rate of 64.00% of USD-LIBOR-BBA (the London Interbank Offered Rate for U.S. dollars compiled by the British Bankers’ Association) of an agreed upon notional value of \$174,870,000 (subject to annual decreases throughout the term) on a monthly basis from November 1, 2010 until October 1, 2029 and in exchange the Authority shall pay LBSF an amount equal to a fixed rate of 5.27% of the agreed upon notional value on a monthly basis during the term. The net payments (excluding any termination payment) to be made by the Authority to LBSF under the Swap Option Agreement are also secured under the Indenture on parity with payments to the Bondowners.

#### *Separately Secured Bonds and Obligations*

The Authority’s other bonds and similar obligations include a Special Limited Obligation Promissory Note (the “WICO Note”) of the Authority to Banco Popular de Puerto Rico (“Banco Popular”). The WICO Note evidences a loan made in December 1993 by Banco Popular to the Authority to enable the Authority to repay a bond anticipation note issued to fund the purchase of The West Indian Company Limited (“WICO”). The WICO Note is payable solely from, and secured by the pledge of, certain revenues from WICO, all of whose stock is owned by the Authority. The principal assets of WICO are a 2,700 foot dock and related land and facilities, 7.235 acres of land on the St. Thomas waterfront, 3.9 acres of land at Estate Liverpool and a landmark mansion, together with 6 acres of land located at Estate Catherineberg known as “Denmark Hill.” The maturity date of the WICO Note is December

20, 2013. No recourse may be had for the payment of the WICO Note against the general funds of the Authority or the Government, or the Gross Receipts Taxes that secure the Bonds. As of September 30, 2003, outstanding principal and interest on the WICO Note aggregated \$22,015,021.

For a listing of the Authority's other bonds and similar obligations outstanding as of November 1, 2003, see "UNITED STATES VIRGIN ISLANDS – Outstanding Indebtedness of the Government."

### **Audited Financial Statements**

Audited financial statements of the Authority for the fiscal year ended September 30, 2002 are available from the Authority, the nationally recognized municipal securities information repositories, and Digital Assurance Certification, L.L.C., the dissemination agent responsible for maintaining Authority and the Government compliance with their respective continuing disclosure agreements for the Series 2003A Bonds. See "CONTINUING DISCLOSURE; DISCLOSURE DISSEMINATION."

### **Department of the Interior Report**

Pursuant to its duties as government comptroller of the Virgin Islands (see "UNITED STATES VIRGIN ISLANDS — General"), in November 2002, the Office of Inspector General ("OIG") of the United States Department of the Interior ("DOI") issued a report (the "PFA Report") which found that while the Authority had effectively raised capital through the issuance of bonds, it did not effectively manage bond proceeds or funds from its own budget. The OIG asserted in the PFA Report, among other things, that the Authority allowed bond proceeds to go unused for a period of time that may result in jeopardizing the tax-exempt status of the relevant bonds. In the PFA Report, the OIG mentioned three bond issuances from 1989 through 1992 whereby \$27.6 million of bond proceeds remained unused for six to eight and one-half years.

The Authority and the Government strongly disagree with the assertions made in the PFA Report regarding the management of bond proceeds and its internal funds. Among other things, the Government noted in its response to the draft PFA Report that it firmly believes its actions did not violate the Internal Revenue Code of 1986, as amended (the "Code") nor did it participate in impermissible delays or sanctioning ineffective use of bond proceeds. The Government's response stated that, based on advice of bond counsel, the Government believes the bond proceeds have been used in a timely and efficient manner in accordance with the Code so as not to jeopardize the tax-exempt status of the relevant bonds and that the assertions made by the OIG were not made with an adequate knowledge of Code restrictions applicable to tax-exempt bonds. The Government further stated its belief that the OIG's assertions were based on false, mischaracterized or incomplete facts. It is also noted that the Authority's independent public accountants did not qualify its reports for the Authority's financial statements in regard to unspent bond proceeds and a contingent liability related thereto.

With respect to outstanding bonds of the Authority, at the present time, with respect to the \$94.0 million of proceeds from the issuance of the Revenue and Refunding Bonds (Virgin Islands Matching Fund Loan Notes), 1998 Series A, B, C, D and E (the "1998 Bonds") intended for capital projects, all of such proceeds have been spent; with respect to the approximately \$13.6 million of proceeds from the issuance of the Project Revenue Bonds, Series 1999 (the "Y2K Bonds") intended for capital projects, approximately \$1.2 million remains unexpended; and with respect to the \$248.1 million of proceeds from the issuance of the Series 1999 A Bonds intended to finance various working capital projects, approximately \$8.0 million remains unexpended. See "UNITED STATES VIRGIN ISLANDS – Outstanding Indebtedness of the Government."

## **PLAN OF FINANCE**

### **Use of Proceeds of the Series 2003A Bonds**

Upon delivery of the Series 2003A Bonds, the net proceeds of the Series 2003A Bonds will be lent to the Government. The Government has covenanted in the Series 2003A Loan Agreement to immediately deposit, or cause the Authority to deposit, all such proceeds into the Funds and Accounts held by the Trustee pursuant to the Indenture and apply such proceeds in accordance with the Indenture.

Proceeds of the Series 2003A Bonds will be deposited into (i) the Series 2003 BANs Redemption Subaccount of the Debt Service Account to repay the Series 2003 BANs, (ii) the Series 2003A Project Subaccount and applied to the payment of the construction and acquisition costs related to the Series 2003A Projects (as

described below), (iii) the Debt Service Reserve Account in an amount sufficient to meet the Debt Service Reserve Requirement, and (iv) the Series 2003A Cost of Issuance Subaccount of the Cost of Issuance Account to pay the costs associated with the authorization, sale and issuance of the Series 2003A Bonds.

The estimated sources and uses of the proceeds of the Series 2003A Bonds is expected to be as follows:

**Sources**

Principal Amount of the Series 2003A Bonds .....	\$268,020,000.00
Net Original Issue Premium .....	<u>2,830,326.55</u>
<b>Total .....</b>	<b><u>\$270,850,326.55</u></b>

**Uses**

Deposit to Series 2003 BANs Redemption Subaccount.....	\$100,144,444.44
Deposit to Series 2003A Project Subaccount .....	141,500,000.00
Deposit to Debt Service Reserve Account .....	16,175,125.01
Deposit to Series 2003A Cost of Issuance Subaccount <sup>(1)</sup> .....	<u>13,030,757.10</u>
<b>Total .....</b>	<b><u>\$270,850,326.55</u></b>

(1) The Costs of Issuance of the Series 2003A Bonds includes legal fees, Trustee fees, bond insurance premiums, financial advisor fees, underwriter’s discount and other costs incurred in connection with the issuance of the Series 2003A Bonds. Additional proceeds are also included for rounding purposes.

**Description of the Series 2003A Projects**

The capital projects of the Government to be financed from Series 2003A Bond proceeds, in an aggregate amount of approximately \$140 million, are expected to be in the following categories: (i) economic development projects; (ii) Government buildings construction and repair; (iii) Department of Health and other healthcare facilities; (iv) wastewater treatment facilities; (v) restoration and repair of historical public buildings; (vi) school construction and maintenance; (vii) housing infrastructure; (viii) public sports complexes; (ix) public parks and recreation facilities; (x) police department facilities and equipment; (xi) Department of Justice prison annex; (xii) road work; (xiii) solid waste facilities; (xiv) parking facilities; and (xv) Department of Human Services facilities (collectively, the “Series 2003A Projects”).

**THE SERIES 2003A BONDS**

**General**

The Series 2003A Bonds will be dated the date of delivery thereof, and will bear interest at the rates and will mature on the dates set forth on the inside cover of this Official Statement. Interest on the Series 2003A Bonds will be payable on April 1 and October 1 of each year, commencing on April 1, 2004. The Series 2003A Bonds are subject to redemption at the times and in the manner set forth below in “THE SERIES 2003A BONDS — Redemption.” Pursuant to the Indenture, the Authority has appointed The Bank of New York Trust Company of Florida, N.A., Jacksonville, Florida (as successor to The Bank of New York, New York, New York), as Trustee, and as the Paying Agent and Bond Registrar. Interest on the Series 2003A Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months and will be payable to Cede & Co., or such other owner of record as shown in the registration books of the Authority maintained by the Paying Agent as Bond Registrar. The Series 2003A Bonds will be available initially in minimum denominations of \$5,000 and integral multiples of \$5,000 in excess thereof, in book-entry only form as described below.

**Authorization**

Pursuant to the Act, the Legislature authorized the issuance of the Series 2003A Bonds for the purposes, inter alia, of repaying the Series 2003 BANs as well as financing the Series 2003A Projects. Pursuant to the Resolutions, the Authority authorized the issuance of the Series 2003A Bonds.

The Series 2003A Bonds will be issued pursuant to and secured by the Indenture and pursuant to Virgin Islands law.

**Redemption**

**Optional Redemption**

The Series 2003A Bonds are not subject to optional redemption prior to October 1, 2014. The Series 2003A Bonds maturing after October 1, 2014 shall be subject to redemption at the option of the Authority prior to their stated maturity, on or after October 1, 2014, in whole or in part, at any time as the Authority shall determine, and otherwise by lot within a maturity, from any funds available therefore, at a Redemption Price equal to 100% of the principal amount redeemed, together with the interest accrued on the principal amount redeemed to the date fixed for redemption.

**Mandatory Sinking Fund Installment Redemption**

The Series 2003A Bonds maturing on October 1, 2024, October 1, 2026, October 1, 2031, and October 1, 2033, respectively, are subject to redemption in part on each October 1, by operation of mandatory Sinking Fund Installments required by the Indenture to be on deposit on October 1 in the years and the amounts set forth below, at a redemption price equal to the principal amount thereof, together with the interest accrued thereon to the date fixed for redemption:

**Sinking Fund Installments**

Year	Series 2003A Bonds Maturing October 1, 2024	Year	Series 2003A Bonds Maturing October 1, 2026	Year	Series 2003A Bonds Maturing October 1, 2031	Year	Series 2003A Bonds Maturing October 1, 2033
2023	\$6,645,000						
2024	6,970,000 <sup>†</sup>						
		2025	\$7,320,000				
		2026	7,685,000 <sup>†</sup>				
				2027	\$8,070,000		
				2028	8,475,000		
				2029	8,900,000		
				2030	31,700,000		
				2031	33,285,000 <sup>†</sup>		
						2032	\$34,950,000
						2033	36,695,000 <sup>†</sup>

<sup>†</sup> Final Maturity

**Purchase of the Series 2003A Bonds**

Pursuant to the Indenture, the Trustee may purchase the Series 2003A Bonds on the open market whenever a redemption would otherwise occur, at the direction of the Authority, at such price not to exceed the principal of, and redemption premium, if any, on the Series 2003A Bonds which would be payable on the next redemption date.

**Selection; Notice of Redemption**

In the event of any redemption of less than all of any Series 2003A Bonds and the Authority does not select the maturities to be so redeemed, or of less than all of the Series 2003A Bonds of the same maturity, portions of the Series 2003A Bonds of such Series and maturity to be redeemed will be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any of the Series 2003A Bonds of a denomination greater than \$5,000 to be redeemed shall be in the minimum principal

amount of \$5,000, or an integral multiple of \$5,000 in excess thereof. In selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by \$5,000 and integral multiples of \$5,000 in excess thereof; provided, however, notwithstanding the foregoing, the Trustee shall revise the Bonds or portions thereof to be redeemed as determined by the foregoing, in any manner deemed by the Trustee in its sole judgment to be fair and reasonable, so that no Bond Outstanding following any redemption shall be in a principal amount less than an authorized denomination therefor. Notice of any such redemption will be mailed by the Trustee not more than 60 nor less than 30 days prior to the date fixed for the redemption thereof or such shorter period as shall be acceptable to the Trustee, to each registered holder of the Series 2003A Bonds selected for redemption. The Authority, so long as a book-entry method is used for the Series 2003A Bonds, will send any such notice of redemption only to DTC (see APPENDIX F — “DTC Book-Entry-Only System”).

### DEBT SERVICE REQUIREMENTS FOR THE BONDS

The debt service on the Bonds for the annual period ending October 1 in each of the years to maturity is as follows:

Year	Outstanding Bonds Debt Service <sup>(1)</sup>	Series 2003A Bonds		Total Debt Service	Total Debt Service on the Bonds
		Principal	Interest		
2004	\$22,354,331	–	\$10,493,070	\$10,493,070	\$32,847,401
2005	22,356,081	\$2,875,000	13,301,075	16,176,075	38,532,156
2006	22,354,550	2,990,000	13,186,075	16,176,075	38,530,625
2007	22,357,269	3,110,000	13,066,475	16,176,475	38,533,744
2008	22,358,113	3,230,000	12,942,075	16,172,075	38,530,188
2009	22,356,238	3,360,000	12,812,875	16,172,875	38,529,113
2010	22,355,800	3,495,000	12,678,475	16,173,475	38,529,275
2011	22,355,675	3,635,000	12,538,675	16,173,675	38,529,350
2012	22,357,613	3,815,000	12,356,925	16,171,925	38,529,538
2013	22,356,181	4,010,000	12,166,175	16,176,175	38,532,356
2014	22,354,788	4,210,000	11,965,675	16,175,675	38,530,463
2015	22,356,519	4,420,000	11,755,175	16,175,175	38,531,694
2016	22,354,144	4,655,000	11,523,125	16,178,125	38,532,269
2017	22,355,750	4,895,000	11,278,738	16,173,738	38,529,488
2018	22,353,788	5,155,000	11,021,750	16,176,750	38,530,538
2019	22,356,025	5,425,000	10,751,113	16,176,113	38,532,138
2020	22,354,594	5,710,000	10,466,300	16,176,300	38,530,894
2021	22,356,794	6,010,000	10,166,525	16,176,525	38,533,319
2022	22,357,644	6,325,000	9,851,000	16,176,000	38,533,644
2023	22,353,894	6,645,000	9,534,750	16,179,750	38,533,644
2024	22,357,294	6,970,000	9,202,500	16,172,500	38,529,794
2025	22,358,619	7,320,000	8,854,000	16,174,000	38,532,619
2026	22,356,256	7,685,000	8,488,000	16,173,000	38,529,256
2027	22,356,725	8,070,000	8,103,750	16,173,750	38,530,475
2028	22,356,044	8,475,000	7,700,250	16,175,250	38,531,294
2029	22,355,231	8,900,000	7,276,500	16,176,500	38,531,731
2030	–	31,700,000	6,831,500	38,531,500	38,531,500
2031	–	33,285,000	5,246,500	38,531,500	38,531,500
2032	–	34,950,000	3,582,250	38,532,250	38,532,250
2033	–	36,695,000	1,834,750	38,529,750	38,529,750

(1) Reflects debt service on the Series 1999 A Bonds only. Upon issuance of the Series 2003A Bonds, the outstanding Series 2003 BANs will be redeemed in their entirety.

## SECURITY FOR THE SERIES 2003A BONDS

### General

The Series 2003A Bonds are payable from and secured by a pledge of the Trust Estate which includes certain Accounts established under the Indenture and the Series 2003A Loan Note. The Series 2003A Loan Note is secured by a pledge of the Gross Receipts Taxes to the extent hereinafter described, and is a general obligation of the Government further secured by the full faith and credit and taxing power of the Government.

Pursuant to the Indenture, the Trust Estate relating to the Series 2003A Bonds includes: (i) moneys deposited or required to be deposited relating to the Bonds in the Pledged Revenue Account, the Debt Service Account and the Debt Service Reserve Account pursuant to the provisions of the Indenture, including all right, title, and interest in and to the investments held in the Debt Service Account, the Debt Service Reserve Account and any Credit Facility held in a Debt Service Reserve Account pursuant to the provisions of the Indenture; (ii) the Series 1999 A Loan Note and the Series 2003A Loan Note, and the proceeds and collections therefrom, including all right, title and interest of the Authority in the Revenues, including, but not limited to, the Gross Receipts Taxes; (iii) all right, title and interest of the Authority in the Series 1999 A Loan Agreement and Series 2003A Loan Agreement; (iv) all right, title and interest of the Authority in and to the proceeds of the Series 2003A Bonds, or such other moneys required to be deposited in the Series 2003A Project Subaccount of the Project Account; and (v) any and all other property or security interest therein, of every name and nature from time to time hereafter by delivery or by writing of any kind granted, bargained, sold, conveyed, transferred, mortgaged, pledged and assigned as and for additional security under the Indenture.

THE SERIES 2003A BONDS ARE LIMITED AND SPECIAL OBLIGATIONS OF THE AUTHORITY. PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE SERIES 2003A BONDS ARE PAYABLE FROM THE PROCEEDS OF REPAYMENT OF THE SERIES 2003A LOAN NOTE AND AMOUNTS PLEDGED PURSUANT TO THE INDENTURE AS DESCRIBED HEREIN. THE SERIES 2003A BONDS DO NOT CONSTITUTE A GENERAL OBLIGATION OF THE AUTHORITY OR OF THE UNITED STATES OF AMERICA. THE AUTHORITY HAS NO TAXING POWER.

THE SERIES 2003A LOAN NOTE IS SECURED BY A PLEDGE OF THE GROSS RECEIPTS TAXES SUBJECT TO THE REQUIRED ANNUAL MODERATE INCOME HOUSING FUND DEPOSIT. THE PLEDGE OF GROSS RECEIPTS TAXES MAY ALSO BE SUBJECT TO A PRIOR LIEN, PLEDGE OR OTHER RIGHTS, IF ANY, GRANTED TO FEMA PURSUANT TO THE FEMA LOAN NOTE. SEE "UNITED STATES VIRGIN ISLANDS — OUTSTANDING INDEBTEDNESS OF THE GOVERNMENT — FEDERAL EMERGENCY MANAGEMENT AGENCY LOAN NOTE." THE SERIES 2003A LOAN NOTE ALSO IS A GENERAL OBLIGATION OF THE GOVERNMENT. THE SERIES 2003A LOAN NOTE DOES NOT CONSTITUTE A GENERAL OBLIGATION OF THE UNITED STATES OF AMERICA, NOR SHALL THE UNITED STATES OF AMERICA BE LIABLE THEREON.

The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Trust Estate under the Indenture and all rights of the owners of the Series 2003A Bonds (the "Bondowners") under the Indenture against all claims and demands of all third parties. Further, the Authority shall cause the Government to maintain and abide by its covenants contained in the Act, the Series 2003A Loan Agreement and the Special Escrow Agreement not to limit, restrict or in any way impair the imposition, collection, transfer or disbursement of the Gross Receipts Taxes, subject to permitted tax exemptions, until the principal of, and premium, if any, and interest on all the Bonds and any parity indebtedness permitted under the Series 2003A Loan Agreement and the Indenture have been fully paid or discharged. In the event that the Gross Receipts Tax collections, less maximum annual debt service on the FEMA Loan Note, if any, during any period of 12 consecutive months are less than 150% of maximum annual debt service on all Outstanding Bonds and any parity indebtedness permitted under the Series 2003A Loan Agreement and the Indenture, the Government has covenanted to use its best efforts to pledge an additional stream of revenues (the "Substitute Revenues") to repay the Series 2003A Loan Note. Any pledge of Substitute Revenues will remain in effect until such time as Gross Receipts Tax collections, less maximum annual debt service on the FEMA Loan Note, if any, are increased for a period of at least 12 consecutive months thereafter to an amount that equals or exceeds 150% of maximum annual debt service on all Outstanding Bonds and any parity indebtedness permitted under the Series 2003A Loan Agreement and the Indenture. To the extent that Gross Receipts Tax collections and Substitute Revenues, if any, are insufficient to pay amounts due under the Series 2003A Loan Note, as of the date which is 30 days prior to the due date thereof, the Government also has covenanted

to fund such deficiency out of any other moneys of the Government legally available therefor by the 15th day prior to such due date.

### **Series 2003A Loan Note**

The Series 2003A Bonds will be secured by the Series 2003A Loan Note issued by the Government pursuant to the Series 2003A Loan Agreement. The Government will be obligated under the Series 2003A Loan Note to make payments to the Authority in amounts sufficient to pay all principal, premium, if any, and interest on the Series 2003A Bonds when due, to make payments to the Debt Service Reserve Account in amounts necessary under the Indenture to replenish the Debt Service Reserve Account in an amount equal to the Debt Service Reserve Requirement and to pay such other amounts as required under the Series 2003A Bonds or pursuant to the terms of the Indenture. Pursuant to the terms of the Series 2003A Loan Agreement, the Government has authorized the issuance of the Series 2003A Loan Note as security for the Series 2003A Bonds. The Series 2003A Loan Note is secured by a pledge of the Gross Receipts Taxes over the full term of the Series 2003A Loan Note, which Gross Receipts Tax collections in each Fiscal Year are anticipated to be in excess of the amount necessary to pay all the principal of, premium, if any, interest on, and such other amounts payable under the Series 2003A Bonds and all other Bonds and other parity indebtedness when due. However, no assurances can be given as to the sufficiency of Gross Receipts Taxes for such purpose. See “GROSS RECEIPTS TAXES.”

The pledge of Gross Receipts Taxes securing the Series 2003A Loan Note is subject to the Required Annual Moderate Income Housing Fund Deposit and to any parity indebtedness permitted under the Indenture, including the Series 1999A Bonds. The pledge of Gross Receipts Taxes may also be subject to a prior lien, pledge or other rights, if any, granted to FEMA as security for the repayment of the promissory note, in an original principal amount of \$127,225,000, made by the Government in favor of FEMA (the “FEMA Loan Note”) in connection with a loan by FEMA to the Government following the Hurricane Marilyn disaster in September 1995. See “UNITED STATES VIRGIN ISLANDS — Outstanding Indebtedness of the Government — Federal Emergency Management Agency Loan Note” for additional discussion about the FEMA Loan Note.

### **Series 2003A Loan Agreement**

Under the Series 2003A Loan Agreement, the Authority shall lend to the Government the sum of \$268,020,000 as a loan which shall be evidenced by the Series 2003A Loan Note. The Government shall repay the loan to the Authority, pursuant to the Series 2003A Loan Note, in annual installments of principal and semiannual installments of interest. The Series 2003A Loan Note provides for payments of principal according to a maturity schedule corresponding to principal which shall be due and payable on the Series 2003A Bonds and shall bear interest from its dated date payable semiannually on dates corresponding to the Interest Payment Dates on the Series 2003A Bonds. The Series 2003A Loan Note may, at the option of the Government, be redeemed, in whole or in part, prior to its maturity at the times, in the manner of, and of the same maturities as an optional redemption of the Series 2003A Bonds and at a redemption price equal to that for optional redemption of such Series 2003A Bonds, pursuant to the terms of the Indenture. In addition, in the event the Series 2003A Bonds are subject to mandatory redemption in whole or in part or in the event the Series 2003A Bonds are tendered by the holders thereof for purchase and are purchased by the Authority for retirement or cancellation then, upon payment of the redemption price or purchase price of such Series 2003A Bonds, the Government shall be deemed to have made a prepayment on the Series 2003A Loan Note, in accordance with the Series 2003A Loan Agreement, in a principal amount equal to the aggregate principal amount of the Series 2003A Bonds so redeemed or purchased. See APPENDIX C – “Summary of Certain Provisions of the Series 2003A Loan Agreement.”

To the extent the aggregate amounts transferred from the Special Escrow Account to the Trustee pursuant to the Special Escrow Agreement as of the date which is 30 days prior to the due date of any installment of principal, interest or other amounts payable on the Series 2003A Loan Note, are insufficient to pay those amounts in full, the Trustee shall promptly provide written notification to the Government and the Authority of such deficiency and the Government shall, on or before the date which is 15 days prior to such due date, remit or cause to be remitted to the Trustee, in immediately available funds out of any moneys of the Government legally available therefor, an amount equal to such deficiency.

### **Special Escrow Agreement and Collecting Agent Agreement**

The Special Escrow Agreement provides for the daily deposit of all Gross Receipts Taxes collected on the preceding Business Day by or on behalf of the Government, including all additions to tax, penalties and interest thereon and, to the extent pledged by the Government in accordance with the Series 2003A Loan Agreement, the



Substitute Revenues, into the Special Escrow Account maintained by Banco Popular, as the Collecting Agent, who will act on behalf of the Special Escrow Agent pursuant to a Collecting Agent Agreement, dated as of November 1, 1999 and amended as of February 28, 2003 (the "Collecting Agent Agreement"), among the Collecting Agent, the Special Escrow Agent and the Government. Within one (1) Business Day of the daily receipt of Gross Receipts Taxes, the Collecting Agent will make daily transfers to the Government until satisfaction of the Required Annual Moderate Income Housing Fund Deposit. Upon satisfaction of the Required Annual Moderate Income Housing Fund Deposit, the Collecting Agent will transfer daily all further amounts deposited in the Special Escrow Account to the Trustee for deposit into the Pledged Revenue Account until the Monthly Transfer Requirement for each calendar month is satisfied. Upon satisfaction of the Monthly Transfer Requirement, any excess Gross Receipts Taxes for such calendar month will be transferred to the Trustee into the Surplus Account until the Swap Agreement Termination Payment Requirement (as defined in the Special Escrow Agreement), if any, related to the Swap Option Agreement is satisfied and thereafter to the Government to be used for any lawful purpose. All Gross Receipts Taxes deposited in the Special Escrow Account maintained by the Collecting Agent are subject to the lien created pursuant to the Indenture.

### **Covenants**

So long as the Series 2003A Loan Note remains outstanding, the Government has covenanted in the Series 2003A Loan Agreement, among other things, to take all actions necessary to defend, preserve and protect the pledge of Gross Receipts Taxes, to the extent permitted by law, and take all steps necessary to ensure the receipt of and the maximization of the Gross Receipts Taxes to be received. The Government has covenanted in the Series 2003A Loan Agreement that, in the event of a default under the FEMA Loan Note, the Government will use its best efforts to prevent an acceleration of the indebtedness evidenced by the FEMA Loan Note and obtain an agreement with the United States federal government not to attach any collateral, including the Gross Receipts Taxes, or obtain forgiveness of the indebtedness evidenced by the FEMA Loan Note. The Government has further covenanted not to take any action or fail to take any actions that would in any way impair the Government's right to receive the maximum amount of Gross Receipts Taxes to which it may be entitled nor take any action to reduce the rate of Gross Receipts Taxes or to allow waiver of payment of such Gross Receipts Taxes, except for the Government's Economic Development Commission program which grants certain tax exemptions to qualified businesses pursuant to Title 29, Chapters 12 and 13 of the Virgin Islands Code (the "EDC Program") or other similar programs. In furtherance of such covenant, the Series 2003A Loan Agreement provides that the Government may not grant tax exemptions (including pursuant to the EDC Program) if such grants cause or will cause the difference of the aggregate Gross Receipts Taxes estimated to be collected in any Fiscal Year of the Government less the maximum annual payments of principal and interest on the FEMA Loan Note, if any, to be less than 150% of the maximum debt service on all Outstanding Bonds and on any parity indebtedness permitted by the Series 2003A Loan Agreement and the Indenture.

In the event that Gross Receipts Tax collections, less the maximum annual debt service on the FEMA Loan Note, if any, during any period of 12 consecutive months are less than 150% of maximum annual debt service on all Outstanding Bonds and any parity indebtedness permitted by the Series 2003A Loan Agreement and the Indenture, the Government has covenanted to use its best efforts to provide Substitute Revenues in addition thereto and to pledge such Substitute Revenues as additional security for the Series 2003A Loan Note. Any pledge of Substitute Revenues will remain in effect until such time as Gross Receipts Tax collections, less the maximum annual debt service on the FEMA Loan Note, if any, during any period of at least 12 consecutive months thereafter equal or exceed 150% of maximum annual debt service on all such Outstanding Bonds and parity indebtedness. Further, the Authority has covenanted in the Series 2003A Loan Agreement and the Indenture to use its best efforts to cause the Government to maintain and abide by its covenants contained in the Act, the Series 2003A Loan Agreement and the Special Escrow Agreement not to limit, restrict or in any way impair the imposition, collection, transfer or disbursement of the Gross Receipts Taxes, subject to any permitted tax exemptions, until the principal of, premium, if any, and interest on, and all other amounts due on all the Bonds have been fully paid or discharged.

The Government has covenanted to require the independent certified public accounting firm that has contracted with the Government to perform its annual audit (the "Auditor") to also perform on a quarterly basis certain agreed-upon procedures on Gross Receipts Tax deposits made to the Collecting Agent. As part of its contract, the Auditor delivers an agreed-upon procedures report (the "Report") to the Government comparing the Gross Receipts Tax payments documented in the Government's financial management system with the total revenues deposited with the Collecting Agent and the deposit receipts remitted by the Collecting Agent to the

Revenue Audit section of the Government's Department of Finance, the Authority and the Trustee. The Report is required to be delivered within 45 days of the end of each fiscal quarter of the Fiscal Year.

The Authority also has covenanted in the Indenture to at all times, and to the extent permitted by law, defend, preserve and protect the pledge of the Trust Estate and all rights of the Bondowners under the Indenture against all claims and demands of all third parties.

### **Flow of Funds**

The Indenture provides that all Revenues received by the Trustee for the benefit of the Bondowners and any such other revenues as may be received by the Trustee and designated for deposit to the Pledged Revenue Account shall be deposited, upon receipt by the Trustee, to the credit of the Pledged Revenue Account, which is an account held by the Trustee. All amounts in the Pledged Revenue Account shall be transferred daily on or before 5:00 p.m. on each Business Day during each calendar month to Accounts and Subaccounts created pursuant to the Indenture, so long as any of the Bonds remain Outstanding, in the following amounts and in the following order of priority:

(a) to each Interest Subaccount, until the aggregate amount on deposit in all existing Interest Subaccounts is equal to the sum of all Required Interest Subaccount Balances (as defined in the Indenture). The Required Interest Subaccount Balance in effect during each calendar month for each Interest Subaccount shall be the greater of (A) the amount determined by multiplying (x) the portion of the Adjusted Debt Service Requirement for the applicable Series of Bonds which constitutes all of the interest accruing or to accrue on such Series of Bonds during the Interest Payment Period ending on the next Interest Payment Date by (y) a fraction, the numerator of which is equal to one (1) plus the number of whole calendar months that have elapsed since the immediately preceding Interest Payment Date (or, in the case of the period prior to the first Interest Payment Date, one (1) plus the number of whole calendar months that have elapsed since the date interest on such Series of Bonds commenced to accrue) and the denominator of which is the number of whole calendar months in such Interest Payment Period, or (B) the amount specified in the applicable Supplemental Indenture;

(b) to each Principal Subaccount, beginning in the first calendar month specified in the applicable Supplemental Indenture (the "Principal Amortization Start Month"), until the aggregate amount on deposit in all existing Principal Subaccounts is equal to the sum of all Required Principal Subaccount Balances (as defined in the Indenture). The Required Principal Subaccount Balance in effect during each calendar month for each Principal Subaccount shall be the greater of (A) the amount determined by multiplying (x) the principal (including Sinking Fund Installments) on the applicable Series of Bonds due on the next succeeding Principal Payment Date by (y) a fraction, the numerator of which is equal to one (1) plus the number of whole calendar months that have elapsed since the immediately preceding Principal Payment Date (or, in the case of the period prior to the first Principal Payment Date, one (1) plus the number of whole calendar months that have elapsed since the first day of the Principal Amortization Start Month), and the denominator of which is the number of whole calendar months between the immediately preceding Principal Payment Date (or, in the case of the period prior to the first Principal Payment Date, the first day of the Principal Amortization Start Month), and the next succeeding Principal Payment Date, or (B) the amount specified in the applicable Supplemental Indenture;

(c) to each Credit Subaccount, an amount sufficient to pay any principal or interest then owing to a Credit Provider under the applicable Supplemental Indenture and Credit Agreement by reason of any drawing of amounts under the related Credit Facility for the payment of principal of or interest or premium on any Bonds subject to any required transfer, under other provisions of the Indenture or a Supplemental Indenture;

(d) to the Debt Service Reserve Account, the amount of any transfer required by the Indenture to restore any deficiency in the Debt Service Reserve Account (or to pay any amounts then owing to a Credit Provider pursuant to a Credit Agreement relating to a Debt Service Reserve Account Credit Facility);

(e) to each Redemption Subaccount, the amount of Revenues required to redeem Bonds pursuant to the related Supplemental Indenture;

(f) to each Expense Subaccount, any amounts then due and owing to the Trustee, any Paying Agent, Remarketing Agent, Bond Registrar, Credit Provider, the Special Escrow Agent, the Collecting Agent, or other Fiduciary which are Bond Service Charges or Bond Related Costs for the Bonds, and the Authority's Annual Administrative Fee, which otherwise have not been provided for above;

(g) to each Subaccount of the Rebate Account attributable to a specific Series of Bonds;

(h) effective on the Refunding Date (as defined in the Second Supplemental Indenture), to the Swap Provider for Swap Agreement Termination Payments which the Authority is required to make under the Swap Agreement, the amount required to make such payments as set forth in the Swap Agreement; and

(i) except as may be provided in one or more Supplemental Indentures to the contrary, to the Surplus Account for application pursuant to the Indenture.

### **Debt Service Reserve Account**

Net proceeds of the Series 2003A Bonds representing the Debt Service Reserve Requirement relating to the Series 2003A Bonds shall be deposited by the Trustee in the Debt Service Reserve Account or, in lieu thereof, the Authority may cause a Debt Service Reserve Account Credit Facility to be delivered to the Trustee for such purpose. Pursuant to the terms of the Indenture, the Debt Service Reserve Requirement shall mean, as of any date of calculation, an amount equal to the least of (i) the maximum principal (including mandatory Sinking Fund Installments) and interest due on Outstanding Bonds in the then current or any future Bond Year, (ii) 10% of the original aggregate principal amount of the Bonds (net of original issue discount), and (iii) 125% of the average annual principal (including mandatory Sinking Fund Installments) and interest due on the Outstanding Bonds in the then current and each future Bond Year, as specified in the Indenture and each Supplemental Indenture.

A valuation of the Debt Service Reserve Account shall be made on September 1 in each year pursuant to the Indenture and at such other times as the Authority shall direct in writing and, in addition, shall be valued at the time of any withdrawal from the Debt Service Reserve Account pursuant to the Indenture. In the event the amount on deposit in such Debt Service Reserve Account is less than the Debt Service Reserve Requirement due to a payment made from such Account to cure an insufficiency of funds on any Interest Payment Date or Principal Payment Date, the Authority shall be required to restore the deficiency caused thereby by transfers of any moneys on deposit in the Surplus Account and to the extent any deficiency exists upon transfer from the Surplus Account, then the Authority shall be required to restore the deficiency by equal monthly transfers of Revenues from the Pledged Revenue Account over a period of twelve calendar months following the month in which the determination of such deficiency was made. The Trustee shall notify the Authority of the amount, if any, of the deficiency or excess in the Debt Service Reserve Account.

The approximate valuation of the Debt Service Reserve Account as of September 1 of each year pursuant to the Indenture was as follows:

<u>Year</u>	<u>Valuation</u>
2000	\$22,916,000
2001	\$24,376,146
2002	\$23,820,254
2003	\$23,825,044

The Debt Service Reserve Account satisfied the Debt Service Reserve Requirement in each of the foregoing years.

In the event that there are not sufficient amounts on deposit in the Interest Subaccount on an Interest Payment Date to pay amounts due or if there are not sufficient amounts on deposit in the Principal Subaccount on a Principal Payment Date to pay amounts then due, after making the transfers required to be made from the other Accounts and Subaccounts as provided in the Indenture, the Trustee shall transfer amounts on deposit in the Debt Service Reserve Account to the Interest Subaccount or Principal Subaccount, as applicable, in an amount sufficient to make up any such deficiency. The Trustee shall notify the Authority of such transfer at the time of the transfer.

## **Surplus Available Revenues**

To ensure compliance with certain federal tax law requirements with respect to the issuance of long-term working capital financings, upon elimination of the accumulated deficit, on or after October 1, 2007, all Surplus Available Revenues of the Government shall be applied to the retirement of Series 1999 A Bonds and/or the Series 2003A Bonds (but only the portion thereof allocated to the refunding of the 2003 BANs), by purchase or redemption.

## **Limitations on Available Remedies**

Upon the occurrence of an Event of Default, the Indenture provides certain remedies available to the Trustee and Bondowners. However, the Indenture does not authorize the Trustee to accelerate payment of the full principal and interest due and payable on the Bonds in the event of the occurrence and continuance of an Event of Default. See APPENDIX B — “Summary of Certain Provisions of the Original Indenture and the Fourth Supplemental Indenture — The Original Indenture — Events of Default,” “— Proceedings by Trustee” and “— Rights of Owners.”

## **Additional Bonds**

All of the Bonds issued under a Supplemental Indenture shall collectively be a charge and lien upon the Trust Estate as provided in the Indenture and such charge and lien shall be prior to any other charge and lien upon the Trust Estate with the exception of the Required Annual Moderate Income Housing Fund Deposit and any pledge that may secure the FEMA Loan Note and any other Bonds or parity indebtedness. Except as permitted in the Indenture, no obligations payable from Revenues or secured by a prior or equal lien on the Trust Estate shall be issued after the date of the Indenture.

So long as no Event of Default has occurred and is continuing, the Authority may from time to time enter into a Supplemental Indenture providing for the issuance of Additional Bonds pursuant to the Indenture. Additional Bonds may be issued if the conditions set forth in the Indenture are met, including receipt by the Trustee of a certificate of an Independent Verification Analyst stating (i) (A) the actual amount of Gross Receipts Taxes collected by the Government during each of the eighteen (18) calendar months immediately preceding the calendar month in which such Bonds are issued (the “Test Period”); and (B) the actual amount of Gross Receipts Taxes collected by the Government during any twelve (12) consecutive month period within the Test Period in which aggregate collections of the Gross Receipts Taxes were the greatest in actual amount, (ii) the maximum annual debt service on the FEMA Loan Note, if any, during the current or any subsequent Bond Year; (iii) the maximum annual Adjusted Debt Service Requirement in the current or any subsequent Bond Year on Outstanding Bonds after giving effect to the issuance of the proposed Additional Bonds; and (iv) that the actual amount of Gross Receipts Taxes collected by the Government during the twelve (12) consecutive calendar month period referred to in (i) (B) above, less the maximum annual debt service on the FEMA Loan Note, if any, referred to in (ii) above equal or exceed 150% of the amount of maximum Adjusted Debt Service Requirement on Outstanding Bonds in the current or any subsequent Bond Year after giving effect to the issuance of the proposed Additional Bonds.

Additional Bonds may be issued for any purpose for which Bonds or other obligations may be issued at or after the date of the Indenture under the Act or as otherwise permitted under the laws of the Virgin Islands. Any such Additional Bonds may bear interest at any rate lawful at the time of the issuance thereof and may mature over any period of time not exceeding the maximum maturity permitted by law and may provide for such other payment terms and conditions as the Authority shall determine in a Supplemental Indenture.

Nothing in the Indenture prevents the Authority or the Government from issuing or creating other bonds, notes or other evidences of indebtedness that are not secured by the Indenture so long as such indebtedness is not secured by a prior or parity pledge of Gross Receipts Taxes.

## **Amendments**

The provisions of the Indenture, the Special Escrow Agreement and the Collecting Agent Agreement may not be amended so as to materially adversely affect the Bondowners without the prior written consent of the holders of at least a majority in the aggregate principal amount of such Bonds then Outstanding. The provisions of the Series 2003A Loan Note and the Series 2003A Loan Agreement may not be amended so as to materially adversely affect the Series 2003A Bondowners without the prior written consent of the holders of at least a majority in principal amount of the Series 2003A Bonds then outstanding.

## GROSS RECEIPTS TAXES

### General

Pursuant to Title 33 of the Virgin Islands Code, Section 43, individuals and entities doing business in the Virgin Islands are required to pay a tax of 4.0% on the gross receipts of such business (the “Gross Receipts Tax”). The Gross Receipts Tax is broad and extends to most sellers of services and goods. The current number of total Gross Receipts Tax taxpayers is approximately 3,500. For Fiscal Year 2003, the top five taxpayers generated 12.8% of Gross Receipts Tax collections and the top ten taxpayers generated 19.4% of Gross Receipts Tax collections.

#### General Information Regarding Gross Receipts Taxes Fiscal Years 1999 - 2003 (\$000’s)

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Gross Receipts Taxes.....	\$85,242	\$92,889	\$99,598	\$95,916	\$100,918
Gross Receipts Taxes as Percentage of General Fund (Budgetary Basis) Revenues.....	20.7%	20.8%	18.5%	18.5%	19.8%

Source: United States Virgin Islands Department of Finance unaudited revenue reports; except that, with respect to Gross Receipts Taxes for Fiscal Years 2000 through 2003, the Source is the Continuing Disclosure Quarterly Summary reports of the Authority certifying Gross Receipts Taxes Deposited with the Collecting Agent.

In Fiscal Year 2002, the Gross Receipts Taxes decreased by 4.3%. This decrease was primarily attributable to a general decrease in business activity as a result of the general economic decline in the United States and the terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

The proceeds of the Gross Receipts Tax are paid to the BIR for deposit into the General Fund of the Government, subject to the Required Annual Moderate Income Housing Fund Deposit (see “SECURITY FOR THE SERIES 2003A BONDS — Special Escrow Agreement and Collecting Agent Agreement”). “Gross receipts” means “all receipts, cash or accrued, of the taxpayer for services or derived from trade, business, commerce or sales, and the value accruing from the sale of tangible personal property or services, or both, including rentals, fees and other involvements, however designated, without any deduction on account of the cost of the property sold, the cost of materials used, labor cost, royalties, taxes, interest or discount paid, and any other expenses whatsoever.”

There is a general exemption from the Gross Receipts Tax for agencies of the Government or the United States federal government, religious, charitable, benevolent or educational organizations when not engaged in the conduct of business pursuits for profit, and transactions involving a charitable or benevolent purpose. Every person, partnership, firm, corporation or association whose gross receipts are less than \$150,000 per annum is allowed a maximum \$5,000 exemption per month. Exempt businesses include insurance companies, franchised bus operators, costume jewelry manufacturers, some reverse osmosis water production plants, and providers of affordable housing pursuant to an approved Affordable Housing Development Agreement entered into with the Government under the United States Virgin Islands Affordable Housing Program. Additionally, some qualifying businesses are granted exemptions from certain tax liabilities, including Gross Receipts Taxes, pursuant to the EDC Program. See APPENDIX E — “United States Virgin Islands Economic and Demographic Information — Tax Incentives Programs — Economic Development Commission.”

### Collection of Gross Receipts Taxes

Individuals and entities subject to the Gross Receipts Tax must file a monthly (or annual, under certain circumstances) report with the Director of the BIR declaring the dollar value of the gross receipts received during the calendar month or year (as applicable). Such reports must be accompanied by payment of taxes due on the declared gross receipts to preclude accrual of penalties and interest. Monthly reports and payments are due within thirty (30) calendar days following the last day of the calendar month concerned. All BIR tax collectors who physically handle currency or checks received as payments from taxpayers are required to be bonded. Businesses with annual gross receipts of \$120,000 or less do not file monthly, but are required to file an annual report with the Director of the BIR declaring the gross receipts for each calendar month and the total amount of Gross Receipts

Taxes for the year. Reports of these entities must be filed within thirty (30) calendar days following the last day of the calendar year concerned. All exempt businesses are also required to file a report with the Director of the BIR.

The Director of the BIR notifies taxpayers of any deficiencies that are due and imposes penalties and interest on such deficiencies. The BIR sends written notices to delinquent taxpayers. Two written notices are sent allowing the taxpayer up to twenty-one (21) days to respond. If a taxpayer fails to respond after the second notice, a third notice is sent and a Taxpayer Delinquent Account is routed to the Delinquent Account and Returns Branch which handles the collections. The BIR employs revenue officers who implement various methods for collecting delinquent taxes, including liens and levies. Liens for taxes owed to the BIR are created in favor of the Government upon all property and rights to property, whether real or personal, belonging to the taxpayers owing such Gross Receipts Taxes. Monetary penalties not to exceed 25% in the aggregate, excluding interest (1% per month), are also imposed on individuals and entities subject to taxation who fail to declare gross receipts or pay the amount of tax due in the time allotted by the statute. The BIR may waive any such monetary penalties upon the taxpayer's satisfactory proof that the taxpayer's failure to file a report or pay any taxes or penalties owed was due to reasonable cause and not due to willful neglect. The BIR may also levy a penalty upon a delinquent taxpayer's property or rights to property.

Pursuant to the Special Escrow Agreement, Gross Receipts Taxes will be deposited daily in the Special Escrow Account maintained by the Collecting Agent, acting on behalf of the Special Escrow Agent. Upon receipt of such collections, the Collecting Agent shall make daily transfers of such collections to the Government until satisfaction of the Required Annual Moderate Income Housing Fund Deposit. All further amounts deposited into the Special Escrow Account shall be transferred daily to the Trustee for deposit into the Pledged Revenue Account established under the Indenture until the amounts transferred to the Trustee for each calendar month satisfy the Monthly Transfer Requirement. Upon satisfaction of the Monthly Transfer Requirement, all excess Gross Receipts Taxes for such calendar month will be transferred to the Government for deposit into the General Fund to be used for any authorized purpose. Pursuant to the Series 2003A Loan Agreement, to the extent the aggregate amounts transferred from the Special Escrow Account to the Trustee as of the 30th day preceding any due date for the payment of principal, interest or other amount payable on the Series 2003A Loan Note are insufficient to make such payment, the Trustee shall promptly provide written notification to the Government and the Authority of such deficiency and the Government shall, on or before the 15th day preceding such due date, remit or cause to be remitted to the Trustee in immediately available funds out of any moneys of the Government legally available therefor an amount equal to such deficiency. See "SECURITY FOR THE SERIES 2003A BONDS — Series 2003A Loan Agreement" and " — Special Escrow Agreement and Collecting Agent Agreement."

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## Historical Gross Receipts Taxes and Pro Forma Debt Service Coverage

The following table presents Gross Receipts Taxes for Fiscal Years 1999 through 2003. These figures are used to give a pro forma coverage ratio for the Series 1999 A Bonds and the Series 2003A Bonds.

	<b>Gross Receipts Taxes Historical Pro Forma Debt Service Coverage Fiscal Years 1999 - 2003 (\$000's)</b>				
	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Gross Receipts Taxes					
Less \$250,000 <sup>(1)</sup> .....	\$84,992	\$92,639	\$99,348	\$95,666	\$100,668
Maximum Annual Debt Service on the Bonds <sup>(2)</sup> .....	\$38,534	\$38,534	\$38,534	\$38,534	\$38,534
Coverage Based on Gross Receipts Taxes .....	2.21X	2.40X	2.58X	2.48X	2.61X
Coverage Based on Gross Receipts Taxes (assuming FEMA Loan Note debt service is subtracted from Gross Receipts Taxes prior to coverage calculation) <sup>(3)</sup> .....	1.56X	1.76X	1.93X	1.84X	1.97X

(1) Source: For Fiscal Year 1999, United States Virgin Islands Department of Finance unaudited financial reports. For Fiscal Years 2000 through 2003, the Source is the Continuing Disclosure Quarterly Summary reports of the Authority certifying Gross Receipts Taxes Deposited with the Collecting Agent.

(2) Annual debt service of the outstanding Series 1999 A Bonds and the Series 2003A Bonds.

(3) For purposes of showing maximum annual debt service payable to FEMA, it has been assumed that the Government will not have any portion of the FEMA Loan Note forgiven as a result of the formal administrative process for seeking loan cancellation. It is estimated that \$24.9 million represents the maximum annual debt service that could be paid on the FEMA Loan Note, assuming the outstanding principal and interest balance as of September 30, 2003 of \$180.3 million. For these purposes, it is assumed that the debt service payments on the FEMA Loan Note is to have commenced in Fiscal Year 2004 with a 10-year amortization as customary under FEMA regulations. Under FEMA's regulations, principal and interest payments on the FEMA Loan Note have been deferred pending final action on the Government's petition for administrative cancellation of the loan. See "UNITED STATES VIRGIN ISLANDS — Outstanding Indebtedness of the Government — Federal Emergency Management Agency Loan Note" for a discussion about the FEMA Loan Note and the cancellation process.

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## **BOND INSURANCE**

### **Financial Security Assurance Inc.**

The following information with respect to Financial Security Assurance Inc. (“FSA”) has been furnished by FSA for use in the Official Statement. Reference is made to Appendix H for a specimen of FSA’s municipal bond insurance policy (the “FSA Bond Insurance Policy”).

#### *Bond Insurance Policy*

Concurrently with the issuance of the FSA-Insured Bonds, Financial Security Assurance Inc. (“FSA”) will issue its FSA Municipal Bond Insurance Policy for the FSA-Insured Bonds (the “FSA Municipal Bond Insurance Policy”). The FSA Municipal Bond Insurance Policy guarantees the scheduled payment of principal of and interest on the FSA-Insured Bonds when due as set forth in the form of the FSA Municipal Bond Insurance Policy included in Appendix H to this Official Statement.

The FSA Municipal Bond Insurance Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

#### *Financial Security Assurance Inc.*

FSA is a New York domiciled insurance company and a wholly owned subsidiary of FSA Assurance Holdings Ltd. (“Holdings”). Holdings is an indirect subsidiary of Dexia, S.A., a publicly held Belgian corporation. Dexia, S.A., through its bank subsidiaries, is primarily engaged in the business of public finance in France, Belgium and other European countries. No shareholder of Holdings or FSA is liable for the obligations of FSA.

At September 30, 2003, FSA's total policyholders' surplus and contingency reserves were approximately \$2,021,327,000 and its total unearned premium reserve was approximately \$1,281,769,000 in accordance with statutory accounting practices. At September 30, 2003, FSA's total shareholders' equity was approximately \$2,208,123,000 and its total net unearned premium reserve was approximately \$1,098,686,000 in accordance with generally accepted accounting principles.

The financial statements included as exhibits to the annual and quarterly reports filed by Holdings with the Securities and Exchange Commission are hereby incorporated herein by reference. Also incorporated herein by reference are any such financial statements so filed from the date of this Official Statement until the termination of the offering of the FSA-Insured Bonds. Copies of materials incorporated by reference will be provided upon request to Financial Security Assurance Inc.: 350 Park Avenue, New York, New York 10022, Attention: Communications Department (telephone (212) 826-0100).

The FSA Municipal Bond Insurance Policy does not protect investors against changes in market value of the FSA-Insured Bonds, which market value may be impaired as a result of changes in prevailing interest rates, changes in applicable ratings or other causes. FSA makes no representation regarding the FSA-Insured Bonds or the advisability of investing in the FSA-Insured Bonds. FSA makes no representation regarding this Official Statement, nor has it participated in the preparation hereof, except that FSA has provided to the Authority the information presented under this caption for inclusion in this Official Statement.

### **Radian Asset Assurance Inc.**

The following information with respect to Radian Asset Assurance Inc. (“Radian”) has been furnished by Radian for use in the Official Statement. Reference is made to Appendix H for a specimen of Radian’s municipal bond insurance policy (the “Radian Municipal Bond Insurance Policy”).

#### *Description Of Radian Municipal Bond Insurance Policy*

A financial guaranty insurance policy (the “Radian Municipal Bond Insurance Policy”) will be issued by Radian Asset Assurance Inc. (“Radian”) simultaneously with the issuance and delivery of the Radian-Insured Bonds. The Radian Municipal Bond Insurance Policy is noncancelable during its term and provides for the prompt payment of principal of and interest on the Radian-Insured Bonds to the extent that the Trustee has not received



sufficient funds from the Authority for payment of the Radian-Insured Bonds on the "due date." Radian is obligated to make the required payment on the later of the due date or the first business day after which Radian has received notice from The Bank of New York, as Insurance Trustee (the "Insurance Trustee"), that the Authority has failed to pay amounts due on the Radian-Insured Bonds. Under the Radian Municipal Bond Insurance Policy, the "due date" of the Radian-Insured Bonds, when referring to the payment of principal, means the stated maturity date thereof or the date on which payment of principal is due by reason of mandatory sinking fund payments and does not mean any earlier date on which payment is due by reason of any call for redemption, acceleration, or other advancement of maturity, other than in the discretion of Radian. With respect to interest on the Radian-Insured Bonds, the "due date" means the stated date for payment of interest. The Radian Municipal Bond Insurance Policy guarantees reimbursement of any recovery of any such payment from a Bondholder or the Trustee pursuant to a final judgment by any court of competent jurisdiction holding that such payment constituted a voidable preference within the meaning of any applicable bankruptcy law.

For specific information on the coverage provided, reference should be made to the Radian Municipal Bond Insurance Policy that has been reproduced in specimen form in Appendix H hereto. The Radian Municipal Bond Insurance Policy does not insure against nonpayment of principal or interest on the Radian-Insured Bonds due to the insolvency, misconduct or negligence of the Trustee. The Radian Municipal Bond Insurance Policy does not insure the payment of any redemption premium.

*Description of Radian Asset Assurance Inc.*

Radian Asset Assurance Inc. ("Radian") is a financial guaranty insurance company, regulated by the Insurance Department of the State of New York and licensed to do business in all 50 states and the District of Columbia. Radian was formerly known as "Asset Guaranty Insurance Company". Radian changed its corporate name to Radian Asset Assurance Inc. Radian has received approval to use its new corporate name in all jurisdictions where it is licensed to do business. As of September 30, 2003, Radian had total shareholders' equity of approximately \$550,924,000 (unaudited) and total assets of approximately \$918,580,000 (unaudited). The financial information relating to Radian presented in this Official Statement was prepared internally by Radian, based on generally accepted accounting principles, and has not been audited by independent certified public accountants. The address of Radian's administrative office is 335 Madison Avenue, New York, New York 10017, and its telephone number is 212-983-5859.

Radian has filed the following information with entities designated as Nationally Recognized Municipal Securities Information Repositories ("NRMSIRs") pursuant to Rule 15c2-12 of the Securities Exchange Act of 1934:

- (i) Radian's consolidated financial statements as of December 31, 2002 and 2001 prepared in accordance with generally accepted accounting principles and an independent auditor's report relating to those statements;
- (ii) Radian's quarterly unaudited consolidated balance sheet as of March 31, 2003 and unaudited consolidated statement of operations for the three month period then ended, prepared in accordance with generally accepted accounting principles;
- (iii) Radian's quarterly unaudited consolidated balance sheet as of June 30, 2003 and unaudited consolidated statement of operations for the six month period then ended, prepared in accordance with generally accepted accounting principles; and,
- (iv) Radian's quarterly unaudited consolidated balance sheet as of September 30, 2003 and unaudited consolidated statement of operations for the nine month period then ended, prepared in accordance with generally accepted accounting principles.

Radian is a wholly-owned indirect subsidiary of Radian Group Inc. ("Radian Group"), a publicly-owned corporation with its shares listed on the New York Stock Exchange (symbol "RDN"). Radian Group is a leading credit enhancement provider to the global financial and capital markets, headquartered in Philadelphia. Radian Group's subsidiaries provide products and services through three business lines: financial guaranty, mortgage insurance and mortgage services. None of Radian Group, Radian Group's other subsidiaries or any of Radian Group's investors is obligated to pay the debts of or claims against Radian. A complete copy of the December 31, 2002 audited consolidated financial statements and additional information of Radian Group, together with the accompanying report of independent auditors, is available from Radian upon written request.

Neither Radian nor any of its affiliates makes any representation regarding the Radian-Insured Bonds or the advisability of purchasing the Radian-Insured Bonds and makes no representation regarding this Official Statement other than as to the information supplied by Radian and presented under the heading “BOND INSURANCE – Radian Asset Assurance Inc.” and as set forth in Appendix H of this Official Statement with respect to the Radian Municipal Bond Insurance Policy. Radian's role is limited to providing the coverage set forth in the Radian Municipal Bond Insurance Policy. Pursuant to 22 Virgin Island Code Sec. 232, the U.S. Virgin Islands Guaranty Fund does not cover claims under the Radian Municipal Bond Insurance Policy if Radian becomes insolvent.

### **ACA Financial Guaranty Corporation**

The following information has been furnished by ACA Financial Guaranty Corporation (“ACA”) for use in the Official Statement. Reference is made to Appendix H for a specimen of ACA’s municipal bond insurance policy (the “ACA Municipal Bond Insurance Policy”).

#### *Payment Pursuant to ACA Municipal Bond Insurance Policy*

ACA has made a commitment to issue a Municipal Bond Insurance Policy (the “ACA Municipal Bond Insurance Policy”) relating to the ACA-Insured Bonds effective as of the date of issuance of the Series 2003A Bonds. Under the terms of the ACA Municipal Bond Insurance Policy, ACA unconditionally and irrevocably guarantees the full and complete payment required to be made by or on behalf of the Authority to the Trustee or Paying Agent (as designated in the documentation providing for the issuance of and securing the ACA-Insured Bonds) for the ACA-Insured Bonds, for the benefit of any owner, or, at the election of ACA, directly to such owner, that portion of the principal of and interest on the ACA-Insured Bonds which shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Authority (as such terms are defined in the ACA Municipal Bond Insurance Policy). ACA will make such payments to or for the benefit of each owner on the later of the day on which such principal and interest becomes Due for Payment or within one Business Day following the Business Day on which ACA shall have received Notice of Nonpayment (as such terms are defined in the ACA Municipal Bond Insurance Policy). The ACA Municipal Bond Insurance Policy is non-cancelable for any reason.

The ACA Municipal Bond Insurance Policy will insure an amount equal to (i) the principal of (either at the stated maturity or pursuant to a mandatory sinking fund payment) and interest on, the ACA-Insured Bonds as such payments shall become Due for Payment but shall not be so paid by reason of Nonpayment by the Authority (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than pursuant to a mandatory sinking fund payment, the payments guaranteed by the ACA Municipal Bond Insurance Policy shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner of the ACA-Insured Bonds pursuant to a final non-appealable order of a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law (a “Preference”).

The ACA Municipal Bond Insurance Policy does not insure against loss of any redemption premium which may at any time be payable with respect to any Bond. The ACA Municipal Bond Insurance Policy does not, under any circumstance, insure against loss relating to: (i) optional or mandatory redemptions (other than mandatory sinking fund redemptions); (ii) any payments to be made on an accelerated basis; (iii) payments of the purchase price of ACA-Insured Bonds upon tender by an owner thereof; or (iv) any Preference relating to (i) through (iii) above. The ACA Municipal Bond Insurance Policy also does not insure against nonpayment of principal of or interest on the ACA-Insured Bonds resulting from the insolvency, negligence or any other act or omission of the trustee or paying agent for the ACA-Insured Bonds.

Upon receipt of telephonic or electronic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by ACA from the Trustee or Paying Agent or any owner of an ACA-Insured Bond the payment of an insured amount for which is then due, that such required payment has not been made, ACA on the due date of such payment or within one Business Day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with the Trustee or Paying Agent, or its successor, sufficient for the payment of any such insured amounts which are then due. Upon presentment and surrender of such ACA-Insured Bonds or presentment of such other proof of ownership of the ACA-Insured Bonds, together with any appropriate instruments of assignment to evidence the assignment of the insured amounts due on the ACA-Insured Bonds as are paid by ACA, and appropriate instruments to effect the appointment of ACA as agent for such owners of the ACA-Insured Bonds in any legal proceeding related to

payment of insured amounts on the ACA-Insured Bonds, such instruments being in a form satisfactory to ACA, ACA shall disburse to such owners or the Paying Agent payment of the insured amounts due on such ACA-Insured Bonds, less any amount held by the Paying Agent for the payment of such insured amounts and legally available therefor.

#### *ACA's Rights Under the Financing Documents*

Under the financing documents, ACA has certain rights to consents, notices and to control certain procedures, including, without limitation, the right to control proceedings, without the consent of Bondholders, following an event of default under the financing documents. Reference is made to the provisions of the financing documents for a more complete description of ACA's rights thereunder.

#### *ACA Financial Guaranty Corporation*

ACA is domiciled in the State of Maryland and licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and the Territory of Guam. State laws regulate the amount of both the aggregate and individual risks that may be insured, the payment of dividends by ACA, changes in control and transactions among affiliates. Additionally, ACA is required to maintain contingency reserves on its liabilities in certain amounts and for certain periods of time.

As of September 30, 2003, ACA had, on an unaudited basis, admitted assets of \$342,691,663, total liabilities of \$204,969,707, and total capital and surplus of \$137,721,956, as determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

For further information about ACA, see the selected financial and statistical information for ACA Financial Guaranty Corporation at <http://www.aca.com/financials/index.html>.

Copies of ACA's year-end financial statements prepared in accordance with statutory accounting practices are available without charge from ACA. The address of ACA is 140 Broadway, 47th Floor, New York, New York 10005. The telephone number of ACA is (888) 427-2833.

Fitch Ratings and Standard & Poor's Ratings Service rate the financial strength of ACA "A." Each rating of ACA should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of ACA and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency. The above ratings are not recommendations to buy, sell or hold the ACA-Insured Bonds, and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the ACA-Insured Bonds. ACA does not guaranty the market price of the ACA-Insured Bonds nor does it guaranty that the ratings on the ACA-Insured Bonds will not be revised or withdrawn.

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## UNITED STATES VIRGIN ISLANDS

### General

Under the terms of the Revised Organic Act, the Virgin Islands is an unincorporated territory of the United States with separate executive, legislative and judicial branches of government. The legislative power of the Virgin Islands is vested in the Legislature, a unicameral, popularly elected body consisting of 15 members who serve two-year terms. The Legislature has jurisdiction over “all rightful subjects of legislation” not inconsistent with the laws of the United States made applicable to the Virgin Islands.

Executive power resides with a Governor and a Lieutenant Governor who are elected every four years. The Governor is responsible for execution of local laws, administration of all activities of the executive branch and appointment of department heads and other employees. The current Governor is the Honorable Charles W. Turnbull, who assumed office on January 4, 1999, and the current Lieutenant Governor is the Honorable Vargrave A. Richards, who assumed office on January 6, 2003, both of whose terms expire on the first Monday in January 2007.

Judicial power is vested in the District Court of the Virgin Islands, which has jurisdiction of a District Court of the United States, and in the Territorial Court of the Virgin Islands, a court established by local law with jurisdiction over all local matters. Within the District Court there is an appellate division which reviews judgments of the Territorial Court. The United States Court of Appeals for the Third Circuit has appellate jurisdiction over the District Court and its appellate division. The judges of the District Court of the Virgin Islands are appointed by the President of the United States with the advice and consent of the United States Senate and serve for ten years. The Territorial Court judges are appointed by the Governor and confirmed by the Legislature and serve for terms of six years.

As an unincorporated territory of the United States, the Virgin Islands is subject to the power of Congress to make rules and regulations respecting the Virgin Islands. In addition, Congress has the power to legislate directly for a territory or to establish the government for such territory subject to congressional control.

Pursuant to the Insular Areas Act of 1982, the OIG of the DOI performs the functions of government comptroller through audits of revenues and receipts and expenditure of funds and property of the Virgin Islands, as well as the other insular areas of Guam, American Samoa, and the Commonwealth of Northern Mariana Islands. In connection therewith, the OIG has issued numerous audit reports over the past several years regarding the Virgin Islands. See “VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY – Department of the Interior Report” and “UNITED STATES VIRGIN ISLANDS —Financial Position of the Government – Department of the Interior 1998 Audit Report” and “— Other DOI Office of Inspector General Reports.”

Residents of the Virgin Islands have been citizens of the United States since 1917. However, apart from express Congressional grants of rights, such as the Bill of Rights in Section 1561 of the Revised Organic Act, residency in the Virgin Islands does not carry with it the full range of rights which accompany citizenship in any of the states. Residents of the Virgin Islands do not have the right to vote in national elections for the President and Vice President of the United States. The Virgin Islands has an elected, non-voting delegate to the United States House of Representatives. The delegate may vote in legislative committees and participate in floor debate but may not vote on the House floor.

### Financial Management, Budgeting and Controls

#### *Budgetary Process*

The Fiscal Year of the Government begins on October 1 of each year. The Governor is required by law to submit to the Legislature an annual budget of capital improvements and operating expenses for the following Fiscal Year no later than May 30. The annual budget is prepared by the Virgin Islands Office of Management and Budget (“OMB”), working in conjunction with other Government departments and agencies. The Legislature, in its consideration of the budget for each Fiscal Year, may modify or change the Governor’s submission. Upon passage by the Legislature, the budget is submitted to the Governor, who (in certain circumstances) may eliminate any item by a line-item veto but not increase or insert any new item in the budget within ten (10) days of receipt of the budget from the Legislature. The Governor also may veto the budget in its entirety and return it to the Legislature with his objections within ten (10) days of receipt of the budget from the Legislature. The Legislature may override any veto

by the Governor (including any line-item veto) only by a vote of two-thirds of its members. The Legislature is obligated by law to pass a final balanced budget no later than September 30, the last day of the Fiscal Year. Subsequent to enactment of the Government Financial Accountability Act of 1999, 1999 Virgin Islands Act No. 6289, as amended (the "Financial Accountability Act"), supplemental budgetary appropriations bills that are signed into law may be made during the year only with the identification of a specific revenue source to finance them.

If a budget has not been approved before the commencement of any Fiscal Year, then the appropriations for the preceding Fiscal Year, insofar as they may be applicable, are automatically deemed reappropriated item by item. The Fiscal Year 2004 Budget was submitted by the Governor to the Legislature on August 29, 2003, which the Legislature finalized, with significant modifications, on November 25, 2003 (see "UNITED STATES VIRGIN ISLANDS — Financial Position of the Government — Proposed Fiscal Year 2004 Budget"). It is currently anticipated that the final Fiscal Year 2004 Budget will be acted upon by the Governor in December 2003. The Fiscal Year 2003 Budget continues to be in effect until the enactment of the Fiscal Year 2004 Budget.

Once the budget is enacted, fiscal control over expenditures made pursuant thereto is exercised by the Governor through the allotment process by the Director of OMB. During any Fiscal Year in which the resources available to the Government are not sufficient to cover the appropriations approved for such year, the Governor, through the Director of OMB, may take administrative measures to reduce expenses. The Governor also may make recommendations to the Legislature for new taxes, or any other necessary action to meet the estimated deficiency. It has been the practice of the Director of OMB, when making funding adjustments, to allot funds in the following order of priority: to the payment of the interest on and amortization requirements for public debt; to the fulfillment of obligations arising out of legally binding contracts, court decisions on eminent domain and certain commitments to protect the name, credit and good faith of the Government, and to current expenditures in the areas of education, protection, health and welfare.

#### *Fund Structure and Accounts*

The Government reports its financial position and results of operations in funds and account groups. The Government has established the following fund categories, fund types, account groups:

*Governmental Fund Types.* Governmental funds are used to account for the general government functions of the Government. The following are the governmental fund types: (i) General Fund -- The general fund is the primary operating fund of the Government. It is used to account for all financial transactions, except those required to be accounted for in another fund; (ii) Special Revenue Funds -- The special revenue funds are used to account for the proceeds of specific revenue sources (other than debt service or capital projects) such as federal grants, that are legally restricted to expenditures for specific purposes; (iii) Debt Service Funds -- The debt service funds are used to account for the accumulation of resources for, and the payment of, general long-term debt principal, interest, and related costs other than long-term debt from the operations of proprietary fund types and discretely presented component units; and (iv) Capital Projects Funds -- The capital projects funds are used to account for the financial resources used for acquisition or construction of major capital facilities not being financed by proprietary fund types and discretely presented component units.

*Proprietary Fund Types.* Proprietary fund types include the enterprise funds that are used to account for operations that are financed and operated in a manner similar to private business enterprises and where net income and capital maintenance are measured. Costs of providing goods and services to the general public on a continuing basis, including depreciation, are financed or recovered primarily through user charges.

*Fiduciary Fund Types.* Fiduciary funds are used to account for assets held by the Government in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. The following are the fiduciary fund types: (i) Expendable Trust Funds -- The expendable trust funds are used to account for trusts for which principal and income may be expended for designated purposes; (ii) Pension Trust Fund -- The pension trust fund is used to account for the assets, liabilities, and fund equity held in trust for the public employees' retirement system. It accounts for assets of which the principal may not be spent for general government purposes; and (iii) Agency Funds -- The agency funds are custodial in nature (assets equal liabilities) and do not involve measurement of the results of operations.

*Account Groups.* Account groups establish control and accountability over the Government's general long-term obligations. The general long-term debt account group is used to account for long-term obligations of the Government including bonds and notes payable and other long-term liabilities excluding the liabilities of proprietary funds, pension trust fund, and discretely presented component units.

### *Basis of Accounting*

The basis of accounting determines when the Government recognizes revenue and expenditures or expenses and related assets and liabilities. The modified accrual basis of accounting is followed by governmental fund types, expendable trust funds, and agency funds. Under the modified accrual basis of accounting, revenue is recorded when it becomes measurable and available (that is, earned and collected or expected to be collected within the next 120 days) to pay liabilities of the current period. Tax revenue, net of estimated overpayments (refunds), is recorded by the Government as taxpayers earn income (income and unemployment) as sales are made (consumption and use taxes) and as cash is received (miscellaneous taxes).

In applying the modified accrual concept to intergovernmental revenue, there are essentially two types of revenue. For the majority of grants, moneys must be expended by the Government on the specific purpose or project before any amounts will be reimbursed. Revenue is, therefore, recognized as expenditures are incurred. For the other revenue, moneys are virtually unrestricted and are generally revocable only for failure to comply with prescribed compliance requirements. These resources are reflected as revenue at the time of receipt or earlier if the modified accrual criteria is met.

Expenditures and related liabilities are recorded in the accounting period in which the liability is incurred, except for: (i) principal payment and interest on long-term obligations, which are recorded when due; and (ii) compensated absences, retroactive union arbitration salary increase, federal funds cost disallowances, and amounts subject to legal claims and judgments under litigation that are recorded in the general long-term debt account group.

The accrual basis of accounting is used by proprietary fund types and the pension trust fund. Under the accrual basis, revenue is recognized when earned and expenses are recorded as liabilities when incurred, without regard to receipt or payment of cash. Employee and employer contributions recorded in the pension trust fund are recognized as revenue in the period in which employee services are performed. The accrual basis is also used by the public university funds, except that depreciation of fixed assets is not recorded as permitted for governmental colleges and universities.

### *Financial Reporting*

The general purpose financial statements of the Government for Fiscal Years 1994 and 1995 and for Fiscal Years 1998 through 2001 have been audited by KPMG LLP, independent public accountants (“KPMG”), to the extent and for the years indicated in their reports thereon. Such general purpose financial statements have been included in reliance upon the reports of KPMG. Such reports refer to reports of other auditors, contain a disclaimer over the balances and transactions of the enterprise fund caused by certain limitations in their audit scope and contain various qualifications. See “FINANCIAL STATEMENTS OF THE GOVERNMENT” and Appendix D hereto. In addition, OMB Circular A-133 for Fiscal Year 2001 prepared by KPMG noted material weaknesses in internal controls over the financial report based on an audit of the general purpose financial statements performed in accordance with Government Accounting Standards and events of non-compliance with certain provisions of laws, regulations, contracts and grants that have a direct and material effect on the determination of general purpose financial statement amounts. Such general purpose financial statements are included herein for informational purposes only, and the information contained in these general purpose financial statements should not be read to in any way modify the description of the security for the Series 2003A Bonds contained herein.

Special provisions for agreed-upon procedures for Fiscal Years 1996 and 1997 were entered into by the Government and the which were completed by KPMG in October 2003. The Government has contracted with KPMG to audit its financial statements for Fiscal Years 2002 through 2005, and it is expected that the audited financial statements for Fiscal Year 2002 will be available during the first quarter of 2004. The Government expects that, upon completion of the audit of Fiscal Year 2002, adjustments to the unaudited financial statements presented herein will be necessary (including, without limitation, as a result of the adoption of GASB 34 hereinafter described). The Government can make no assurance that such adjustments will not be material. See “FINANCIAL STATEMENTS OF THE GOVERNMENT.”

## **Revenues of the Government**

### *General*

The principal sources of revenues for the Government are: United States federal income taxes (collected locally as Virgin Islands income taxes); Gross Receipts Taxes and other taxes and fees levied by the Government under its own locally applicable internal revenue laws; real property taxes; federal excise taxes imposed on products

of the Virgin Islands entering the United States; and other fees and taxes collected by the United States federal government. For a description of the Government's program to provide tax relief and subsidies to certain businesses to promote economic growth, see APPENDIX E — "United States Virgin Islands Economic and Demographic Information — Tax Incentive Programs."

The Revised Organic Act sets forth the taxes imposed by the United States federal government, the proceeds of which are paid into the Treasury of the Virgin Islands, including: customs duties, the United States income tax, any taxes levied by Congress on the inhabitants of the Virgin Islands, and quarantine, passport, immigration and naturalization fees collected in the Virgin Islands. In addition, the Government has the power to impose local taxes which include real property taxes, Gross Receipts Taxes, excise taxes and hotel room taxes. There are no political subdivisions with taxing power in the Virgin Islands.

Unaudited revenues of the General Fund (budgetary basis) for Fiscal Years 1999 to 2003 are presented in the table below.

**Components of General Fund (Budgetary Basis) Revenues  
For Fiscal Years 1999-2003  
Cash Basis  
(\$000's)**

	1999		2000		2001		2002		2003	
Income <sup>(1)</sup> .....	\$ 236,371	57.4%	\$ 254,470	57.0%	\$ 347,763	64.5%	\$ 343,690	66.2%	\$ 336,205	65.9%
Gross Receipts <sup>(2)</sup> .....	85,242	20.7	92,889	20.8	99,598	18.5	95,916	18.5	100,918	19.8
Real Property .....	52,899	12.9	60,867	13.6	50,495	9.4	46,044	8.9	35,031	6.9
Excise.....	13,427	3.3	16,251	3.6	15,715	2.9	12,802	2.5	13,335	2.6
FSC Franchise.....	6,888	1.7	5,545	1.2	4,915	0.9	3,172	0.6	715	0.1
Other Taxes <sup>(3)</sup> .....	3,858	0.9	4,441	1.0	4,006	0.7	4,859	0.9	11,119	2.2
<b>Total Taxes .....</b>	<b>\$ 398,685</b>	<b>96.9%</b>	<b>\$ 434,463</b>	<b>97.3%</b>	<b>\$ 522,492</b>	<b>96.9%</b>	<b>\$ 506,484</b>	<b>97.5%</b>	<b>\$ 497,323</b>	<b>97.5%</b>
Other Sources of Revenue <sup>(4)</sup> .....	12,838	3.1%	11,907	2.7%	16,542	3.1%	12,873	2.5%	12,858	2.5%
<b>Total Revenue.....</b>	<b>\$ 411,522</b>	<b>100.0%</b>	<b>\$ 446,370</b>	<b>100.0%</b>	<b>\$ 539,034</b>	<b>100.0%</b>	<b>\$ 519,357</b>	<b>100.0%</b>	<b>\$ 510,181</b>	<b>100.0%</b>

- (1) Figures do not reflect income tax refunds paid. In Fiscal Year 1999, income tax refunds paid were approximately \$0; in Fiscal Year 2000, income tax refunds paid were approximately \$98.0 million; in Fiscal Year 2001, income tax refunds paid were approximately \$54.2 million; and in Fiscal Year 2002, income tax refunds paid were approximately \$41.3 million. Cumulative unpaid income tax refunds for Fiscal Years 2001 through 2002 total approximately \$2.7 million. (Source: Virgin Islands Bureau of Internal Revenue financial management system reports)
- (2) Does not reflect Required Annual Moderate Income Housing Fund Deposit. See "SECURITY FOR THE SERIES 2003A BONDS — Special Escrow Agreement and Collecting Agent Agreement."
- (3) Other Taxes include stamp taxes, inheritance taxes and corporate franchise taxes. There are currently four Virgin Islands cases challenging the Government's computation of its corporate franchise tax. See "LITIGATION — Franchise Tax Litigation Cases."
- (4) Other Sources of Revenues include, among other things, licenses, fees and permits, fines, forfeitures, penalties, rents and concessions, customs dues, bank fees and charges, and franchise fees.

Source: United States Virgin Islands Department of Finance unaudited revenue reports; except that, with respect to Gross Receipts Taxes for Fiscal Years 2000 through 2003, the Source is the Continuing Disclosure Quarterly Summary reports of the Authority certifying Gross Receipts Taxes Deposited with the Collecting Agent, and except as noted in Footnote (1).

*Income Taxes*

The principal source of revenue for the Government is income taxes. The Naval Appropriations Act, 1922, and Section 1642 of the Revised Organic Act created a separate tax structure for the Virgin Islands that mirrors the Code. To the extent the tax structure of the Virgin Islands mirrors that of the Code, any changes to federal tax laws may have an impact upon the Government's collections of certain taxes. The Government has the power to impose a territorial income tax. Currently, the Government has imposed a corporate income tax surcharge of 10%.

Income taxes are levied each year for every corporation, partnership, individual, estate or trust that meets the filing requirements of the Code. A United States taxpayer who is a permanent resident of the Virgin Islands satisfies his United States income tax obligations by filing his return with, and paying income taxes to, the Government, even if his income is from non-Virgin Islands sources. A non-resident of the Virgin Islands pays income taxes on his Virgin Islands source income to the Government, and is entitled to a foreign tax credit therefor

on his United States federal tax return if the taxpayer is a United States citizen or United States domestic corporation.

In Fiscal Year 2001, income tax collections increased by 37% as a result of, among other things, a general increase in the tax base, including an increase in the number of new companies relocating to the Virgin Islands as beneficiaries of the EDC Program.

#### *Gross Receipts Taxes*

Individuals and entities doing business in the Virgin Islands are required to pay a tax of 4.0% on the gross receipts of such business, without reduction for cost of goods sold or services or other expenses. Gross Receipts Taxes are pledged under the Series 2003A Loan Agreement for the payment of the Series 2003A Loan Note which secures the Series 2003A Bonds. Gross Receipts Taxes are expected to be received in an amount each year sufficient to pay the full amount of principal of, Redemption Premium, if any, interest on and such other amounts due and payable on the Series 2003A Bonds and the Series 1999 A Bonds. See "GROSS RECEIPTS TAXES."

#### *Real Property Taxes*

Title 33 of the Virgin Islands Code, Section 2301 (the "Real Property Tax Statute") imposes a tax on all real property in the Virgin Islands. The Real Property Tax Statute sets assessed value of real property based upon its actual value and assesses a real property tax levy equal to 1.25% of 60% of assessed valuation on an arrearage basis. The proceeds of this tax are paid into the General Fund, with the exception of the first \$1.5 million of such tax collected annually, which must be deposited into the St. John Capital Improvements Fund. In the Fiscal Year 2004 Budget finalized by the Legislature but not yet acted upon by the Governor, the Legislature has proposed accelerating the collection of real property taxes by collecting such taxes in advance rather than in arrears.

Noncommercial real property is reassessed every two years and commercial real property is reassessed annually. The Virgin Islands Office of the Tax Assessor prepares an annual assessment roll and schedule of collections for each parcel of real property that is used by the Virgin Islands Office of the Tax Assessor's billing agent as the basis for issuing tax bills to all taxpayers in the Virgin Islands.

In connection with a real property tax case instituted against the Government, since 2003 the Government has been enjoined from appraising and assessing any real property in the Virgin Islands until it has modified its system of appraisal to comply with certain court mandates. As a result, it has been using the 1998 assessment value to issue tax bills and collect taxes, and expects to continue to do so until a new appraisal system is implemented which is intended to satisfy the court's concerns (or the court's decision is otherwise overruled). The Government has appealed the decision issued in this case. The financial impact to the Government if the case is eventually decided against it cannot be determined at this time. See "LITIGATION — Real Property Tax Case."

All real property not expressly exempt is subject to the real property tax. Exemptions include (i) property of the United States federal government subject to a \$10,000 payment in lieu of real estate taxes, (ii) property of the Government, (iii) property used for religious, educational, literary, scientific and charitable purposes, (iv) property subject to the homestead exemption and (v) property for which exemptions have been granted by the Economic Development Commission (the "Commission" or the "EDC"). See APPENDIX E — "United States Virgin Islands Economic and Demographic Information — Tax Incentive Programs — Economic Development Commission." In 2002, approximately 51% of all real property in the Virgin Islands was exempt from real property taxation. In addition, approximately 2% of all real property in the Virgin Islands was exempt from real property taxation due to EDC exemptions.

The following table presents property taxes, assessed value and exemptions for Virgin Islands real estate for the calendar years 1999 through 2002:



**United States Virgin Islands**  
**Property Tax - Assessed Value And Exemptions**  
**1999-2002**  
(millions)

Year	Total Assessed Value <sup>(1)</sup>	Local and Federal Government <sup>(2)</sup>	Other <sup>(3)</sup>	EDC <sup>(4)</sup>	Taxed Assessed Value	Levy
1999	\$16,577.5	\$7,021.2	\$1,168.8	\$346.3	\$8,041.2	\$58.6
2000	\$16,574.5	\$7,011.8	\$1,113.8	\$338.6	\$8,110.2	\$59.1
2001	\$16,614.5	\$7,105.2	\$1,122.8	\$345.7	\$8,040.8	\$58.6
2002	\$16,623.5	\$6,993.1	\$1,505.1	\$365.0	\$7,760.3	\$58.2

- (1) Pursuant to Act No. 6297 the assessed value of real property is now equal to the actual value of such real property.  
(2) Includes a national park on St. John.  
(3) Includes exemptions for veterans, non-profit organizations, churches, farms and homesteads, and senior citizens.  
(4) EDC Program provides exemptions for 10 to 15 years.

Source: United States Virgin Islands Office of the Tax Assessor.

The above table reflects the renewed Hovensa L.L.C. property tax agreement for property assessed at \$1,867 million with an annual property tax levy of \$14.0 million.

Water Island was not assessed in determining total actual value of real property prior to calendar year 1999. Beginning with calendar year 1999, properties on Water Island have been assessed and are billed for real property taxes.

Delays in the issuance of tax bills since 2000 as a result of the real property tax litigation discussed above, as well as real property taxpayers' failure to pay such tax bills as a result of such case, has negatively impacted the collection of real property taxes since 2000. See "LITIGATION — Real Property Tax Case."

*Excise Tax*

Individuals and entities doing business in the Virgin Islands are required to pay an excise tax on all articles, goods, merchandise or commodities brought into the Virgin Islands for any business use or purpose, based on the volume or value of each such article, good, merchandise or commodity. The tax covers most articles, goods, merchandise and commodities. Items specifically exempt from such excise tax include educational materials, nutritive foodstuffs, coal, fuel oil and liquid gas, molasses used for the production of rum and for agricultural purposes, animal feed, poultry feeds and commercial fertilizers, motor vehicles requiring licensing of highway use, items for sale to the United States federal government, the Government or an instrumentality of either one, items imported or manufactured in the Virgin Islands which are exported to purchasers who take delivery and actual possession outside of the Virgin Islands, as well as paper, plastics, glass or wooden materials and supplies used to package foodstuffs grown, processed, bottled or produced in the Virgin Islands, spirits, perfumes, toilet waters, bath salts, tapestry, hand-woven fabrics, handmade carpets, sweaters, shawls, scarves and ties. An exemption also is extended to franchised bus operators, costume jewelry manufacturers, EDC beneficiaries, certain film-making and other related professional equipment and licensed insurers.

There is a general exemption from the excise tax for agencies of the Government or the United States federal government, religious, charitable, benevolent or educational organizations when not engaged in the conduct of business pursuits for profit, and transactions involving a charitable or benevolent purpose.

The decrease in excise tax collections from Fiscal Year 2001 to Fiscal Year 2002 was primarily due to a change in applicable law increasing the types of companies exempt from such tax.

*Foreign Sales Corporations ("FSC") Franchise Taxes*

Until December 2001, the Virgin Islands benefited from the favorable tax treatment afforded to FSCs under the Code. The Virgin Islands was one of the first jurisdictions to enact local FSC legislation in order to attract FSCs and, since the initiation of the FSC program in 1984 by the United States federal government, consistently had a significant number of FSCs. Under the Virgin Islands' local FSC legislation, a corporation that elected to be treated as a foreign sales corporation under the Code and met certain other requirements of the Code paid minimum

franchise taxes ranging from \$400 to \$25,000 based upon foreign trade gross receipts and was entitled to reduce its franchise tax liability each year by an amount equal to 50% of the wages paid during the previous calendar year to employees who are Virgin Islands residents. The franchise tax was payable by June 30 of each year.

In response to recent decisions by the World Trade Organization (“WTO”), the United States federal government is considering legislation which would repeal the favorable tax provisions in the Code on which the Virgin Islands’ local FSC program is based. In the interim, in 2002 the Legislature amended the local FSC law to reduce the franchise tax liability of Virgin Islands-based FSCs pending resolution of the WTO dispute at the United States federal government level. As a result, FSC franchise tax revenues have declined significantly since Fiscal Year 2002 and may decline further depending upon final action by the United States federal government.

#### *Other Revenue Sources*

Other sources of General Fund revenues include, among other things, licensing fees, permitting fees, fines, forfeitures, penalties, custom dues and miscellaneous service charges.

### **Additional Revenues of the Government**

In addition to the taxes discussed above which comprise the primary General Fund revenues, there are additional taxes, fees and charges imposed by the Government which are dedicated for specific purposes.

#### *Transportation Trust Fund Revenues*

*General.* The Transportation Trust Fund (“TTF”) was created to secure the payment of principal of, redemption premium, if any, and interest on bonds issued by the Authority to finance maintenance, improvement, repair and construction of the road and highway system. Prior to the creation of the TTF, motor fuel and highway users’ taxes and traffic law violation fines were deposited into the Road Fund and driver’s license and motor vehicle registration fees were deposited into the General Fund. There are currently no outstanding bonds secured by the TTF for the purpose of financing highway projects. Pursuant to 2001 Virgin Islands Act No. 6455, the Legislature authorized the appropriation of \$12,800,000 from the TTF to the General Fund to fund salary increases and satisfy certain outstanding obligations owed to Government employees and retirees for use in Fiscal Year 2002. It is anticipated that the Legislature will appropriate in each Fiscal Year the estimated TTF revenues to the General Fund in satisfaction of such salary increases and unpaid obligations owed to Government employees and retirees. Any amounts remaining in the TTF following such appropriation are deposited into the Road Fund.

The following is a description of the taxes, fees and fines designated for deposit in the TTF.

*Motor Fuel Taxes.* A tax of 14 cents is levied on each gallon of gasoline and diesel fuel manufactured, sold, or consumed or otherwise disposed of in the Virgin Islands. The following are exempt from motor fuel taxes: (i) the Government; (ii) fuel used for fueling of aircraft, motorboats, yachts or any other motor vehicle not operating or intended for operation upon the public highway; and (iii) fuel used for industrial or other purposes not connected with the fueling of motor vehicles. Motor fuel taxes are collected throughout the Fiscal Year and are transferred directly to the Transportation Trust Fund.

*Highway Users’ Tax.* Before registering a motor vehicle in the Virgin Islands for the first time, every person, is required to pay a highway users’ tax on the unladen weight of said vehicle at the rate of 11 cents per pound, provided that the minimum highway users’ tax for any vehicle is \$25.00. The following are exempted from such tax: (i) those motor vehicles to be used as either a taxicab or a bus under a franchise granted by the Governor; (ii) up to two motor vehicles used by non-profit corporations; (iii) Government vehicles subsequently sold to individuals; and (iv) vehicles belonging to individuals transferred for military duty. Highway users’ taxes are collected by the BIR and are deposited daily into the TTF.

*Motor Vehicle Registration Fees and Driver’s License Fees.* Every motor vehicle must be registered annually with the Government and an annual fee for said registration must be paid. Every three years, operators of both public and private use vehicles must renew their licenses and pay the required fee. The aforementioned registration and license fees range in unit value but have remained constant, with minor adjustments, since 1983. Registration and licensing fees are collected throughout the Fiscal Year by the Department of Police and are deposited daily in the TTF.

*Traffic Law Violation Fines.* The Government collects fines for traffic law violations. Traffic law violation fines are collected throughout the Fiscal Year by the Territorial Court and are deposited daily to the TTF.

The following sets forth total TTF revenues for Fiscal Years 1999 through 2003:

**Transportation Trust Fund Revenues  
Fiscal Years 1999-2003  
Cash Basis  
(\$000's)**

<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
\$12,746	\$12,737	\$13,258	\$13,609	\$14,677

Source: United States Virgin Islands Department of Finance unaudited revenue reports.

*Matching Fund Revenues*

*General.* The Secretary of the United States Department of the Treasury (the “Secretary of the Treasury”) is directed to make certain transfers to the Government of certain excise taxes imposed and collected under the Code in any Fiscal Year on certain products produced in the Virgin Islands and exported to the United States mainland from the Virgin Islands. Rum is the principal article presently produced in the Virgin Islands and exported to the United States which is subject to federal excise tax that qualifies for transfer to the Government under the applicable provisions of the Revised Organic Act and the Code. The term “Matching Fund Revenues” is used to denote these payments. The federal excise tax on rum exports from the Virgin Islands to the United States currently accounts for all of the Matching Fund Revenues.

The amount required to be remitted to the Government by the Secretary of the Treasury pursuant to the applicable excise tax transfer provisions is limited to an amount no greater than the total amount of local duties, taxes and fees collected by the Government in the applicable Fiscal Year.

In 1976, Section 1574a of the Revised Organic Act was enacted, in part, to authorize the Government, under certain conditions, to issue bonds secured by Matching Fund Revenues to be received by the Government. Until 1978, the Code provided that the Secretary of the Treasury would determine the amount of excise taxes imposed and collected during the calendar quarter and transfer such amounts, on a quarterly basis, to a designated Government fund, to be expended as determined by the Legislature. Section 1645 of the Revised Organic Act, enacted in 1978, changed the manner in which Matching Fund Revenues were paid. Under Section 1645, the Governor, with the concurrence of OMB, estimates the amount of federal excise taxes to be collected in the ensuing Fiscal Year. The DOI makes a prepayment of estimated Matching Fund Revenues for a Fiscal Year, which commences on October 1, prior to September 30 of the immediately preceding Fiscal Year to the designated Government fund. This prepayment is subject to subsequent adjustment for the amount of revenue actually collected by the Government and the actual amount of the above described federal excise taxes collected by the Department of Treasury during such Fiscal Year. Such adjustments are made to the advances received for the requested prepayments for the second succeeding Fiscal Year. Adjustment payments may also be made during the current Fiscal Year.

The federal excise tax rate and the rate at which such excise taxes are eligible to be transferred back to the Government are set by Congress and codified in Sections 5001(a)(1) and 7652(b)(3) of the Code. Since the enactment of Section 1574a of the Revised Organic Act in 1976, until the amendments to Section 5001 and 7652 under the Deficit Reduction Act of 1984, the federal excise tax on distilled spirits produced in, or imported into the United States was \$10.50 per proof gallon, and the entire amount of such excise tax qualified for transfer to the Government. The Deficit Reduction Act of 1984 increased the excise tax under Section 5001 of the Code to \$12.50 per proof gallon but also provided a limit to the rate of federal excise taxes eligible to be transferred to the Government. Section 7652(f) provides that the amount eligible for transfer to the Government shall be the lesser rate of \$10.50 per proof gallon or the actual federal excise tax imposed under Section 5001(a)(1) of the Code. Pursuant to the Omnibus Budget Reconciliation Act of 1990, the rate of the federal excise taxes was increased to \$13.25, but the transfer rate of such taxes to the Government remained unchanged at \$10.50. The Omnibus Budget Reconciliation Act of 1993 amended Section 7652(f) to increase the transfer rate to \$11.30 per proof gallon for a five year period ending September 30, 1998. Beginning on October 1, 1998, the amount of federal excise taxes transferred to the Virgin Islands, pursuant to Section 7652(f), was the lesser of \$10.50 per proof gallon or the actual excise tax imposed as provided in Section 5001(a)(1) of the Code. As of November 1999, the amount of federal excise taxes transferred to the Virgin Islands, pursuant to Section 7652(f), was \$13.25 per proof gallon. The

increase was made retroactive to July 1999 and was originally effective through December 31, 2001. On February 2, 2000, the Government received a \$16.7 million payment from the United States federal government related to the transfer rate increase that covered from July 1999 through Fiscal Year 2000. Through legislation contained in the Job Creation and Worker Assistance Act of 2002, the rum excise tax transfer rate of \$13.25 per proof gallon was extended until December 31, 2003, retroactive to December 31, 2001. The United States House of Representatives recently approved a bill extending the rum excise tax transfer rate of \$13.25 per proof gallon until December 31, 2004; the United States Senate is considering a similar bill. The Government is also making a long-term effort to remove the cap on the transfer rate of rum excise taxes.

*Prior Pledge.* Matching Fund Revenues are currently pledged as security for payments due under the 1998 Matching Fund Loan Notes that secure the 1998 Bonds. After payment of the annual debt service requirement of the 1998 Bonds, a portion of the excess Matching Fund Revenues may be deposited in the General Fund. See “UNITED STATES VIRGIN ISLANDS—Outstanding Indebtedness of the Government.” **Matching Fund Revenues are not pledged under the Indenture. Matching Fund Revenues are pledged to the payment of the outstanding 1998 Bonds.**

The following is a summary of the advances, adjustments and actual earnings of Matching Fund Revenues for Fiscal Years 1999 through 2003.

<b>Matching Fund Revenues</b>					
<b>Fiscal Years 1999 – 2003</b>					
(\$000's)					
	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Projected Excise Tax Revenues for Current Fiscal Year .....	\$43,635	\$51,060	\$67,611	\$55,825	\$70,397
Plus/Minus Payment Adjustment for 2 Fiscal Years Prior.....	(526)		7,505	(1,742)	481
Actual Advance Received for Current Fiscal Year.....	43,109	51,060	75,116	54,083	70,878
Additional Adjustments for Current Fiscal Year.....	—	<u>13,373<sup>(1)</sup></u>	—	<u>4,296<sup>(2)</sup></u>	—
<b>Total Amount Received for Current Fiscal Year.....</b>	<b>\$43,109</b>	<b>\$64,433</b>	<b>\$75,116</b>	<b>\$58,379</b>	<b>\$70,878</b>
<b>Actual Earnings for Current Fiscal Year.....</b>	<b>51,140</b>	<b>62,691</b>	<b>68,092</b>	<b>60,337</b>	<b>64,103</b>
Estimated Adjustment for 2 Fiscal Years Later.....	7,505	(1,742)	481	215	(6,294)

- (1) Represents a payment adjustment for Fiscal Year 2000 due to the increase in per gallon rum excise tax from \$10.50 per gallon to \$13.25 per gallon. An additional payment of \$3.4 million was received for the increased transfer rate for the retroactive period in Fiscal Year 1999.
- (2) Represents an additional payment received during the Fiscal Year made in response to a request from the Government due to much higher than projected collections during the year.

Source: United States Virgin Islands Office of Management and Budget.

#### *Hotel Occupancy Taxes*

Pursuant to Title 33 of the Virgin Islands Code, Section 54, hotel guests in the Virgin Islands are required to pay a hotel tax of 8% of the gross room rate or rental. The hotelkeeper or innkeeper is responsible for collecting, reporting and remitting such revenues to the Government. All hotel room tax revenues are deposited into the Tourism Advertising Revolving Fund. The following table represents hotel occupancy tax collections for Fiscal Years 1999 through 2003.

**Hotel Occupancy Tax Revenues**  
**Fiscal Years 1999 – 2003**  
**Cash Basis**  
**(\$000's)**

<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
\$11,199	\$12,600	\$13,648	\$12,196	\$13,872

Source: United States Virgin Islands Department of Finance unaudited revenue reports.

The 10.6% decrease in hotel occupancy tax revenues from Fiscal Year 2001 to 2002 is directly attributable to the reduction in travel caused by the general economic decline in the United States and the terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

**Expenditures of the Government**

A significant portion of the Government's expenditures consist of appropriations for the administration and operation of the Government's institutions and facilities (such as educational facilities, the Legislature, the Territorial Court and correctional facilities) and for the operation of the Government's departments and agencies (such as the Department of Tourism, the Virgin Islands Police Department, Housing, Parks and Recreation, Economic Development, Agriculture, Human Services, Department of Planning and Natural Resources, and general administration).

Expenditures also are required under legally binding contractual agreements that the Government has previously made or existing statutes which have continuing applicability. Contractually required expenditures include amounts for debt service payments. Expenditure totals also include amounts from the General Fund contributed to the University of the Virgin Islands, interfund transfers for special projects, and operating and capital funding for other semi-autonomous authorities.

**Financial Position of the Government**

*The following discussion of the financial position of the Government is based on financial information included in the audited financial statements for Fiscal Years 1999 through 2001 and unaudited financial reports prepared by the Department of Finance (prepared not using generally accepted accounting principles ("non-GAAP")) for Fiscal Years 2002 and 2003. The audited financial statements for Fiscal Year 2002 are expected to be available in the first quarter of 2004. The Government expects that, upon completion of the audit of Fiscal Year 2002, adjustments to the unaudited financial statements presented herein will be necessary (including, without limitation, as a result of the adoption of GASB 34 hereinafter described). The Government can make no assurance that such adjustments will not be material. See "UNITED STATES VIRGIN ISLANDS — Financial Management, Budgeting and Controls — Financial Reporting" and "FINANCIAL STATEMENTS OF THE GOVERNMENT." The general purpose financial statements of the Government for the Fiscal Years ended September 30, 1999, 2000 and 2001, appended hereto as Appendix D as part of this Official Statement, have been audited by KPMG to the extent and for the years indicated in their reports thereon. Such general purpose financial statements have been included in reliance upon the reports of KPMG. Such reports refer to reports of other auditors, contain a disclaimer over the balances and transactions of the enterprise fund caused by certain limitations in their audit scope and contain various qualifications. See "FINANCIAL STATEMENTS OF THE GOVERNMENT" and Appendix D hereto. In addition, OMB Circular A-133 for Fiscal Year 2001 prepared by KPMG noted material weaknesses in internal controls over the financial report based on an audit of the general purpose financial statements performed in accordance with Government Accounting Standards and events of non-compliance with certain provisions of laws, regulations, contracts and grants that have a direct and material effect on the determination of general purpose financial statement amounts. Such general purpose financial statements are included herein for informational purposes only, and the information contained in these general purpose financial statements should not be read to in any way modify the description of the security for the Series 2003A Bonds contained herein.*

*General*

Since Fiscal Year 1989, the Government has experienced substantial fluctuations in revenues and expenditures, resulting in deficits, from time to time, in year-end fund balances. For Fiscal Year 1999, total

revenues in the General Fund and the Debt Service Fund were approximately \$442.9 million and the combined deficit in the General Fund and the Debt Service Fund for the year was approximately \$54.2 million; as of the end of the year the combined accumulated deficit in the General Fund and Debt Service Fund was approximately \$239.7 million. For Fiscal Year 2000, total revenues in the General Fund and the Debt Service Fund were approximately \$525.8 million and the combined surplus in the General Fund and the Debt Service Fund for the year was approximately \$316.9 million primarily as a result of the issuance of the Series 1999 A Bonds; as of the end of the year, after adjusting for the combined accumulated deficit from prior years, the combined surplus in the General Fund and the Debt Service Fund was approximately \$77.2 million. For Fiscal Year 2001, total revenues in the General Fund and the Debt Service Fund were approximately \$606.4 million and the combined surplus in the General Fund and the Debt Service Fund for the year was approximately \$104.7 million; as of the end of the year, after adjusting for the combined accumulated deficit from prior years, the combined surplus in the General Fund and the Debt Service Fund was approximately \$181.9 million. The General Fund and the Debt Service Fund are generally the unrestricted funds of the Government (subject to debt service payment requirements).

Revenues for Fiscal Year 2001 were higher than projected as a result of a strong national economy, increased tourism and resultant sales taxes on hotel occupancy, restaurant meals and other purchases. As a result, the Government paid certain long standing retroactive salary increases that the Government had owed to its employees for several years and implemented salary increases for certain employees.

The increase of \$33.7 million (539.2%) of combined revenues from interest and other revenues in the General Fund and the Debt Service Fund from Fiscal Year 1999 to Fiscal Year 2000 was primarily due to an increase in Matching Fund Revenues. The increases in combined deferred revenue liabilities of \$25.4 million (51.2%) in the General Fund and the Debt Service Fund from Fiscal Year 1999 to Fiscal Year 2000 and \$17.8 million (23.7%) from Fiscal Year 2000 to Fiscal Year 2001 was also related to the increase in Matching Fund Revenues and the treatment of such revenues as unearned income for financial statement purposes.

The following sets forth the balance sheets, and revenues, expenditures and changes in fund balance for Fiscal Years 1999 through 2001 based on the Audited General Purpose Financial Statements for those years for the General Fund and the Debt Service Fund (see Appendix D hereto), and revenues and expenditures for Fiscal Years 2002 and 2003 based on unaudited data provided by the Government for the general fund (budgetary basis). Revenues for Fiscal Years 2002 and 2003 have been posted on a cash receipt basis and payables for such years, with respect to a portion of expenditures, have been based upon invoice receipt; consequently the information presented for Fiscal Years 2002 and 2003 is on a non-GAAP basis.

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**GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS**  
**GENERAL FUND AND DEBT SERVICE FUND**  
**BALANCE SHEET**  
**AS OF SEPTEMBER 30 FOR FISCAL YEARS 1999, 2000 AND 2001**  
**(\$000's)**

	1999			2000			2001		
	General*	Debt Service*	TOTAL	General*	Debt Service*	TOTAL	General*	Debt Service*	TOTAL
<b>Assets and other debits</b>									
Cash and cash equivalents	\$ -	\$6,669	\$6,669	\$20,291	\$21,945	\$42,236	\$99,066	\$23,151	\$122,217
Investments	11,242	82,616	93,858	102,052	123,784	225,836	69,903	120,845	190,748
Receivables, net									
Taxes	45,543	-	45,543	45,528	4,174	49,702	58,400	5,425	63,825
Accrued interest	21	-	21	154	-	154	469	895	1,364
Other	310	-	310	343	-	343	345	-	345
Due from									
Other funds	6,274	-	6,274	8,870	-	8,870	12,987	-	12,987
Component units	4,337	-	4,337	3,727	-	3,727	2,498	-	2,498
Restricted assets									
Cash and cash equivalents	35,820	-	35,820	-	-	-	-	-	-
Investments	11,232	-	11,232	-	-	-	-	-	-
Other debits:									
Amount available for debt service	-	-	-	-	-	-	-	-	-
Amount to be provided for retirement of general long-term obligations	-	-	-	-	-	-	-	-	-
<b>Total assets and other debits</b>	<b>\$114,779</b>	<b>\$89,285</b>	<b>\$204,064</b>	<b>\$180,965</b>	<b>\$149,903</b>	<b>\$330,868</b>	<b>\$243,668</b>	<b>\$150,316</b>	<b>\$393,984</b>
<b>Liabilities</b>									
Accounts payable and accrued liabilities	\$127,926	\$ -	\$127,926	\$50,529	\$ -	\$50,529	\$34,882	\$ -	\$34,882
Tax refunds payable	136,858	-	136,858	68,017	-	68,017	54,016	-	54,016
Due to									
Other funds	72,977	-	72,977	38,535	-	38,535	10,873	-	10,873
Component units	5,923	-	5,923	6,889	-	6,889	4,778	-	4,778
Interest payable	-	812	812	-	-	-	-	-	-
Deferred revenue	9,607	40,059	49,666	35,060	40,055	75,115	52,867	40,054	92,921
Tax and revenue anticipation notes	35,000	-	35,000	-	-	-	-	-	-
Notes payable	-	-	-	-	-	-	-	-	-
Bonds payable	-	-	-	-	-	-	-	-	-
Interfund loan payable	14,600	-	14,600	14,600	-	14,600	14,600	-	14,600
Other long-term liabilities	-	-	-	-	-	-	-	-	-
<b>Total liabilities</b>	<b>\$402,891</b>	<b>\$40,871</b>	<b>\$443,762</b>	<b>\$213,630</b>	<b>\$40,055</b>	<b>\$253,685</b>	<b>\$172,016</b>	<b>\$40,054</b>	<b>\$212,070</b>
<b>Fund Equity and Other Credits</b>									
Fund balances (deficits):									
Encumbrances	\$52,783	\$ -	\$52,783	\$45,529	\$ -	\$45,529	\$60,202	\$ -	\$60,202
Debt Service	-	48,414	48,414	-	109,848	109,848	-	110,262	110,262
Other specified purposes	4,337	-	4,337	3,727	-	3,727	-	-	-
Unreserved									
Undesignated (accumulated deficit)	(345,232)	-	(345,232)	(81,921)	-	(81,921)	11,450	-	11,450
<b>Total fund equity (deficit) and other credits</b>	<b>(\$288,112)</b>	<b>\$48,414</b>	<b>(\$239,698)</b>	<b>(\$32,665)</b>	<b>\$109,848</b>	<b>\$77,183</b>	<b>\$71,652</b>	<b>\$110,262</b>	<b>\$181,914</b>
<b>Total liabilities, fund equity (deficits) and other credits</b>	<b>\$114,779</b>	<b>\$89,285</b>	<b>\$204,064</b>	<b>\$180,965</b>	<b>\$149,903</b>	<b>\$330,868</b>	<b>\$243,668</b>	<b>\$150,316</b>	<b>\$393,984</b>

\* Source: Audited General Purpose Financial Statements for Fiscal Years 1999, 2000 and 2001 (see Appendix D hereto).

**GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS**  
**GENERAL FUND AND DEBT SERVICE FUND**  
**REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE**  
**FOR FISCAL YEARS ENDED SEPTEMBER 30, 1999, 2000 AND 2001**  
(\$000's)

	1999			2000			2001		
	General*	Debt Service*	TOTAL	General*	Debt Service*	TOTAL	General*	Debt Service*	TOTAL
<b>Revenues:</b>									
Taxes	\$388,738	\$41,370	\$430,108	\$334,869	\$141,346	\$476,215	\$391,612	\$151,301	\$542,913
Federal grants	-	-	-	-	-	-	-	-	-
Charges for services	5,897	-	5,897	5,287	-	5,287	7,083	-	7,083
Interest and other	5,261	1,627	6,888	38,889	5,372	44,261	49,401	6,997	56,398
<b>Total revenues</b>	<b>\$399,896</b>	<b>\$42,997</b>	<b>\$442,893</b>	<b>\$379,045</b>	<b>\$146,718</b>	<b>\$525,763</b>	<b>\$448,096</b>	<b>\$158,298</b>	<b>\$606,394</b>
<b>Expenditures:</b>									
General government	\$136,812	\$ -	\$136,812	\$128,643	\$ -	\$128,643	\$133,352	\$ -	\$133,352
Public safety	46,457	-	46,457	38,260	-	38,260	38,280	-	38,280
Health	56,189	-	56,189	30,979	-	30,979	22,730	-	22,730
Public housing and welfare	32,604	-	32,604	30,190	-	30,190	27,085	-	27,085
Education	126,412	-	126,412	104,520	-	104,520	123,877	-	123,877
Economic and agricultural development	14,850	-	14,850	20,332	-	20,332	13,484	-	13,484
Transportation and communication	22,650	-	22,650	24,779	-	24,779	26,781	-	26,781
Culture and recreation	10,284	-	10,284	9,435	-	9,435	9,639	-	9,639
Capital outlays	3,864	-	3,864	-	-	-	-	-	-
Debt Service:									
Principal	-	12,060	12,060	-	12,745	12,745	-	28,427	28,427
Interest	-	29,913	29,913	-	38,851	38,851	-	50,095	50,095
<b>Total expenditures</b>	<b>\$450,122</b>	<b>\$41,973</b>	<b>\$492,095</b>	<b>\$387,138</b>	<b>\$51,596</b>	<b>\$438,734</b>	<b>\$395,228</b>	<b>\$78,522</b>	<b>\$473,750</b>
<b>Excess (deficiency) of revenue over (under) expenditures</b>	<b>(\$50,226)</b>	<b>\$1,024</b>	<b>(\$49,202)</b>	<b>(\$8,093)</b>	<b>\$95,122</b>	<b>\$87,029</b>	<b>\$52,868</b>	<b>\$79,776</b>	<b>\$132,644</b>
<b>Other financing sources (uses):</b>									
Proceeds from long-term debt issues	\$26,000	\$3,163	\$29,163	\$269,000	\$23,326	\$292,326	\$ -	\$ -	\$ -
Operating transfers from other funds	16,984	6,704	23,688	73,822	201	74,023	120,604	-	120,604
Operating transfers from component units	500	-	500	-	-	-	-	-	-
Operating transfers to other funds	(9,105)	(4,688)	(13,793)	(32,236)	(57,215)	(89,451)	(4,925)	(79,362)	(84,287)
Operating transfers to component units	(44,581)	-	(44,581)	(47,046)	-	(47,046)	(64,230)	-	(64,230)
<b>Total other financing sources (uses), net</b>	<b>(\$10,202)</b>	<b>\$5,179</b>	<b>(\$5,023)</b>	<b>\$263,540</b>	<b>(\$33,688)</b>	<b>\$229,852</b>	<b>\$51,449</b>	<b>(\$79,362)</b>	<b>(\$27,913)</b>
<b>Excess (deficiency) of revenue and other financing sources over (under) expenditures and other financing uses</b>	<b>(\$60,428)</b>	<b>\$6,203</b>	<b>(\$54,225)</b>	<b>\$255,447</b>	<b>\$61,434</b>	<b>\$316,881</b>	<b>\$104,317</b>	<b>\$414</b>	<b>\$104,731</b>
<b>Fund balances (deficits)</b>									
Beginning of fiscal year	(\$227,684)	\$42,211	(\$185,473)	(\$288,112)	\$48,414	(\$239,698)	(\$32,665)	\$109,848	\$77,183
End of fiscal year	(\$288,112)	\$48,414	(\$239,698)	(\$32,665)	\$109,848	\$77,183	\$71,652	\$110,262	\$181,914

\* Source: Audited General Purpose Financial Statements for Fiscal Years 1999, 2000 and 2001 (see Appendix D hereto).



**GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS  
GENERAL FUND (BUDGETARY BASIS)  
(UNAUDITED) REVENUES AND EXPENDITURES  
FOR FISCAL YEARS ENDED SEPTEMBER 30, 2002 AND 2003  
(\$000's)**

	<b>2002</b>	<b>2003</b>
<b>Revenues:</b> <sup>(1)</sup>		
Taxes	\$506,484	\$497,323
Licenses, Fees and Permits	5,258	5,786
Customs Dues	2,479	2,015
Fines, Forfeitures and Penalties	1,975	1,863
Miscellaneous/Other Revenues	3,161	3,194
Contributions		
Recurring Contributions <sup>(2)</sup>	28,314	22,118
Internal Revenue Matching Fund	5,125	18,400
Financing Proceeds	2,707	81,500
Other	1,017 <sup>(3)</sup>	5,008 <sup>(4)</sup>
<b>Total Revenues</b>	<b>\$556,520</b>	<b>\$637,207</b>
<b>Expenditures:</b> <sup>(5)</sup>		
General Government	\$302,991	\$285,753
Public Safety	37,812	40,745
Health and Welfare	95,930	99,452
Education	136,307	144,602
Sanitation	13,146	13,584
Transportation	10,485	10,540
Culture and Recreation	5,328	5,150
Debt Service <sup>(6)</sup>	26,795	26,794
<b>Total Expenditures</b>	<b>\$628,794</b>	<b>\$626,619</b>

- (1) Source: United States Virgin Islands Department of Finance Unaudited General Fund Statement of Revenues.
- (2) Includes amounts relating to WICO payment-in-lieu of taxes, Insurance Guaranty Fund, Transportation Trust Fund, Land Bank Caribbean Basin Incentive Fund and Interest Revenue Fund.
- (3) Includes the Virgin Islands' portion of the Bridgestone/Firestone Settlement, the Casino Control Commission Fund Contribution and the Certificate of Title.
- (4) Includes Lottery Contribution and Deficit Reduction Contribution.
- (5) Source: United States Virgin Islands Department of Finance Expenditure Report.
- (6) Represents the Series 1999 A Bonds, the Y2K Bonds and the Government's General Obligation Bonds, 1999 Series A.

### *Preliminary Fiscal Year 2002 and Fiscal Year 2003 Results*

Based upon preliminary Fiscal Year 2002 results, gross revenues in Fiscal Year 2002 were approximately \$556.5 million and gross expenditures were approximately \$628.8 million, resulting in a projected \$72.3 million deficit for the year. Based upon preliminary Fiscal Year 2003 results, gross revenues in Fiscal Year 2003 were approximately \$637.2 million and gross expenditures were approximately \$626.6 million, resulting in a projected \$10.6 million surplus for the year, primarily as a result of proceeds from the issuance of the Series 2003 BANs. As of September 30, 2002, cash and cash equivalent balances (unaudited, non-GAAP basis) totaled approximately \$117.3 million. This amount does not include cash and cash equivalent balances in Special Revenue Funds or Capital Projects Funds. With legislative authorization, Special Revenue Funds are available for general fund purposes. In prior Fiscal Years, the Government has financed a portion of the general fund (budgetary basis) operating deficit by interfund transfers, certain of which had not been authorized by legislative approval, and the interim borrowings for working capital needs. See “– Department of the Interior 1998 Audit Report” below.

The general economic decline in the United States and the impact of the terrorist attacks in New York City and Washington, D.C. on September 11, 2001 on travel and tourism, coupled with a change in law exempting more businesses from excise taxes, resulted in a reduction in revenues in Fiscal Year 2002. Based upon preliminary Fiscal Year 2002 results, gross revenues decreased by approximately 8% from Fiscal Year 2001.

Revenues in Fiscal Year 2003 were negatively impacted by litigation initiated by certain commercial property owners which resulted in a decision by the Government to delay the issuance of commercial property tax bills and to exclude a due date on residential property tax bills that were issued. See “LITIGATION — Real Property Tax Case.” In addition, federally mandated tax credits, which are mirrored in the Virgin Islands income tax returns, have resulted in a decrease in revenues, while the increased costs of health care benefits and additional retirement benefits for new employees have resulted in increased expenditures. In order to meet its immediate cash flow needs during Fiscal Year 2003, the Government issued the Series 2003 BANs to certain local banks to fund certain vendor payments and to pay income tax refunds due. The Government has also recently instituted expenditure initiatives, including a reduction in health insurance costs for Government employees as a result of a new 65/35 cost-sharing policy.

It is expected that the audited financial statements for Fiscal Year 2002 will be available during the first quarter of 2004. The Government expects that, upon completion of the audit of Fiscal Year 2002, adjustments to the unaudited financial statements presented herein will be necessary (including, without limitation, as a result of the adoption of GASB 34 hereinafter described). The Government can make no assurance that such adjustments will not be material. See “FINANCIAL STATEMENTS OF THE GOVERNMENT.”

### *Proposed Fiscal Year 2004 Budget*

In August 2003, the Governor submitted to the Legislature a proposed balanced budget for Fiscal Year 2004 with total revenues and expenditures of the general fund (budgetary basis) net of operating transfers equal to approximately \$557.7 million. In conjunction with his submission, the Governor proposed expenditure reduction initiatives relating to a reduction in health insurance costs for Government employees as a result of a new 65/35 cost-sharing policy (which has already been approved by the Legislature) (see “UNITED STATES VIRGIN ISLANDS — Financial Position of the Government — Fiscal Recovery Efforts — Expenditure Reduction Initiatives).

On November 25, 2003, the Legislature finalized the Fiscal Year 2004 Budget. It has been reported that the Legislature has proposed in the Fiscal Year 2004 Budget, among other things, (i) accelerating the collection of real property taxes by collecting such taxes in advance rather than in arrears, which is projected to yield approximately \$40.0 million, (ii) substituting a letter of credit or other similar instrument for cash currently held in the Insurance Guaranty Fund, a Government-established fund created after Hurricane Marilyn to cover property and casualty claims made to insolvent insurance companies that is funded by a tax on property and casualty insurance premiums, which is projected to yield approximately \$30 million and (iii) increasing the motor fuel tax levy by 3 cents, which is projected to yield approximately \$3.0 million to \$8.0 million (see “UNITED STATES VIRGIN ISLANDS — Additional Revenues of the Government — Motor Fuel Taxes”). The Government’s ability to achieve Fiscal Year 2004 actual results consistent with the proposed budget will be dependent upon certain events, including, but not limited to, approval by the Governor of the Legislature’s spending plan and expenditure initiatives. The Governor has not finalized the Fiscal Year 2004 Budget as of the date hereof. It is currently

anticipated that the final Fiscal Year 2004 Budget will be acted upon by the Governor in December 2003. The Fiscal Year 2003 Budget continues to be in effect until the enactment of the Fiscal Year 2004 Budget.

#### *Accumulated and Recurring Operating Deficits*

The causes of the structural imbalance experienced by the Government are multi-dimensional and include a large public sector payroll, the nature of a three-island economy and a narrow private sector base. This condition has been severely exacerbated by the damages caused by three major hurricanes within a 15-year period. Specifically, Hurricane Hugo in 1989 and Hurricane Marilyn in 1995 collectively caused damages of approximately \$3.0 billion. The Virgin Islands derives approximately 90% of its revenues from taxes. Federal tax cuts and federally mandated tax credits that are mirrored in the Virgin Islands' tax code, as well as a court-mandated moratorium on property values and a national economic downturn have contributed to the stagnation in total net tax receipts since Fiscal Year 2001. Approximately \$90.2 million in extraordinary inflow items received in Fiscal Years 2001 through 2003, such as working capital loan proceeds, diminished the impact of declines in certain recurring revenues. On the expenditure side, payroll equals approximately 59% of general fund (budgetary basis) outlays, partially as a result of the unique demands on the Government created by the three-island public service sector.

#### *Financial Accountability Act*

The Financial Accountability Act mandates the enactment of a balanced budget with "Verifiable Receipts" each succeeding Fiscal Year. The purpose of the Financial Accountability Act is to require by law, that (i) the budget of the Virgin Islands be balanced each year, (ii) the appropriations in each Fiscal Year not exceed verifiable revenues received, (iii) the annual deficits be eliminated to prevent accumulation of debt, and (iv) the Government be current in the payment of its obligations to employees and vendors. To facilitate the effectiveness of the balanced budget requirement, the Financial Accountability Act requires that prior to each Fiscal Year (other than Fiscal Year 2001), and before enactment of the Government's budget, the Legislature shall adopt a statement of the prior two years' "Revenues" or "Verifiable Receipts" attested to by an independent certified public accountant and certified by the Governor. The Financial Accountability Act further provides that appropriations shall not exceed the certified coverage except to the extent waivers of such requirements are obtained. Waivers of such requirements of the Financial Accountability Act can only be granted by a two-thirds vote of the Legislature after the Legislature finds that an emergency exists, natural or otherwise. In addition, the Financial Accountability Act established an employee attrition plan, required the submission of a governmental reorganization plan, and established certain reporting requirements for the Government's financial officers, including the development of a comprehensive report demonstrating the Government's plans with respect to liquidating certain unauthorized interfund transfers. See "– Department of the Interior 1998 Audit Report."

#### *Department of the Interior 1998 Audit Report*

In September 1998, the OIG of the DOI delivered its final audit report with respect to "Interfund Loans and Federal Grant Balances, Government of the Virgin Islands" (the "DOI Report"). The purpose of the review was to determine the amounts borrowed for the General Fund from Special Fund accounts during Fiscal Years 1995, 1996 and 1997 and the outstanding balances of such interfund loans and unobligated balances of federal grant accounts. The report found that: (i) as of September 30, 1997, the Government had outstanding operations related obligations (excluding bonded debt) of \$588,000,000 which included \$120,000,000 for unauthorized and unrecorded interfund loans, (ii) complete current and reliable information on the balances of federal grants awarded the Government was not available, and (iii) while the Government had made improvements in its operations, the Government continued to have problems in the areas of overall financial management, expenditure control, revenue collection and program operations which had an adverse impact on its financial condition. The report made certain recommendations to assist the Government in achieving long-term improvements in its daily operations and overall financial condition. As of the date of issuance of the DOI Report, the OIG determined that the Government had resolved certain of its recommendations and was attempting to comply with the balance of such recommendations. In particular, shortly after the issuance of the DOI Report, the Government established separate accounts so as to prevent the commingling of federal and local monies.

While the Government acknowledges that certain interfund loans were made, the Government has disputed the amount of unauthorized transfers cited in the DOI Report. The Government determined that a portion of the interfund loans were the result of insufficient General Fund resources to pay gross payroll when due. In order to meet these obligations, the Government funded certain payroll taxes and benefits from certain Special Funds. As of September 19, 2003, the Government estimates it owed approximately \$26.4 million to Special Funds. The

Government has instituted policies and procedures to restrict net funding of payroll and associated interfund loans. The Government has proceeded to take actions to address each item noted in the DOI Report. The Government has substantially decreased its payroll obligations and curbed overspending by its departments. As acknowledged by the OIG, the Government is actively working to reimburse the affected Special Funds for such deficiencies and to implement procedures to ensure no unauthorized interfund transfers occur in the future.

#### *Federally-Disciplined Programs*

*Department of Education “High Risk” Grantee Designation.* In 1999, the United States Department of Education (“DOE”) designated certain Government departments receiving federal grants, including the Virgin Islands Department of Health and the Virgin Islands Department of Education, to be “high risk” grantees. As a result of high-risk designation, the DOE may impose certain special conditions or restrictions on its grants, including payment of a grant on a reimbursement basis. The DOE cited the cause of the “high risk” designation to be primarily the failure of the Government (as of that time) to conduct timely single audits since Fiscal Year 1994 in contravention of the Single Audit Act and findings by the OIG in the DOI Report regarding improper administration of funds received by the Government’s agencies.

The Virgin Islands entered into a three-year compliance agreement in September 2003 with the DOE whereby the DOE will continuously monitor the Virgin Islands’ compliance with the DOE’s requirements and, if the Virgin Islands is compliant, will continue to provide grants until the expiration of this compliance agreement. To monitor and ensure compliance, the Governor created a committee comprised of the heads of the various entities identified in the compliance agreement including the Office of Management and Budget, Department of Property and Procurement, Department of Finance, Department of Justice and Department of Education. Upon expiration, the DOE can decide to certify compliance and continue to provide grants on an ongoing basis or, if non-compliant, terminate such grants or select an independent third party overseer of grant administration. The DOE has confirmed its intention to continue to provide federal education assistance through existing grants, however, the DOE has imposed additional reporting requirements such as detailing grant expenditures, and updating progress toward completion of outstanding single audit compliance efforts. The failure to comply with the conditions set forth by the DOE may result in the DOE taking appropriate enforcement action at any time, including imposition of additional special conditions.

*Additional Expenditures.* As a result of a consent order issued by the Virgin Islands District Court, the Government is required to expend approximately \$2.0 million to ameliorate the deteriorating conditions of the prisons on the Virgin Islands, which amount is anticipated to be funded from a portion of the proceeds of the Series 2003A Bonds (see “PLAN OF FINANCE – Description of the Series 2003A Projects”). Renovation of the prisons is anticipated to begin in December 2003.

The Government has, since 1985, been subject to a consent decree, issued by the Virgin Islands District Court, governing the operation of its wastewater treatment plants (“WWTPs”). The consent decree was amended in 1996 and further modified in 2002 (the “Amended Consent Decree”) to establish deadlines for the construction of new secondary treatment facilities, including the replacement of the existing St. Croix and Airport Lagoon (“Charlotte Amalie”) WWTPs. The Amended Consent Decree requires that the new St. Croix WWTP be completed by the end of 2005 and the new Charlotte Amalie WWTP be completed by the end of 2006. The cost of both facilities is estimated at approximately \$50.0 million, a portion of which is anticipated to be funded from the proceeds of the Series 2003A Bonds (see “PLAN OF FINANCE – Description of the Series 2003A Projects”). The Amended Consent Decree also establishes certain interim deadlines and performance standards which must be met by the Government pending completion of the new facilities. In addition, the Amended Consent Decree establishes stipulated penalties for violation of any of the deadlines or performance standards set forth in the Amended Consent Decree. The stipulated penalties for each day of violation of each interim deadline or performance standard range from \$500 per day to \$5,000 per day.

#### *Other DOI Office of Inspector General Reports*

Pursuant to its duties as government comptroller of the Virgin Islands (see “UNITED STATES VIRGIN ISLANDS — General”), the OIG of the DOI has issued numerous audit reports over the past several years, which have included claims of, among other things, ineffective revenue collection efforts, noncompetitive bidding and ineffective administration of contracts, and lack of oversight for use of federal funds. The Government has agreed with some of the findings of the audits and has disputed other findings. Government implementation of the various recommendations of the OIG included within these reports are in various stages of implementation.

In March 2002, the OIG delivered a report regarding “Management Challenges for Insular Area Governments, An Opportunity for Improvements.” This report was intended to identify what the OIG believed to be the major management challenges for the insular area governments, including the Government. This report noted that the Government continues to face severe financial difficulties. Audits of the Government conducted by the OIG since Fiscal Year 1999 have disclosed weaknesses in the financial and operational activities of various Virgin Islands services, departments and agencies. This report also stated that the Government’s lack of adequate audit resolution and implementation of recommendations contributed to the existence of long-standing financial management deficiencies. As a result, the OIG stated that its audit reports often disclose problems that are identical or at least similar to ones that had been disclosed by prior audit reports. The Government has taken steps to improve its financial management systems. See “— Fiscal Recovery Efforts — Financial Reporting and Financial Management System Improvements” below.

## **Fiscal Recovery Efforts**

### *Expenditure Reduction Initiatives*

Central to the Government’s fiscal recovery plan is reduced Government spending. On June 15, 1999, the Governor issued Memorandum No. 021-99, directing a 50% reduction in overtime, implementing a strict hiring freeze on positions (other than federally funded positions) and stipulating a 5% reduction in personnel expenditures. This directive requires that positions funded by federal grants be contingent upon the respective grant funding and that the position be terminated and not converted to a full-time Government position when the grant funds are fully expended. In addition, certain expenditure reduction recommendations included in the April 2000 Five-Year Operating and Strategic Financial Plan developed by a task force established by the Governor were also implemented. Some of the initiatives undertaken that have resulted in cost savings for the Government include: the implementation of a Governmental reorganization plan that consolidated several departments and agencies; the consolidation and renegotiation of Government leases; the enactment of an early retirement program and attrition program to complement the hiring freeze; the elimination of three paid holidays; and a realignment of cost sharing of health benefits between the Government (65%) and employees (35%). The Governor has also recently proposed an additional 2% reduction in personnel and related costs.

The Government has also continued to pursue avenues to reduce its outstanding obligations. The Government has been successful in eliminating in full its Hurricane Hugo Community Disaster Loan (“CDL”) and has negotiated an agreement with the Federal Bureau of Prisons to eliminate a 10-year outstanding obligation to the Federal Bureau of Prisons. The Government also has recently been notified of FEMA’s initial determination that approximately \$19.7 million in principal, together with associated interest, of the Hurricane Marilyn CDL is eligible for cancellation and will pursue cancellation or legislative relief (if required) for the remaining balance. In part through working capital borrowing, the Government has been able to reduce accumulated debt obligations to taxpayers (income tax refunds), vendors, and intergovernmental agencies (e.g., the Virgin Islands Water and Power Authority). Furthermore, as a result of implementing certain previously unfunded but negotiated salary increases in Fiscal Year 2001, the Government eliminated the corresponding growth in unfunded obligations for retroactive pay increases.

The Government also is contemplating the privatization of certain Government services to reduce the size of the Government while simultaneously enhancing the private sector. For example, servicing and collection of outstanding hospital receivables were outsourced to private collection agencies and the Police Department has begun privatizing vehicle towing services to reduce personnel and equipment costs.

### *Financial Reporting and Financial Management System Improvements*

In recognition of the importance of financial reporting and the need to accurately and timely monitor its financial position, the Government has made significant strides in improving its financial monitoring and transparency. As of the beginning of Fiscal Year 1999, the Government’s most recent independent audit of its financial statements was for Fiscal Year 1994. This was in contravention of the Single Audit Act and the Government was in jeopardy of losing its future federal funding. Accordingly, completion of audited financial statements was given high priority. As of the end of Fiscal Year 2002, the Government had completed audits for five fiscal years (namely Fiscal Years 1995, 1998, 1999, 2000 and 2001). By the end of Fiscal Year 2003, agreed-upon procedures were completed by an independent auditor for Fiscal Year 1996 and Fiscal Year 1997.

The Government has enhanced, and continues to enhance, the computerization of key departments (such as the BIR, Department of Finance, Department of Education, and Department of Property and Procurement) to better

manage both Government receivables and payables and to avoid interest charges and penalties. The Government also has invested approximately \$9.0 million to date to automate the billing and collection system for income and real property taxes and has brought a new processing system on-line. Additionally, the Government has implemented a management and reorganization plan at the BIR to increase and improve the BIR's tax audits and to generally improve the timeliness and effectiveness of tax collections as well as to reduce tax refund liabilities. The new financial management systems of the BIR allow much more accurate and timely identification and categorization of delinquent tax receivables, which permits the Government to deploy its collection efforts more efficiently with maximum impact.

#### *Private Sector Industry Initiatives*

In order to decrease the dependence on public sector employment in the Virgin Islands, the Government recognizes the need to stimulate private industry to generate other employment opportunities and increased economic activity. Since 1999, the Government has significantly increased its marketing efforts and focus of its EDC Program to bring additional businesses to the Virgin Islands. The number of applicants from 1999 to 2003 more than tripled (from 22 to 78). In addition to the long-term effect on employment and revenues to the Virgin Islands that these businesses create, the impact of this new investment is also reflected immediately in the substantial increase in income tax revenues that result as of the relocation of the principals of the EDC beneficiaries to the Virgin Islands. The Government has granted benefits to a wide variety of businesses, with a specific focus on financial services companies, and tourism- and medical technology-based enterprises. Legislation has been adopted that would qualify the marine industry for tax benefits by the Commission in an attempt to revitalize this industry.

The Government also has assisted various of the Virgin Islands' large private sector businesses to expand either facilities or production, creating both construction activity as well as increased employment opportunities. The Government issued industrial development bonds on behalf of Hovensa L.L.C., the Territory's largest real property taxpayer, for a portion of the funding for an approximately \$615.0 million coker that was constructed beginning in 2000 and placed into service in 2002 that allows the refinery to process a wider range of petroleum sources. To further improve its production output, Hovensa L.L.C. is scheduled to commence a clean fuels program which, according to its current cost estimate, is expected to require approximately \$446.0 million to complete. The Government worked with Virgin Islands Rum Industries Limited ("VIRIL"), the rum production company that generates all of the Matching Fund Revenues, and the federal Environmental Protection Agency to negotiate an effluent discharge agreement that permits VIRIL to increase production by up to 20% to better meet currently unsatisfied demand.

Recognizing the importance of tourism to the economy of the Virgin Islands, the Government has undertaken several projects to better facilitate and encourage visitor arrivals, including: improvement of the Red Hook Ferry Terminal; development of the Crown Bay Cruise Ship Terminal; development of a commercial port at Enighed Pond in St. John; expansion of the St. Croix Henry E. Rohlsen Airport; redevelopment of the Kings Alley Hotel and Retail Walk in downtown Christiansted; and a new St. Croix Conference Center and Hotel. Other private sector projects recently completed or currently in progress that the Government has encouraged include: the expansion and refurbishment of the Ritz-Carlton Hotel and Timeshare; and the new Yacht Haven Marina and Hotel. See "APPENDIX E — "United States Virgin Islands Economic and Demographic Information — Construction and Real Estate" and " — Capital Program."

The Government also is involved in the coordination and facilitation of two housing development projects in St. Thomas/St. John (\$77.0 million) and St. Croix (\$50.3 million). Funding for these projects is expected to come from the developers and homeowners as well as federal programs. The Governor submitted and received Senate approval to authorize the establishment of two technology parks to be operated by a newly created Research and Technology Park Corporation in conjunction with the University of the Virgin Islands. The purpose of these parks is to position the Virgin Islands in the rapidly expanding area of electronic commerce and intellectual property.

#### *Memorandum of Understanding with the DOI*

*Existing Memorandum of Understanding.* In October 1999, the Government and the DOI entered into a Memorandum of Understanding (the "MOU") whereby the Government agreed to use its best efforts to undertake certain deficit reduction initiatives. As a condition to certain new and additional federal financial and technical assistance included in or being proposed in federal appropriations or other legislation, certain financial performance and accountability standards were agreed upon by the Government which the DOI believes are necessary for the Government to achieve long-term economic recovery. Pursuant to the MOU, the release of such new and additional

federal funds to the Government would be subject to compliance with such performance and verifiable objectives agreed upon in such agreement. The accountability and financial performance standards agreed upon in the MOU include, among other things: (i) preparation of a five-year financial recovery plan to be provided to the DOI within 90 days of the date of the MOU; (ii) a Fiscal Year 2000 budget mandating substantial reductions in departmental budgets and overall General Fund Fiscal Year 2000 expenditures not to exceed \$432.1 million; (iii) absent extraordinary circumstances, to maintain balanced budgets after Fiscal Year 2003 with any generated surpluses applied to the reduction of the accumulated deficit and unfunded obligations; (iv) annual preparation of financial reports; and (v) efforts to reduce the outstanding debt of the Government. In addition to the financial performance standards set forth in the MOU, the MOU further provides for the DOI and the Government to enter into a program of preservation and enhancement of the natural, cultural and historic resources of the Virgin Islands to stimulate local economic growth through sustainable tourism.

In November 2002, the OIG of the DOI delivered its final audit report regarding compliance with the MOU by the Government and the DOI. According to this report, the Government had substantially achieved five, and partially achieved four, of the thirteen financial performance and reporting standards of the MOU that related to the Government. The report stated that in so doing, the Government had improved its financial condition but that the assessment of the success of structural balance beyond Fiscal Year 2003 could not be judged until the financial statements for such year are completed. The OIG also reported that, with respect to DOI compliance issues, the DOI substantially achieved two and partially achieved one of the five financial and environmental standards. The report also contains recommendations to facilitate the Government's achievement of the other MOU requirements.

*Proposed Memorandum of Understanding.* The DOI and the Government are currently in the process of negotiating a memorandum of understanding regarding the fiscal and economic recovery of the Virgin Islands to supercede the existing MOU (the "Proposed MOU"). The Proposed MOU is expected to provide standards of financial performance and accountability to guide the Government in developing and implementing its fiscal and economic recovery program and in achieving a balanced budget. The Proposed MOU is also expected to set forth the goals and commitments of the DOI with respect to additional federal financial and technical assistance that may be required to achieve the fiscal and economic objectives under the Proposed MOU, including new and additional United States federal government appropriations for the Government.

## **Outstanding Indebtedness of the Government**

### *General Obligation Debt*

The Revised Organic Act restricts the principal amount of general obligation debt which the Government may issue to no greater than 10% of the aggregate assessed valuation of taxable real property in the Virgin Islands. Upon issuance of \$268,020,000 principal amount of the Series 2003A Bonds, the Government would have approximately \$742,688,469 of general obligation debt outstanding, which includes approximately \$562,345,000 principal amount of general obligation debt outstanding as of the date of issuance of the Series 2003A Bonds and \$180,343,469 outstanding balance on the FEMA Loan Note as of September 30, 2003. Such amount is within the statutory debt limitation established under the Revised Organic Act.

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*Outstanding Bonds and Similar Obligations*

Outlined in the tables below are the general obligations of the Government issued either by the Government or the Authority, and the revenue obligations of the Government:

**Summary of Outstanding General Obligations**

<b>Issuer</b>	<b>Issue Description</b>	<b>Outstanding Amount</b>	<b>Security</b>
United States Virgin Islands	General Obligation Bonds, 1999 Series A	\$6,480,000	General obligation of the Government
Virgin Islands Public Finance Authority	Project Revenue Bonds, Series 1999 (the "Y2K Bonds")	\$4,510,000	Periodic lease payments from the Government
Virgin Islands Public Finance Authority	Revenue Bonds, Series 1999A (Virgin Islands Gross Receipts Taxes Loan Note)	\$283,335,000	Gross Receipts Taxes Loan Note payable by the Government and general obligation of the Government
Virgin Islands Public Finance Authority	Bond Anticipation Notes, Series 2003*	\$100,000,000	Gross Receipts Taxes Loan Note payable by the Government and general obligation of the Government

**Summary of Outstanding Revenue Obligations**

Virgin Islands Public Finance Authority	Revenue and Refunding Bonds (Virgin Islands Matching Fund Loan Notes) 1998 Series A, B, C, D and E (the "1998 Bonds")	\$473,745,000	Matching Fund Loan Notes payable by the Government
Virgin Islands Public Finance Authority	Revenue Bonds (Federal Highway Reimbursement Anticipation Loan Note), Series 2002 (the "2002 Bonds")	\$18,645,000	Federal Highway Administration, monies derived from the United States federal government

\* The Series 2003 BANs are anticipated to be repaid from a portion of the proceeds of the Series 2003A Bonds.

In addition, the Government and the Authority have issued Refinery Facilities Senior Secured Tax-Exempt Revenue Bonds (HOVENSA Refinery) (the "Hovensa Bonds") on behalf of Hovensa for construction of a coker. The Hovensa Bonds are solely secured by, and paid from, revenues of Hovensa L.L.C.

The 1998 Bonds, the Y2K Bonds and the 2002 Bonds are each a special limited obligation of the Authority secured by revenues of the Authority that are different and separate from the Gross Receipts Taxes and the Loan Notes pledged as part of the Trust Estate. **Such outstanding bonds (and the Hovensa Bonds) do not constitute the "Bonds" under the Indenture.** No recourse may be had for the payment of the 1998 Bonds, the Y2K Bonds, the 2002 Bonds or the Hovensa Bonds against the general funds of the Authority, the Government's general funds or



the Gross Receipts Taxes that secure the Series 1999 A Bonds, the Swap Option Agreement, the Series 2003A Bonds or any future Bonds issued under the Indenture.

*Federal Emergency Management Agency Loan Note*

In the aftermath of the Hurricane Hugo and Hurricane Marilyn disasters, the Government qualified for certain direct loan programs authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (the "Stafford Act").

Following the Hurricane Hugo disaster in September 1989, the Government qualified for a Community Disaster Loan ("CDL") of up to \$89,912,000, but drew down only \$50,100,000. Under the Stafford Act and FEMA's implementing regulations, FEMA is required to cancel administratively that portion of the principal amount of a CDL, together with associated interest, that covers disaster-related operating revenue losses and unreimbursed disaster-related operating expenses incurred during the three fiscal years following the year of the disaster. On August 31, 1993, the Government petitioned FEMA for administrative cancellation of the loan. After four years of review, FEMA cancelled \$21,013,658 in principal, together with associated interest. Pursuant to a repayment agreement, dated November 14, 1997, the Government was obligated to repay the remaining principal and associated interest. Ultimately, the Government made a total of five quarterly payments on this loan, each in the amount of \$1,552,750, and received forbearance on making further payments until federal legislation was enacted appropriating to the DOI, for transfer to FEMA, funds in the amount required to cancel the loan entirely. On December 13, 2001, the DOI transferred to FEMA the funds required for cancellation of the Government's Hurricane Hugo CDL and FEMA's records show that the remaining balance of the Hurricane Hugo CDL was cancelled on that date.

Following the Hurricane Marilyn disaster in September 1995, the Government qualified for a CDL of up to \$127,224,568. The Government, in thirteen separate disbursements from this loan account, drew down a total of \$127,200,000 from July 5, 1996 through May 26, 1998. On June 14, 1996, the Government executed a promissory note (the "FEMA Loan Note") for repayment of its Hurricane Marilyn CDL debt, with payment due on or before June 16, 2001. Under FEMA's regulations, principal and interest payments on this note have been deferred pending final action on the Government's petition for administrative cancellation of the loan. The Government's petition for administrative cancellation of this loan was filed on June 11, 2001. On November 4, 2003, based upon FEMA's review and analysis of the Government's application in accordance with the criteria stated in the Stafford Act and FEMA's regulations, FEMA issued an initial determination that \$19,700,717 in principal, together with associated interest, is eligible for cancellation. The Government intends to submit additional information, within sixty (60) days after FEMA's initial determination, in support of its position that the Government qualifies for cancellation of additional amounts of the outstanding balance of the FEMA Loan Note under FEMA regulations. Once FEMA has made a final determination on the Government's petition for administrative cancellation, the Government, under FEMA's regulations, will be obligated to execute a repayment agreement for the remaining, uncanceled principal amount, together with associated interest. Interest will accrue at an annual rate of not less than 6.35% -- the rate established in the first instance for the loan in the promissory note dated June 14, 1996. Under FEMA's regulations, FEMA is authorized to require repayment over a term not to exceed ten years, with level payments applied first to accrued interest, then to principal. As of September 30, 2003, the outstanding balance of the Hurricane Marilyn CDL was \$180,343,468.47 (without taking into account FEMA's initial determination). The Government also intends to petition Congress for legislative relief with respect to any balance remaining on the Hurricane Marilyn CDL after final disposition of its petition for administrative cancellation.

In the event of a default of the Government under the FEMA Loan Note, FEMA is entitled to take action to recover the outstanding principal, plus related interest, under federal debt collection procedures, including administrative offset against other federal funds due to the Government and its departments and agencies, which may include Matching Fund Revenues. FEMA may also seek to attach the Government's tax revenues, including the Gross Receipts Taxes, and, under applicable federal statutes, regulations and case law, FEMA may have a priority position over the pledge of the Gross Receipts Taxes to be given by the Government to secure the Series 2003A Loan Note. No assurance can be given that a claim or legal action brought by the United States federal government to attach the Gross Receipts Taxes would not prevail over the pledge and assignment of the Gross Receipts Taxes and the moneys deposited in the Special Escrow Account made under the Series 2003A Loan Agreement and the Special Escrow Agreement.

## Other Factors

### *Labor Relations*

There are 13 distinct labor organizations subject to 29 collective bargaining agreements and a total of 29 pay plans currently in place for Governmental employees. As specific disciplines are not grouped under a single pay plan, it is common to have clerical and non-professional workers, in different departments throughout Government represented by different unions. Of the approximately 9,735 workers in the executive branch of the Government, approximately 8,000 belong to unions.

Currently, the Government has a contractual liability to various local labor unions relating to executive branch Government workers for retroactive salary increases aggregating approximately \$380.0 million accruing from Fiscal Years 1993 through 2003. In addition to retroactive salaries, the Government also has committed in its various union contracts to certain annual salary increases during the term of such respective contracts which, due to insufficient revenues, have not been reflected in the current salary rate for the individual union members. As of September 30, 2003, to bring union members current with the pay-rate terms of the existing contracts, would result in an increase to payroll for the next succeeding Fiscal Year of approximately \$12.0 million. While such liabilities are not binding under Virgin Islands law until appropriated by the Legislature, the union contracts are valid and binding obligations of the Government which may, upon action of the Legislature, become a current liability of the Government payable from the General Fund.

As a result of the Government's inability to meet the contractual liabilities of its various union contracts, certain unions and their members staged periodic work actions against the Government. The job actions moderately interrupted the operations of the Government and had a mild financial impact (e.g., overtime pay to auxiliary personnel, loss of instruction to students, legal fees and associated costs). However, the Government was successful in obtaining permanent injunctions against such work actions, which has served as strong deterrents for future strikes and/or job actions. Additionally, in Fiscal Year 2002, the Government successfully negotiated to conclusion 12 collective bargaining agreements.

### *Government Employees Retirement System*

The Employees' Retirement System of the Government of the Virgin Islands (known as GERS) requires that benefits promised under the law to members of the Virgin Islands Employees Retirement System be funded on an "actuarial reserve" basis. As of September 30, 2001, the net assets of GERS was approximately \$1.2 billion. The audit reports of GERS for its 2001 fiscal year was qualified since (i) it was unclear if certain adjustments to \$18.7 million were required in specially designated pooled accounts, and (ii) the reasonableness of amounts due from the Department of Finance of \$5.0 million was questioned.

According to an Actuarial Evaluation, dated as of September 30, 2001 (the "Actuarial Evaluation"), as of September 2001, the number of contributing members was approximately 9,303, the number of retirees was 5,514 and the number of surviving beneficiaries was 67. The total liability for future benefits to pensioners and beneficiaries is \$1,057.7 million. The valuation of the assets in the GERS is an estimate predicated upon the book value of such assets on a date certain. For the period ended September 30, 2002, benefits paid to retirees was approximately \$123.0 million. Employee and employer contributions rates to the system are as follows:

	<b>Employee Contribution Rate</b>
Members of the Legislature .....	9.0%
All other regular employees .....	8.0
Public Safety employees .....	10.0
Hazardous duty employees who elect early retirement system.....	10.0
Judges.....	11.0

Source: Government Employees Retirement System

The actuarial position suggests the amount which, when added to the total of employee contributions, will be sufficient to meet the actuarial costs. According to GERS, current employer contributions are 14.5% of membership payroll.

According to the Actuarial Evaluation, the statutory government and member contribution rates were not sufficient to meet the cost of the GERS. To meet the full actuarial cost (including the system's current cost and the amount necessary to amortize the unfunded actuarial liability over 30 years from October 2, 2002), the contribution rates would have to be increased such that, in total, an additional 17.3% of payroll contribution or \$51.8 million would be necessary each year from some combination of member and/or Government sources. **As of September 30, 2002, GERS' unfunded actuarial accrued liability was approximately \$816.0 million.**

The Government, acting as custodian, is responsible for the collection and disbursement of all loan repayments, employee contributions, and employer contributions. Such amounts are deposited by the Government into a special account of the Special Revenue Fund held by the Government. Funds deposited in such accounts are legally restricted to expenditure for specified purposes.

Currently, there is a pending lawsuit against the Government seeking a declaratory judgment that it has violated its legal requirement to make sufficient contributions to the GERS. It is not currently expected that this lawsuit will have a materially adverse effect on the Government's financial position.

#### *Insurance*

The Government's enterprise fund provides workmen's compensation for public and private individuals. The Government does not carry general liability insurance coverage on its properties or for the acts of its employees, relying instead on self-insurance and statutory liability limitations. However, as a result of an agreement with FEMA with respect to properties and structures damaged by Hurricane Hugo and repaired with federal disaster assistance, the Government has obtained insurance for hospitals, schools and other insurable public buildings that were repaired with such federal assistance. The Government currently maintains a blanket insurance policy (the "Policy") covering buildings and structures set forth in a related schedule of values totaling approximately \$909.3 million. Such schedule of values sets forth the value of each building and/or structure covered by the Policy, as well as contents, computer and software receivables, valuable paper and equipment. The Policy has a loss limit of \$100.0 million for each and every occurrence, with a per occurrence sublimit of \$45.0 million in respect to windstorm and \$45.0 million in the annual aggregate in respect to flood. There can be no assurance that the Government will not suffer a casualty or liability loss beyond the Policy limits of coverage or the limits of its self-insurance capabilities.

## **BONDOWNER RISKS**

**THE PURCHASE AND OWNERSHIP OF THE SERIES 2003A BONDS MAY INVOLVE INVESTMENT RISKS. PROSPECTIVE PURCHASERS OF THE SERIES 2003A BONDS ARE URGED TO READ THIS OFFICIAL STATEMENT IN ITS ENTIRETY. THIS SECTION ENTITLED "BONDOWNER RISKS" DOES NOT PURPORT TO PROVIDE INVESTORS WITH A COMPREHENSIVE ENUMERATION OF ALL POSSIBLE INVESTMENT RISKS. THE FACTORS SET FORTH BELOW, AMONG OTHERS, MAY AFFECT THE SECURITY FOR THE SERIES 2003A BONDS. IN ADDITION TO POSSIBLE ADVERSE AFFECTS ON SECURITY FOR THE SERIES 2003A BONDS, PURCHASERS SHOULD BE AWARE THAT THESE FACTORS, AMONG OTHERS, MAY ADVERSELY AFFECT THE MARKET PRICE OF THE SERIES 2003A BONDS IN THE SECONDARY MARKET.**

### **Risks to Gross Receipts Taxes**

#### *Economic Factors*

The number of businesses operating in the Virgin Islands will impact the Government's collections of Gross Receipts Taxes. Any substantial decrease in business enterprises may have an adverse impact upon the amount of Gross Receipts Tax revenues. While there are numerous public and private sector projects in various stages of development which are expected to stimulate economic activity in the Virgin Islands, no assurances can be given that any of these projects will be completed, or, if completed, result in the projected economic activity.

#### *FEMA Potential Prior Lien on Gross Receipts Taxes and Other Virgin Islands Taxes*

In the event of a default of the Government under the FEMA Loan Note, FEMA is entitled to take action to recover the outstanding principal, plus related interest, under federal debt collection procedures, including administrative offset against other federal funds due to the Government and its departments and agencies, which

may include Matching Fund Revenues. FEMA may also seek to attach the Government's tax revenues, including the Gross Receipts Taxes, and, under applicable federal statutes, regulations and case law, FEMA may have a priority position over the pledge of the Gross Receipts Taxes to be given by the Government to secure the Series 2003A Loan Note. No assurance can be given that a claim or legal action brought by the United States federal government to attach the Gross Receipts Taxes would not prevail over the pledge and assignment of the Gross Receipts Taxes and the moneys deposited in the Special Escrow Account made under the Series 2003A Loan Agreement and the Special Escrow Agreement. See "SECURITY FOR THE SERIES 2003A BONDS — Series 2003A Loan Note," and "GROSS RECEIPTS TAXES — Collection of Gross Receipts Taxes" for a pro forma debt service coverage table that incorporates potential FEMA Loan Note debt service.

#### *Economic Development Commission*

The Government offers various tax incentives that promote industrial and economic development in the Virgin Islands. The EDC provides qualifying businesses various benefits including up to a 100% Gross Receipts Tax exemption. Additionally, the EDC Program allows some qualifying investors to receive limited extensions or renewals of tax benefits. Currently, 95 enterprises are operating with incentive benefits granted pursuant to the EDC Program, 51 enterprises have been approved for benefits but are not yet in operation and an additional 29 enterprises are awaiting final certification to the Commission. Investors receiving tax benefits under this program include hotels and other tourism-related businesses, goods-producing enterprises, and businesses serving customers outside the Territory. Granting of Commission benefits could have a material adverse affect on Gross Receipts Taxes available to make payments in connection with the Series 2003A Loan Note. However, the Government has covenanted not to grant EDC benefits, or other economic incentives, if such grant would cause the difference in the aggregate Gross Receipts Taxes collected in any Fiscal Year, less the required debt service on the FEMA Loan Note in the event of a default under the FEMA Loan Note, if any, to be less than 150% of the maximum annual debt service on all Outstanding Bonds and any outstanding parity indebtedness permitted under the Series 2003A Loan Agreement and the Indenture (see "SECURITY FOR THE SERIES 2003A BONDS — Series 2003A Loan Note" and "—Covenants"). The Commission is currently trying to limit the number of extensions or renewals of benefits in favor of granting benefits to businesses in new or growing industries. See APPENDIX E — "United States Virgin Islands Economic and Demographic Information — Tax Incentives Programs — Economic Development Commission."

#### **Government's Financial Condition**

##### *Accumulated and Recurring Operating Deficits*

The Government has experienced substantial fluctuations in revenues and expenditures over the years. At the end of Fiscal Year 1999, the accumulated deficit of the Government was approximately \$239.7 million. As a result of certain cost cutting and revenue enhancement measures and improvements in the economy, the accumulated deficit was eliminated and the Government ended Fiscal Years 2000 and 2001 with an accumulated surplus of approximately \$77.2 million and \$181.9 million, respectively. According to preliminary results for Fiscal Year 2002, a decline in revenues, primarily as a result of the general economic decline in the United States, the terrorist attacks in New York City and Washington, D.C. on September 11, 2001, and increased spending by the Government related to the implementation of earlier salary increases in 2001, led to a projected deficit of approximately \$69.5 million for Fiscal Year 2002, resulting in a reduced accumulated surplus. Preliminary results for Fiscal Year 2003 indicate an approximate \$10.6 million surplus for the year, primarily due to approximately \$81.5 million of financing proceeds including from the Series 2003 BANs.

The Government faces certain potential claims against the General Fund which are not recorded in the General Fund because such liabilities do not meet the definition of a fund liability but are reflected in the Government's General Long-Term Debt Account Group. The most significant of these claims is the Government's contractual liability to various local labor unions for retroactive salary increases and current pay-rate increases. See "UNITED STATES VIRGIN ISLANDS — Other Factors — Labor Relations." The Government is taking certain actions to improve its financial health. See "UNITED STATES VIRGIN ISLANDS — Fiscal Recovery Efforts."

##### *Audited Financial Statements*

The Government has not been timely in completing its audited financial statements. The following sets forth the dates of KPMG's reports for the audited financial statements for Fiscal Years 1994 and 1995 and for Fiscal Years 1998 through 2001:

<u>Fiscal Year</u>	<u>Date of KPMG Report</u>
1994	December 13, 1996
1995	February 28, 1999
1998	July 7, 2000
1999	May 31, 2001
2000	January 25, 2002
2001	September 26, 2002

The Government has contracted with KPMG to audit its financial statements for Fiscal Years 2002 through 2005, and it is expected that the audited financial statements for Fiscal Year 2002 will be available during the first quarter of 2004. The Government expects that, upon completion of the audit of Fiscal Year 2002, adjustments to the unaudited financial statements presented herein will be necessary (including, without limitation, as a result of the adoption of GASB 34 hereinafter described). The Government can make no assurance that such adjustments will not be material. See “UNITED STATES VIRGIN ISLANDS — Financial Management, Budgeting and Controls — Financial Reporting” and “FINANCIAL STATEMENTS OF THE GOVERNMENT.”

The general purpose financial statements of the Government for the Fiscal Years ended September 30, 1999, 2000 and 2001, appended hereto as Appendix D as part of this Official Statement, have been audited by KPMG to the extent and for the years indicated in their reports thereon. Such general purpose financial statements have been included in reliance upon the reports of KPMG. Such reports refer to reports of other auditors, contain a disclaimer over the balances and transactions of the enterprise fund caused by certain limitations in their audit scope and contain various qualifications. See “FINANCIAL STATEMENTS OF THE GOVERNMENT” and Appendix D hereto. In addition, OMB Circular A-133 for Fiscal Year 2001 prepared by KPMG noted material weaknesses in internal controls over the financial report based on an audit of the general purpose financial statements performed in accordance with Government Accounting Standards and events of non-compliance with certain provisions of laws, regulations, contracts and grants that have a direct and material effect on the determination of general purpose financial statement amounts. Such general purpose financial statements are included herein for informational purposes only, and the information contained in these general purpose financial statements should not be read to in any way modify the description of the security for the Series 2003A Bonds contained herein.

#### *Federally-Disciplined Programs*

The Government is subject to a compliance agreement with the DOE and consent decrees requiring expenditures for its prisons and WWTPs which may impact the financial condition of the Virgin Islands. See “UNITED STATES VIRGIN ISLANDS — Financial Position of the Government — Federally-Disciplined Programs.”

#### **Federal Bankruptcy Code Presently Inapplicable**

The Bankruptcy Reform Act of 1978, Title 11, United States Code, as amended (the “Federal Bankruptcy Code”), provides a codified regime for the reorganization, liquidation or debt adjustment of various types of insolvent debtors. Generally, only a “person” or a “municipality” may be debtor in a case under the Federal Bankruptcy Code. The term “person” includes individuals, partnerships and corporations, but does *not* include any “governmental unit.” For purposes of the Federal Bankruptcy Code, a governmental unit which cannot file for protection under the Federal Bankruptcy Code, would be (i) a Territory, such as the Government, or (ii) an instrumentality of a Territory, such as the Authority. The term “municipality” is defined to mean a political subdivision or public agency or instrumentality of a State. Therefore, neither the Government nor the Authority may be a debtor in a case under the Federal Bankruptcy Code. Consequently, no Bondowner would be able to avail itself of Federal Bankruptcy Code provisions protecting rights of creditors since the Government and the Authority are both “governmental units” and neither of them is a “person” or a “municipality” for purposes thereof. Since neither the Authority nor the Government is subject to the Federal Bankruptcy Code, there can be no assurance as to how the pledge of Gross Receipts Taxes would be treated by a court of law in the event of an insolvency or other inability to pay debt by the Government or the Authority.

#### **Limitation of Remedies**

The Indenture does not provide for acceleration of the Bonds, including the Series 2003A Bonds, if an Event of Default occurs and is continuing.

## **Tax-Exempt Status of the Series 2003A Bonds**

The tax-exempt status of the Series 2003A Bonds is based on the continued compliance by the Authority and the Government with certain covenants relating generally to restriction on use of the facilities financed with the Series 2003A Bonds, and the use and investment of the proceeds of the Series 2003A Bonds. Failure to comply with such covenants could cause interest on the Series 2003A Bonds to become subject to federal income taxation retroactive to the date of the issue of the Series 2003A Bonds. The Series 2003A Bonds are not subject to mandatory redemption or acceleration in such case, nor is any provision made for stepped-up interest.

## **Continuing Disclosure**

As of the date hereof, neither the Government nor the Authority has provided the required annual or quarterly financial information on a timely basis under its respective continuing disclosure certificate for the Series 1999 A Bonds. However, they have established procedures to assure compliance in connection with the issuance of the Series 2003A Bonds (see "CONTINUING DISCLOSURE; DISCLOSURE DISSEMINATION").

## **LITIGATION**

Outlined below are the significant litigation cases and tax case which impact the Government.

### **Franchise Tax Litigation Cases**

There are currently four Virgin Islands cases challenging the Government's computation of its corporate franchise tax (the "Franchise Tax Litigation Cases"). The Franchise Tax Litigation Cases involve a dispute over the definition of the term "capital stock used in conducting business in the Virgin Islands," as found in Title 13 Virgin Islands Code Section 531(a)(the "Franchise Tax Statute"). The Government's position is that the Franchise Tax Statute taxes the amount paid to a corporation by shareholders for the issuance of shares, and any amount allocated to par value and paid in capital upon a subsequent reorganization. The plaintiff taxpayers (including certain domestic Virgin Islands corporations and foreign corporations doing business in the Virgin Islands) argue that the tax is calculated only on the par value of the stock. The issues presented in the Franchise Tax Litigation Cases relate only to domestic and foreign corporations doing business in the Virgin Islands.

During Fiscal Year 2002, the Government collected approximately \$1,329,000 in franchise taxes from domestic and foreign corporations doing business in the Virgin Islands. If the tax base during Fiscal Year 2002 had reflected only the "par value" of each company's stock, as urged by the plaintiffs taxpayers, the franchise tax collected from Virgin Islands domestic and foreign corporations during Fiscal Year 2002 could have been as low as approximately \$478,000, representing a decrease of \$851,000.

Virgin Islands law imposes a six-year statute of limitation on tax refund claims against the Government. Applying the Fiscal Year 2002 figures to the six years preceding Fiscal Year 2002, the Government, if the plaintiffs prevail in the Franchise Tax Litigation Cases, may be liable, with respect to Virgin Islands domestic and foreign corporations, to pay franchise tax refunds of approximately \$5,100,000 for overpayment claims covering the past six years. The approximately \$5,100,000 potential liability figure is based upon the assumption that: (i) the average number of domestic and foreign corporations in existence during the six fiscal years preceding Fiscal Year 2002 approximates the number of said corporations that were in existence in Fiscal Year 2002; (ii) the Fiscal Year 2002 collection levels apply to each of the six years preceding Fiscal Year 2002; and (iii) all corporations claiming a franchise tax refund have commenced the appropriate actions. It is unlikely that all of the aforementioned conditions shall apply. In the event the courts adopt the plaintiff taxpayers' interpretation of the Franchise Tax Statute, the actual liability incurred by the Government would most likely be substantially less than the approximately \$5,100,000 figure discussed above.

One of the Franchise Tax Litigation Cases is currently before the Virgin Islands Territorial Court. The remaining three Franchise Tax Litigation Cases are currently on appeal by the Government to the Third Circuit Court of Appeals.

### **Real Property Tax Case**

In addition to the Franchise Tax Litigation Cases, there is a consolidated real property tax case that may have a fiscal impact on the Government. In a decision issued on May 12, 2003 in Berne Corp v. Government of the Virgin Islands, 2003 WL 21078073 (D. Virgin Islands) (the "Berne Decision"), a consolidated case representing

eight actions and 21 plaintiffs, the District Court of the Virgin Islands issued a permanent injunction enjoining the Government from appraising and assessing any real property in the Virgin Islands until the Government has modified its system of appraisal to comply with certain District Court mandates. Specifically, the order issued by the Berne Court enjoined the Government from assessing any and all real property in the Virgin Islands until: (1) the Virgin Islands' "property tax system has been certified as reliably and credibly assessing and taxing all real property on its actual value," (2) "the Board of Tax Review consistently holds hearings and reaches determinations on appeals within sixty (60) days," and (3) "the Department of Finance consistently remits any refunds awarded by the Board decision within thirty (30) days[.]"

Further, the order issued under the Berne Decision enjoined the Government from (1) issuing "any property tax bills for tax year 2002 and beyond" and (2) making any "further effort to collect any tax bills already issued for any property, commercial or otherwise, for tax years 1999, 2000, and 2001" unless and until "the Legislature amends 33 V.I.C. § 2402 to provide for the retroactive adjustment of the bills on all classes of property for 1999, 2000, 2001, 2003, 2004, and for a reasonable time thereafter until a fair and equitable system capable of reliably and credibly assessing all real property at actual value is in place." The Berne injunctions had the potential of depriving the Government of over \$50,000,000 in tax dollars annually.

In response to the Berne Decision, the Virgin Islands Legislature enacted Act No. 6586, which, among other things, amended 33 V.I.C. § 2402 to provide that:

[T]he Tax Assessor may issue tax bills and collect taxes at the 1998 assessment level, for all classes of real property, including commercial and non commercial real property, for the tax years 1999, 2000, 2001, 2002, 2003, and 2004, before the revision of the property tax and [resolution of] the Property Tax Litigation, provided that the tax due shall be subject to adjustment for each year according to the assessed value based on the new system implemented. The taxpayer shall be entitled to a credit applied to his subsequent years' tax bills or a refund for any over-payment that may have accrued as the result of the payment of any of his tax bills for any year from 1999 until the new system is implemented.

The Government enacted Act No. 6586 for the purpose of satisfying the conditions set out in the Berne Decision to lift the ban on the issuance and collection of the Government's 2002 real property tax bills and the collection of delinquent real property taxes from prior years. The Government used the 1998 assessment level as the basis for tax collection under Act No. 6586 as required by the District Court.

On August 13, 2003, the District Court entered an order permitting the Government to issue and collect from non-plaintiff taxpayers its 2002 real property taxes based on the 1998 assessments and to collect from non-plaintiff taxpayers delinquent real property taxes for prior years, also based on the 1998 assessments. Following the District Court's August 13, 2003 order, the Governor issued Executive Orders authorizing the issuance of the Government's 2002 real property tax bills and providing that such bills shall be due and payable by October 31, 2003.

The Government has appealed the Berne Decision to the Third Circuit Court of Appeals. In the event of an adverse decision against the Government, the Government's use of the assessment methodology proposed by the plaintiffs could result in either an increase or decrease in taxes in each individual case. Accordingly, the financial impact to the Government of an adverse decision cannot be determined at this time.

## **TAX MATTERS**

The Code establishes certain requirements which must be met at and subsequent to the issuance and delivery of the Series 2003A Bonds in order that interest on the Series 2003A Bonds will be and remain excludable from gross income for federal income tax purposes. Included among these continuing requirements are certain restrictions and prohibitions on the use of bond proceeds, restrictions on the investment of bond proceeds and other moneys or properties, and the rebate to the United States of certain earnings in respect of investments. Failure to comply with the continuing requirements may cause the interest on the Series 2003A Bonds to be includible in gross income for federal income tax purposes retroactive to the date of their issuance irrespective of the date on which such non-compliance occurs. The Authority and the Government have covenanted to comply in the Indenture, the Series 2003A Loan Agreement and the documents relating to federal tax matters delivered at the time of delivery of

the Series 2003A Bonds (the “Tax Certificates”) with certain procedures, and have made certain representations and certifications, designed to assure satisfaction of the requirements of the Code.

In the opinion of Buchanan Ingersoll PC, New York, New York, Bond Counsel, and subject to the limitations set forth in the immediately succeeding paragraph, under the existing statutes, regulations, administrative interpretations and court decisions as of the date of such opinion, the interest on the Series 2003A Bonds will not be included in gross income for federal income tax purposes pursuant to Section 103 of the Code. Furthermore, Bond Counsel is of the opinion that interest on the Series 2003A Bonds is not a specific “item of tax preference” for purposes of the federal alternative minimum tax imposed on individuals and corporations. Bond Counsel notes, however, that interest on the Series 2003A Bonds held by a corporation (other than an S corporation, regulated investment company, real estate investment trust or real estate mortgage investment conduit) is included in adjusted current earning for purposes of calculating certain taxes including the federal alternative minimum tax imposed on corporations. Corporate purchasers of the Series 2003A Bonds should consult their tax advisors regarding the computation of any alternative minimum tax.

Bond Counsel expresses no opinion regarding other federal income tax consequences caused by the receipt or accrual of interest on the Series 2003A Bonds. The proposed form of the opinion of Bond Counsel is attached to this Official Statement as Appendix I.

The difference, if any, below the initial public offering price to the public (excluding bondhouses, brokers or similar persons acting in the capacity of underwriters or wholesalers) of a maturity of the Series 2003A Bonds at which price a substantial amount of such maturity is sold and the amount payable at maturity constitutes original issue discount, which will be excluded from gross income to the same extent as interest on the Series 2003A Bonds for purposes of federal income taxation. The Code provides that the amount of original issue discount accrues in accordance with a constant interest method based on the compounding of interest, and that an owner’s adjusted basis for purposes of determining an owner’s gain or loss on disposition of Series 2003A Bonds with original issue discount (the “OID Bonds”) will be increased by such amount. A portion of the original issue discount that accrues in each year to an owner of an OID Bond which is a corporation will be included in the calculation of the corporation’s federal alternative minimum tax liability. Consequently, corporate owners of any OID Bond should be aware that the accrual of original issue discount in each year may result in an alternative minimum tax liability although the owner of such OID Bond has not received cash attributable to such original issue discount in such year.

Certain Series 2003A Bonds may initially be offered to the public at prices greater than the amounts payable thereon at maturity (the “Premium Bonds”). As a result of the tax cost reduction requirements of the Code relating to amortization of bond premium, under certain circumstances an initial owner of Premium Bonds may realize a taxable gain upon disposition of such Premium Bonds even though they are sold or redeemed for an amount equal to such owner’s original cost of acquiring such Premium Bonds. Owners of Premium Bonds are advised that they should consult with their own tax advisors with respect to the tax consequences of owning such Premium Bonds.

In addition to the matters referred to in the preceding paragraphs, prospective purchasers of the Series 2003A Bonds should be aware that the accrual or receipt of interest on the Series 2003A Bonds may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences may depend upon the recipient’s particular tax status or other items of income or deduction. Bond Counsel expresses no opinion regarding any such consequences. Examples of such other federal income tax consequences of acquiring or holding the Series 2003A Bonds include, without limitation, that (i) with respect to certain insurance companies, the Code reduces the deduction for loss reserves by a portion of the sum of certain items, including interest on the Series 2003A Bonds, (ii) interest on the Series 2003A Bonds earned by certain foreign corporations doing business in the United States may be subject to a branch profits tax imposed by the Code, (iii) passive investment income, including interest on the Series 2003A Bonds, may be subject to federal income taxation under the Code for certain S corporations that have certain earnings and profits, (iv) the Code requires recipients of certain Social Security and certain other federal retirement benefits to take into account, in determining gross income, receipts or accruals of interest on the Series 2003A Bonds, and (v) reductions or limitations in the earned income credit to taxpayers who may otherwise be eligible. In addition, the Code denies the interest deduction for indebtedness incurred or continued by a taxpayer, including without limitation, banks, thrift institutions and certain other financial institutions to purchase or carry tax-exempt obligations, such as the Series 2003A Bonds.



Bond Counsel is also of the opinion that interest on the Series 2003A Bonds is exempt under existing statutes from personal income taxes imposed by the United States Virgin Islands, by any state, other territory or possession of the United States or any political subdivision thereof, or by the District of Columbia.

Certain requirements and procedures contained or referred to in the Indenture, the Series 2003A Loan Agreement and the Tax Certificate and other relevant documents may be changed, and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of Bond Counsel. Buchanan Ingersoll PC expresses no opinion as to any Series 2003A Bond or the interest thereon if any such change occurs or action is taken upon the advice or approval of bond counsel other than themselves.

Bond Counsel has not undertaken to determine in the future (or to inform any person) whether any actions taken (or not taken or events occurring or not occurring) after the date of issuance and delivery of the Series 2003A Bonds may affect the tax status of interest on the Series 2003A Bonds. No assurance can be given that future legislation or amendments to the Code, if enacted into law, will not contain provisions which could directly or indirectly reduce the benefit of the exclusion of the interest on the Series 2003A Bonds from gross income for federal income tax purposes.

All quotations from and summaries and explanation of provisions of law do not purport to be complete and reference is made to such laws for full and complete statements of their provisions.

## **FINANCIAL STATEMENTS OF THE GOVERNMENT**

### **General**

The general purpose financial statements of the Government for the Fiscal Years ended September 30, 1999, 2000 and 2001, appended hereto as Appendix D as part of this Official Statement, have been audited by KPMG LLP, independent public accountants ("KPMG"), to the extent and for the years indicated in their reports thereon. As presented below, such general purpose financial statements have been included in reliance upon the reports of KPMG. Such reports refer to reports of other auditors, contain a disclaimer over the balances and transactions of the enterprise fund caused by certain limitations in their audit scope and contain various qualifications. See Appendix D hereto. In addition, OMB Circular A-133 for Fiscal Year 2001 prepared by KPMG noted material weaknesses in internal controls over the financial report based on an audit of the general purpose financial statements performed in accordance with Government Auditing Standards and events of non-compliance with certain provisions of laws, regulations, contracts and grants that have a direct and material effect on the determination of general purpose financial statement amounts. Such general purpose financial statements are included herein for informational purposes only, and the information contained in these general purpose financial statements should not be read to in any way modify the description of the security for the Series 2003A Bonds contained herein. See "UNITED STATES VIRGIN ISLANDS — Financial Management, Budgeting and Controls — Financial Reporting."

### **1999 Audit Report**

In their report dated May 31, 2001, with respect to the general purpose financial statements of the Government as of and for the year ended September 30, 1999, KPMG did not audit the financial statements of the public university funds, the Authority, the GERS, the Virgin Islands Port Authority, the Virgin Islands Industrial Park Development Corporation, and the Virgin Islands Public Television System. Those financial statements were audited by other auditors whose reports were furnished to KPMG, and their report on the general purpose financial statements, insofar as it relates to the amounts included in the special revenue funds, the debt service funds, the capital projects funds, the trust and agency funds (pension trust fund), the general long-term debt account group, and discretely presented component units, is based solely on the reports of the other auditors. In addition, the scope of KPMG's audit work was not sufficient to enable them to express, and they did not express, an opinion on the balance sheet of the enterprise fund type as of September 30, 1999, and on the statements of revenue, expenses and changes in fund equity and cash flows for the enterprise fund type for the year then ended, because of the matters discussed below:

- (a) At the Government's request, KPMG did not audit the Virgin Islands Lottery which is included in the enterprise fund column;

- (b) The Government did not maintain certain accounting records related to governmental agencies included within the enterprise funds, particularly with respect to loans and advances, accounts receivable and fixed assets, stated at \$10 million, \$1 million and \$3 million, respectively, in the enterprise funds balance sheet column as of September 30, 1999; and
- (c) KPMG was unable to apply sufficient audit procedures to satisfy themselves as to the propriety of the residual equity transfer recorded in the combined statement of revenue, expenses and changes in fund equity of the enterprise fund and the discretely presented component units during the year ended September 30, 1999, as a result of the transfer of the assets and operations of the Health Revolving Fund, an enterprise fund, to the Virgin Islands Government Hospital and Health Facilities Corporation, a public benefit corporation.

KPMG's auditor's report was qualified for:

- (1) The effects of the omission of the general fixed assets account group;
- (2) The effects of the omission of financial data of the Virgin Islands Housing Finance Authority in the public benefit corporations column;
- (3) The effects on the financial statements of the trust and agency funds of such adjustments, if any, as might have been determined to be necessary, had the auditors of GERS been able to satisfy themselves about (i) the personal loan balances as of September 30, 1999 and related interest income for the year then ended, and (ii) the amount of cash on deposit with the Virgin Islands Department of Finance of the Government;
- (4) The effects in the determination of the financial position of the enterprise fund and the public benefit corporations, if any, as might have been determined to be necessary had they been able to apply sufficient audit procedures to satisfy themselves as to the propriety of the residual equity transfer recorded in the combined statement of revenue, expenses and changes in fund equity of the enterprise fund and the discretely presented component units during the year ended September 30, 1999, as the result of the transfer of the assets and operations of the Health Revolving Fund, an enterprise fund, to the Virgin Islands Health and Hospital Facilities Corporation, a public benefit corporation, as of September 30, 1999;
- (5) The effects of the omission of the financial data of the Virgin Islands Housing Authority in the public benefit corporations column;
- (6) The effects of accounting for a portion of the hospitals operations in the general fund as opposed to entirely in the enterprise funds for the period from October 1, 1998 through April 30, 1999;
- (7) The effects of not accounting for landfill closure and postclosure costs in the general long-term debt account group; and
- (8) The effects of not disclosing the types of securities lent in the general purpose financial statements.

## **2000 Audit Report**

In their report dated January 25, 2002, with respect to the general purpose financial statements of the Government as of and for the year ended September 30, 2000, KPMG did not audit the financial statements of the public university funds, the Authority, the Virgin Islands Port Authority, the Virgin Islands Industrial Park Development Corporation, the Virgin Islands Housing Authority, the Governor Juan F. Luis Hospital and Medical Center, and the Virgin Islands Public Television System. Those financial statements were audited by other auditors whose reports were furnished to KPMG, and their report on the general purpose financial statements, insofar as it relates to the amounts included in the special revenue funds, the debt service funds, the capital projects funds, the general long-term debt account group, discretely presented component units, and certain transactions related to bonds issued during the year that were recorded in the general fund, is based solely on the reports of the other auditors. In addition, the scope of KPMG's audit work was not sufficient to enable them to express, and they did not express, an opinion on the balance sheet of the enterprise fund type as of September 30, 2000 and on the

statements of revenue, expenses, and changes in fund equity and cash flows for the enterprise fund type for the year then ended, because of the matters discussed below:

- (a) At the Government's request, KPMG did not audit the Virgin Islands Lottery which is included in the enterprise fund column; and
- (b) The Government did not maintain certain accounting records related to governmental agencies included within the enterprise funds, particularly with respect to loans and advances, accounts receivable, and fixed assets, stated at \$10 million, \$1 million, and \$3 million, respectively, in the enterprise funds balance sheet column as of September 30, 2000.

KPMG's auditors' report was qualified for:

- (1) The effects on the general purpose financial statements of the trust and agency funds of such adjustments, if any, as might have been determined to be necessary, had they been able to satisfy themselves about: (i) the amount of cash on deposit with the Department of Finance of the Government; and (ii) the due from the Department of Finance as of September 30, 2000;
- (2) The effects on the public benefit corporations' column of the adjustments, if any, as might have been determined to be necessary on the financial data of Juan F. Luis Hospital, had the other auditors been able to satisfy themselves about: (i) the reasonability of patient accounts receivable as of September 30, 2000; (ii) management's contention that the preautonomy accounts payable not recorded as a liability as of September 30, 2000 were the responsibility of the Government; and (iii) the propriety of the transactions recorded in the balance sheet as of September 30, 1999;
- (3) The effects of the omission of the general fixed assets account group;
- (4) The effects of the omission of financial data of the Virgin Islands Housing Finance Authority in the public benefit corporations' column;
- (5) The effects of the omission of financial data of the Governor Roy L. Schneider Hospital in the public benefit corporations' column; and
- (6) The effects of not accounting for landfill closure and postclosure costs in the general long-term debt account group.

## **2001 Audit Report**

In their report dated September 26, 2002, with respect to the general purpose financial statements of the Government of the United States Virgin Islands as of and for the year ended September 30, 2001, KPMG did not audit the financial statements of the public university funds, the Authority, the Virgin Islands Port Authority, the Virgin Islands Public Television System, Virgin Islands Government Hospital and Health Facilities Corporation-Governor Juan F. Luis Hospital and Medical Center, Virgin Islands Housing Authority, the Economic Development Authority, and the Virgin Islands Housing Finance Authority. Those financial statements were audited by other auditors whose reports were furnished to KPMG, and their report on the general purpose financial statements, insofar as it relates to the amounts included in the special revenue funds, the debt service funds, the capital projects funds, the general long-term debt account group, and discretely presented component units, is based solely on the reports of the other auditors. In addition, the scope of KPMG's audit work was not sufficient to enable them to express, and they did not express, an opinion on the balance sheet of the enterprise fund type as of September 30, 2001 and on the statements of revenue, expenses, and changes in fund equity and cash flows for the enterprise fund type for the year then ended, because of the matters discussed below:

- (a) At the Government's request, KPMG did not audit the Virgin Islands Lottery, which is included in the enterprise fund column; and
- (b) The Government did not maintain certain accounting records related to governmental agencies included within the enterprise funds, particularly with respect to loans and advances, accounts receivable, and fixed assets, stated at \$10 million, \$36,000 and \$3 million, respectively, in the enterprise funds balance sheet column as of September 30, 2001.

KPMG's auditor's report was qualified for:

- (1) The effects on the general purpose financial statements of the trust and agency funds of such adjustment, if any, as might have been determined to be necessary, had they been able to satisfy themselves about: (i) the amount of cash on deposit with the Virgin Islands Department of Finance; and (ii) the due from the Virgin Islands Department of Finance as of September 30, 2001.
- (2) The effects on the public benefit corporation column of the adjustments, if any, as might have been determined to be necessary on the financial data of Juan F. Luis Hospital, had the other auditors been able to satisfy themselves about: (i) management's contention that the preautonomy accounts payable not recorded as a liability as of September 30, 2001 were the responsibility of the Government; and (ii) obtaining sufficient evidence as to whether land held for sale was fairly stated.
- (3) The effects of the omission of the general fixed assets account group.
- (4) The effects on the public benefit corporations column of the adjustments, as might have been determined to be necessary on the financial data of Virgin Islands Housing Finance Authority, had the other auditors been able to satisfy themselves about obtain sufficient evidence as to whether land held for sale was fairly stated.
- (5) The effects of the omission of financial data of the Governor Roy L. Schneider Hospital in the public benefit corporations column.
- (6) The effects of not accounting for landfill closure and postclosure costs in the general long-term debt account group.

#### **Fiscal Year 2002 Audited Financial Statements**

The release of the audited financial statements for Fiscal Year 2002 has been delayed primarily due to the conversion of the Government's financial statements to comply with GASB No. 34, Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Government; GASB Statement No. 35, Basic Financial Statements – and Management's Discussion and Analysis – for Public Colleges and Universities; GASB Statement No. 37, Basic Financial Statements – and Management's Discussion Analysis – for State and Local Governments: Omnibus; GASB Statement No. 38, Certain Financial Statement Note Disclosures; and GASB Interpretation No. 6, Recognition and Measurement of Certain Liabilities and Expenditures in Governmental Fund Financial Statements, as of October 1, 2001.

GASB 34, as amended by GASB 37, establishes new financial reporting standards for state and local governments. This statement's requirements represent a significant change in the financial reporting model used by state and local governments, including statement formats and changes in fund types and elimination of account groups. In addition to fund financial statements, governments are required to report government-wide financial statements, prepared using the accrual basis of accounting and the economic resources measurement focus. As a result, fund reclassifications and adjustments to the fund equities reported in the prior financial statement balances may be required.

GASB 35 establishes accounting and financial reporting standards for public colleges and universities within the financial reporting guidelines of GASB No. 34. GASB No. 38 requires certain note disclosures when GASB No. 34 is implemented. The provisions of these new standards have been incorporated into the basic financial statements and notes. GASB Interpretation No. 6 clarifies the application of existing standards for distinguishing the respective portions of certain types of liabilities that should be reported as (1) governmental fund liabilities and (2) general long-term liabilities of the government. The provisions for this interpretation will be incorporated into the basic financial statements and notes.

It is expected that the audited financial statements for Fiscal Year 2002 will be available during the first quarter of 2004. The Government expects that, upon completion of the audit of Fiscal Year 2002, adjustments to the unaudited financial statements presented herein will be necessary (including, without limitation, as a result of the adoption of GASB 34).

## LEGAL OPINIONS

Certain legal matters incident to the issuance of the Series 2003A Bonds are subject to the approving opinion of Buchanan Ingersoll PC, New York, New York, Bond Counsel. The approving opinion of Bond Counsel, substantially in the form set forth in Appendix I hereto, is to be furnished upon delivery of the Series 2003A Bonds. Bond Counsel's approving opinion does not express any opinion with respect to information in this Official Statement. Certain legal matters will be passed upon for the Underwriter by its counsel, Swidler Berlin Shereff Friedman, LLP, New York, New York.

## FINANCIAL ADVISOR

The Authority has retained Banc of America Securities LLC of New York, New York, as financial advisor in connection with the issuance of the Series 2003A Bonds. Although Banc of America Securities LLC has assisted in the preparation of this Official Statement, Banc of America Securities LLC is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement.

## CONTINUING DISCLOSURE; DISCLOSURE DISSEMINATION

### Continuing Disclosure

The Authority and the Government have each covenanted, for the benefit of Bondowners, to provide certain annual and quarterly financial information and operating data relating to the Authority and the Government, respectively (collectively, the "CDA Reports"), and to provide notices of the occurrence of certain enumerated events (the "Notices"). The CDA Reports and Notices will be provided to each nationally recognized municipal securities information repository. The specific nature of the information to be contained in the CDA Reports or the Notices is summarized in Appendices G-1 and G-2, respectively, "— Proposed Form of Continuing Disclosure Agreement." These covenants have been made in order to assist the Underwriter in complying with the Securities and Exchange Commission Rule 15c2-12 (the "Rule").

**As of the date hereof, neither the Government nor the Authority has provided the required annual or quarterly financial information on a timely basis under its respective continuing disclosure certificate for the Series 1999A Bonds but has established procedures to assure compliance in connection with the issuance of the Series 2003A Bonds.**

### Disclosure Dissemination Agent

In order to provide certain continuing disclosure with respect to the Series 2003A Bonds in accordance with the Rule, the Authority and the Government have each entered into a Disclosure Dissemination Agent Agreement (the "Disclosure Dissemination Agreement") for the benefit of the Bondowners with Digital Assurance Certification, L.L.C. ("DAC"), under which the Authority and the Government have designated DAC as Disclosure Dissemination Agent.

The Disclosure Dissemination Agent has only the duties specifically set forth in the Disclosure Dissemination Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described in the Disclosure Dissemination Agreement is limited to the extent the Authority and the Government have provided such information to the Disclosure Dissemination Agent as required by the applicable Disclosure Dissemination Agreement. The Disclosure Dissemination Agent has no duty with respect to the content of any disclosures or notice made pursuant to the terms of the Disclosure Dissemination Agreement. The Disclosure Dissemination Agent has no duty or obligation to review or verify any information in the Annual Reports, Quarterly Reports, audited financial statements, notice of Notice Event or Voluntary Report (in each case as such terms are defined in the Disclosure Dissemination Agreement), or any other information, disclosures or notices provided to it by the Authority or the Government and shall not be deemed to be acting in any fiduciary capacity for the Authority, the Government, the Bondowners or any other party. The Disclosure Dissemination Agent has no responsibility for the Authority's or the Government's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Authority or the Government

have complied with the Disclosure Dissemination Agreement. The Disclosure Dissemination Agent may conclusively rely upon certifications of the Authority and the Government at all times.

## **RATINGS**

Standard & Poor's Rating Group ("S&P") has assigned the Uninsured Bonds a rating of "BBB." S&P has assigned the FSA-Insured Bonds a rating of "AAA," the Radian-Insured Bonds a rating of "AA," and the ACA-Insured Bonds a rating of "A." Such ratings reflect only the view of S&P and any desired explanation of the significance of such ratings should be obtained from S&P at the following addresses: Standard & Poor's Ratings Group, 25 Broadway, New York, New York 10004. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance any said ratings will continue for any given period of time or that any said ratings will not be revised downward or withdrawn entirely by the rating agency furnishing the same, if in the judgment of such rating agency, circumstances so warrant. Any such downward revision or withdrawal of any said ratings may have an adverse effect on the market price of the Series 2003A Bonds.

## **UNDERWRITING**

UBS Financial Services Inc. (the "Underwriter") has agreed, subject to certain conditions (including delivery by the Insurers of the Municipal Bond Insurance Policies for the Insured Bonds substantially in the forms set forth in Appendix H hereto at the time of delivery of the Series 2003A Bonds), to purchase the Series 2003A Bonds from the Authority at a price representing an aggregate discount from the initial public offering prices of the Series 2003A Bonds equal to \$1,680,459.85. The Underwriter will be obligated to purchase all the Series 2003A Bonds if any are purchased. In connection with this offering, the Underwriter may overallocate or effect transactions which stabilize or maintain the market price of the Series 2003A Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriter may offer and sell the Series 2003A Bonds to certain dealers and dealer banks and others at prices lower or yields higher than the public offering prices or yields stated on the inside cover page hereof and said public offering prices or yields may be changed from time to time by the Underwriter.

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## MISCELLANEOUS

In this Official Statement, any summaries or descriptions of provisions in the Indenture, the Series 2003A Loan Agreement, the Series 2003A Loan Note or the Special Escrow Agreement and all references to other materials not purported to be quoted in full are only brief outlines of certain provisions thereof and do not constitute complete statements of such documents or provisions. Reference is hereby made to the complete documents relating to such matters for further information, copies of which may be obtained from the principal corporate trust office of the Trustee.

Any statement in this Official Statement involving matters of estimates or opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Authority and the owners or holders of, or of interests in, any of the Series 2003A Bonds.

Financial and statistical information has been provided by the Authority and the Government, certain of its agencies and instrumentalities and other sources deemed reliable by the Authority and the Government. The Underwriter is not responsible for any of such information nor has the Underwriter independently verified such information.

This Official Statement is submitted in connection with the sale of the Series 2003A Bonds and may not be reproduced or used, as a whole or in part, for any other purpose. The execution and delivery of this Official Statement has been duly authorized by the Authority.

### VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

By: /s/ Kenneth E. Mapp  
Director of Finance and Administration

### THE GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

By: /s/ Charles W. Turnbull  
Governor

Dated: December 5, 2003

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## APPENDIX A

### GLOSSARY OF CERTAIN DEFINED TERMS

Certain terms used in the Original Indenture, the Fourth Supplemental Indenture and the Series 2003A Loan Agreement are defined below unless otherwise defined herein or the context clearly indicates otherwise. When and if such terms are used in this Official Statement they shall have the meanings set forth below. Any capitalized term used in this Official Statement regarding the Indenture and the Series 2003A Loan Agreement and not defined herein shall have the meaning given such term by the Indenture and the Series 2003A Loan Agreement.

**Account** or **Accounts** means any account or accounts, as the case may be, established pursuant to Section 5.01 of the Indenture.

**Accreted Value** means with respect to any Bond that is a Capital Appreciation Bond, for each authorized denomination, an amount equal to the principal amount of such Capital Appreciation Bond (determined on the basis of the initial offering price for such denomination at maturity thereof) plus the amount of earnings which would be produced on the investment of such principal amount, assuming compounding (as set forth in the applicable Supplemental Indenture) beginning on the dated date of such Capital Appreciation Bond and ending at the maturity date thereof, at a yield which, if produced until maturity, will produce an amount equal to such denomination at maturity. As of any Valuation Date, the Accreted Value of any Capital Appreciation Bond means the amount set forth for such date in the applicable Supplemental Indenture authorizing such Bond and as of any date other than a Valuation Date, the sum of (i) the Accreted Value on the preceding Valuation Date and (ii) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, using for such calculation 30 day months and a 360 day year and (2) the difference between the Accreted Values for such Valuation Dates.

**Act** means, collectively, the Virgin Islands Revised Organic Act of 1954, as amended, 48 U.S.C. Chapter 12, §§1541 through 1645 (West 1987), Title 29 of the Virgin Islands Code, and 1999 V.I. Act 6297 and other applicable law, as the same may be amended from time to time.

**Act of Bankruptcy** means (i) the entity under consideration shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or substantially all of its assets; (ii) a custodian shall have been appointed with or without consent of such entity; (iii) such entity has made a general assignment for the benefit of creditors, or has filed a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law; (iv) such entity has filed an answer admitting the material allegations of a petition in any bankruptcy, reorganization or insolvency proceeding, or taken any action for the purpose of effecting any of the foregoing; (v) a petition in bankruptcy shall have been filed against such entity and shall not have been dismissed for a period of 60 consecutive days; (vi) an order for relief has been entered under the Bankruptcy Code with respect to such entity; (vii) an order, judgment or decree shall have been entered, without the application, approval or consent of such entity by any court of competent jurisdiction approving a petition seeking reorganization of such entity or appointing a receiver, trustee, custodian or liquidator of such entity or substantially all of its assets, and such order, judgment or decree shall have continued unstayed and in effect for any period of 60 consecutive days; or (viii) such entity shall have suspended the transaction of its usual business.

**Additional Bonds** means Bonds other than the Initial Series of Bonds.

**Adjusted Debt Service Requirement** means, for any period, as of any date of calculation, the aggregate Debt Service on Outstanding Bonds or on Outstanding Bonds of a particular Series for such period taking into account the following adjustments:

- (i) With respect to Bonds that bear interest at a Variable Interest Rate, the aggregate Debt Service thereon is determined as if each such Bond bore interest at the Certified Interest Rate; provided, however, (1) if the Authority (A) enters into a Qualified Swap Agreement with a Swap Provider requiring the Authority to pay a fixed interest rate on a notional amount, and (B) has made a determination that such

Qualified Swap Agreement was entered into for the purpose of providing substitute interest payments for a particular maturity of Bonds in a principal amount equal to the notional amount of the Qualified Swap Agreement, then during the term of such Qualified Swap Agreement and so long as the Swap Provider under such Qualified Swap Agreement is not in default under such Qualified Swap Agreement, the interest rate on such Bonds shall be determined as if such Bonds bore interest at the fixed interest rate payable by the Authority under such Qualified Swap Agreement, and (2) if (A) Bonds of a specific maturity within a Series bear interest at a Variable Interest Rate and Bonds which bear a Variable Interest Rate of another Series with the same maturity are issued in an equal principal amount to the first such Series of Bonds of the same maturity and (B) the Variable Interest Rate of the first Series of such Bonds varies inversely to the Variable Interest Rate of the second Series of such Bonds of the same maturity so that the combined interest rate for the aggregate principal amount of such Bonds of the same specific maturity for both such Series is determined by the Authority to result in a combined fixed interest rate, then so long as the same principal amount of each maturity of such Series of Bonds remain Outstanding, the aggregate Debt Service thereon shall be determined as if all such Variable Rate Bonds of such Series and maturity bore interest at the combined fixed interest rate so determined by the Authority with respect to such aggregate principal amount of such Bonds.

(ii) With respect to Fixed Interest Rate Bonds, if the Authority (1) enters into a Qualified Swap Agreement with a Swap Provider requiring the Authority to pay a variable interest rate on a notional amount and (2) has made a determination that such Qualified Swap Agreement was entered into for the purpose of providing substitute interest payments for a particular maturity of Bonds in a principal amount equal to the notional amount of the Qualified Swap Agreement, then during the term of such Qualified Swap Agreement and so long as the Swap Provider under such Qualified Swap Agreement is not in default under such Qualified Swap Agreement the interest rate on such Bonds is determined as if such Bonds bore interest at the Certified Interest Rate on the notional amount of such Bonds.

(iii) Except to the extent described in (iv) below, with respect to Bonds secured by a Credit Facility, the aggregate Debt Service thereon shall be deemed to include any payments required to reimburse the related Credit Provider (including any Debt Service Reserve Account Credit Provider), but shall not include any amounts payable as principal of and interest and premium with respect to any reimbursement obligation to such Credit Provider except and to the extent that such payments on such reimbursement obligation are required to be made to the Credit Provider in excess of any corresponding Debt Service with respect to such Bonds during such period.

(iv) With respect to Optional Tender Bonds, the aggregate Debt Service thereon shall not include any amounts payable to a Credit Provider pursuant to any reimbursement obligation arising as the result of the payment of any purchase price with respect to such Bonds on a Purchase Date except to the extent that, and for any period during which, the Authority is obligated to reimburse the Credit Provider for payments made by such Credit Provider directly or indirectly in satisfaction of any obligation to purchase such Bonds on any Purchase Date following the application of any proceeds of any remarketing of such Bonds.

(v) The aggregate Debt Service for any period on any Bonds shall not include (1) any interest which is payable from Capitalized Interest which is to be transferred to the Debt Service Account for payment of interest on such Bonds or (2) the amount of Debt Service on Bonds to be paid from amounts in a Debt Service Reserve Account at the time of such computation for the period in question, but only if any such amount described in (1) or (2) is available and is to be applied under the applicable Supplemental Indenture to make interest payments on such Bonds when due.

(vi) If the Authority enters into a Qualified Swap Agreement with a Swap Provider requiring the Authority to pay any amount in excess of the amount to be received by the Authority in connection therewith for the period for which any calculation of Adjusted Debt Service Requirement is to be made hereunder, then, to the extent not taken into account in (i) and (ii) above, the net amount of such payments which may be required of the Authority (using the Certified Interest Rate or its equivalent for such purpose if such amount is subject to any variation and excluding any breakage fees or termination payments paid by the Authority) shall be included in Adjusted Debt Service Requirements.

For purposes of this definition of Adjusted Debt Service Requirement, the principal and interest portions of the Accreted Value of Capital Appreciation Bonds and the Appreciated Value of any Deferred Interest Bonds becoming due at maturity or by virtue of Mandatory Sinking Fund Requirements shall be included in the calculation of accrued and unpaid and accruing interest or principal installments on the date on which or for the period during which such amounts become due and payable unless otherwise specified in the Supplemental Indenture authorizing such Capital Appreciation Bonds or Deferred Interest Bonds.

**Aggregate Debt Service** for any period means, as of any date of calculation, the sum of the amounts of Debt Service for such period with respect to the Bonds.

**Annual Administrative Fee** means the amount authorized to be transferred annually from the Expense Account to the Authority to pay the Authority's expenses in accordance with the annual budget approved by the Board of the Authority.

**Annual Debt Service** means, as of any date of calculation with respect to a specified Bond Year, Debt Service plus any premium, if any, payable for the Bonds in the respective Bond Year.

**Appreciated Value** means with respect to any Bond that is a Deferred Interest Bond until the Interest Commencement Date thereon, for each authorized denomination, an amount equal to the principal amount of such Deferred Interest Bond (determined on the basis of the initial offering price for such denomination at the Interest Commencement Date thereof plus the amount, of earnings which would be produced on the investment of such principal amount, assuming compounding (as set forth in the applicable Supplemental Indenture) beginning on the dated date of such Deferred Interest Bond and ending on the Interest Commencement Date, at a yield which, if produced until the Interest Commencement Date, will produce an amount equal to such denomination at the Interest Commencement Date. As of any Valuation Date, the Appreciated Value of any Bond that is a Deferred Interest Bond means the amount set forth for such date in the Supplemental Indenture authorizing such Deferred Interest Bond and as of any date other than a Valuation Date accruing for that period or due and payable on that date, the sum of (i) the Appreciated Value on the preceding Valuation Date and (ii) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, using for such calculation 30 day months and a 360 day year, and (2) the difference between the Appreciated Values for such Valuation Dates.

**Approved Project** means any public improvement or public undertaking authorized by act of the Legislature of the Virgin Islands and by resolution of the Authority to be financed with the proceeds of Authority Bonds.

**Authority** means the Virgin Islands Public Finance Authority, a body corporate and politic constituting a public corporation and autonomous governmental instrumentality of the Government of the Virgin Islands, or, if said Authority shall be abolished, any authority, board, body or officer succeeding to the principal functions thereof.

**Authorized Officer** means the Executive Director or Chairman of the Authority or any other person authorized by the Authority to perform an act or sign a document on behalf of the Authority for purposes of the Indenture or a Supplemental Indenture as set forth in a Supplemental Indenture or a certificate of the Authority which has been delivered to the Trustee.

**Bankruptcy Code** means the United States Bankruptcy Reform Act of 1978, as amended, defined as Title 11 of the United States Code, as amended, or any substitute or replacement legislation.

**Board** means the Board of Directors of the Authority.

**Bond** or **Bonds** means any bond or bonds, as the case may be, issued pursuant to the Indenture or any Supplemental Indenture, and may include notes, commercial paper, or other obligations.

**Bond Counsel** means an attorney or firm of attorneys of nationally recognized expertise in matters relating to the issuance of obligations by states, territories and local governments and political subdivisions and instrumentalities thereof.

**Bond Register** means the register maintained by the Bond Registrar pursuant to Section 3.04 of the Indenture.

**Bond Registrar** means the Trustee, any successor trustee or bond Registrar appointed as Bond Registrar pursuant to Section 3.04 of the Indenture.

**Bond Related Costs** means (i) all costs, fees and expenses of the Authority incurred or reasonably related to any Liquidity Facility, Credit Facility, any remarketing or other secondary market transactions and any Qualified Swap Agreement (whether requiring the Authority to pay fixed or variable amounts and excluding breakage fees on or termination payments under such Qualified Swap Agreements) that the Authority has determined was entered into for the purposes of providing substitute interest payments for the maturity of the Bond, (ii) initial and acceptance fees of any Fiduciary together with any fees of Bond Counsel, attorneys, feasibility consultants, engineers, financial advisors, remarketing agents, rebate consultants, accountants and other advisors retained by the Authority in connection with the Bond, and (iii) any other fees, charges and expenses that may be lawfully incurred by the Authority relating to the Bond, including, without limitation, any obligation of the Authority to a Credit Provider for the Bond to repay or reimburse any amounts paid by such Credit Provider due to payment under such Credit Facility and any interest on such repayment obligation.

**Bond Service Charges** means for any applicable time period or date, principal of and premium, if any, and interest payments due and the fees, expenses and costs of the Trustee, Bond Registrar and Paying Agent, if any, on any of the Bonds accruing for that period or due and payable on that date. In determining Bond Service Charges accruing for any period or due and payable on any date, Mandatory Sinking Fund Requirements accruing for that period or due on that date shall be included together with any amount required to be paid for the replenishment of any Debt Service Reserve Account.

**Bond Year** means a period of twelve (12) consecutive months beginning on October 2 in any calendar year and ending on October 1 of the succeeding calendar year.

**Business Day** means any day that is not a Saturday, Sunday or legal holiday in the United States Virgin Islands or a day on which the Trustee, the Special Escrow Agent or banking institutions organized under the laws of the United States Virgin Islands are legally authorized to close.

**Capital Appreciation Bonds** means any Bonds as to which interest is payable only at the maturity or prior redemption thereof for the purposes of (i) receiving payment of the redemption price, if any, of a Capital Appreciation Bond that is redeemed prior to maturity, and (ii) computing the principal amount of Capital Appreciation Bonds held by the Owner thereof in giving any notice, consent, request, or demand pursuant to the applicable Supplemental Indenture for any purpose whatsoever, the Accreted Value of a Capital Appreciation Bonds as of a specific date shall be deemed to be its principal amount as of such date.

**Capitalized Interest** means that portion of the proceeds of any Series of Bonds together with any available earnings thereon that are intended to be used to pay interest due or to become due on any Bonds.

**Capitalized Interest Subaccount** means the subaccount by that name in the Debt Service Account established by the Indenture and the applicable Supplemental Indenture.

**Certified Interest Rate** means a rate estimated and certified by the financial advisor to the Authority as the rate that would be borne by a Variable Rate Bond if on the date of such certification such Bond was issued as a Bond bearing interest at a fixed rate to its stated maturity.

**Code** means the Internal Revenue Code of 1986, as amended from time to time. Each reference to a Code section herein shall be deemed to include the Treasury Regulations proposed or in effect thereunder and applicable to the Bonds.

**Collecting Agent** means the Collecting Agent designated as such under the Collecting Agent Agreement.

**Collecting Agent Agreement** means the Collecting Agent Agreement, dated as of November 1, 1999, as amended as of February 28, 2003, by and among the Government, the Special Escrow Agent and the Collecting Agent, as the same may be supplemented, or amended from time to time.

**Corporate Trust Office** means the principal corporate trust office of the Trustee in which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, at the date as of which the Indenture is dated, located at except that, with respect to presentation of Bonds for payment or registration of transfer and exchange and the location of the Bond Register, such term means the office or agency of the Bond Registrar in said city at which at any particular time its corporate agency business shall be conducted,

which is, at the date as of which the Indenture is dated, is the same address as the corporate trust office as indicated above.

**Cost of Issuance** means the items of expense payable or reimbursable directly or indirectly by the Authority and related to the authorization, sale and issuance of Bonds which items of expense shall include without limiting the generality of the foregoing: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee; initial fees and charges of Credit Providers or other parties (including specifically providers of Bond insurance policies and surety policies) pursuant to remarketing, indexing or similar agreements; discounts; legal fees and charges; auditing fees and expense; financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for execution, transportation and safekeeping of Bonds; and other administrative or other costs of issuing, carrying and repaying such Bonds and investing the proceeds thereof.

**Cost of Issuance Account** means the account of that name established by the Indenture.

**Counsel's Opinion** means an opinion signed by an attorney or firm of attorneys of recognized standing in the field of law relating to municipal Bonds (who may be counsel to the Authority) selected by the Authority and reasonably satisfactory to the Trustee.

**Credit Agreement** means any reimbursement agreement or similar instrument between the Authority (and, if so drafted, the Trustee) and a Credit Provider with respect to a Credit Facility.

**Credit Facility** means a letter of credit, surety bond, liquidity facility, insurance policy or comparable instrument furnished by a Credit Provider with respect to all or a specific portion of one or more Series of Bonds to satisfy in whole or in part the Authority's obligation to maintain a Debt Service Reserve Requirement with respect thereto or to secure (a) the payment of Debt Service (which may include the premium due on payment of a Bond) on Bonds of a specified Series, or a specific portion thereof, (b) the payment of the purchase price (which may include accrued interest to the date of purchase) of Bonds of a specified Series, or a specific portion thereof, on the applicable purchase dates or tender dates, or (c) both the payment of Debt Service on a specified Series of Bonds, or a specific portion thereof.

**Credit Provider** means the bank, insurance company, financial institution or other entity providing a Credit Facility or Liquidity Facility pursuant to a Credit Agreement.

**Credit Subaccount** means a subaccount by that name in the Debt Service Account or Debt Service Reserve Account established by the Indenture.

**Current Interest Bonds** mean all Bonds which are not (a) Capital Appreciation Bonds or (b) prior to the Interest Commencement Date, Deferred Interest Bonds.

**Debt Service** for any period means, as of any date of calculation and with respect to any Series of Bonds then Outstanding, the scheduled principal (including mandatory Sinking Fund Installments) and interest payments required to be made on such Series. For purposes of this definition, unless provided to the contrary in an applicable Supplemental Indenture authorizing the issuance of Capital Appreciation Bonds and Deferred Interest Bonds, the scheduled principal and interest portions of the Accreted Value of Capital Appreciation Bonds and the Appreciated Value of Deferred Interest Bonds becoming due at maturity or by virtue of Mandatory Sinking Fund Installments shall be included in the calculations of accrued and unpaid and accruing interest or principal payments in the year in which such payments are required to be made.

**Debt Service Account** means the Account by such name established in the Indenture.

**Debt Service Reserve Account** means the Account by such name established in the Indenture.

**Debt Service Reserve Account Credit Facility** means a Credit Facility provided to satisfy all or any portion of a Debt Service Reserve Requirement.

**Debt Service Reserve Account Credit Provider** means the Credit Provider of a Debt Service Reserve Account Credit Facility.

**Debt Service Reserve Requirement** means, as of any date of calculation, an amount equal to the least of (i) the greatest amount required in the then current or any future Bond Year to pay the sum of the interest on Outstanding Bonds payable during such Bond Year, and the principal (including mandatory Sinking Fund Installments) of Outstanding Bonds payable in such Bond Year, (ii) 125% of the average of the annual amounts

required in the then current and all future Bond Years to pay the sum of the interest on the Bonds Outstanding payable during such Bond Years and the principal (including mandatory Sinking Fund Installments) of the Outstanding Bonds payable in such Bond Years, and (iii) 10% of the original aggregate principal amount (net of original issue discount) of the Bonds. The Debt Service Reserve Requirement may be satisfied by cash, Permitted Investments or a Debt Service Reserve Account Credit Facility, or any combination thereof.

**Defeasance Securities** means

(i) direct and general obligations of, or obligations which as to principal and interest are unconditionally guaranteed as to full and timely payment by, the United States of America, to the payment of which the full faith and credit of the United States of America is irrevocably and unconditionally pledged. The obligations described in this paragraph are hereinafter called “*United States Government Obligations*,” and

(ii) pre-refunded municipal obligations meeting the following conditions:

- (1) the municipal obligations (A) are not subject to redemption prior to maturity or (2) the trustee has been given irrevocable instructions concerning their calling and redemption and the issuer of such municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;
- (2) the municipal obligations are secured by cash or non-callable United States Government Obligations that may be applied only to interest, principal and premium payments of such municipal obligations;
- (3) the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the municipal obligations;
- (4) the cash and United States Government Obligations serving as security for the municipal obligations are held by an escrow agent or trustee; and
- (5) the United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent.

**Deferred Interest Bonds** means any Bonds as to which accruing interest is not paid prior to the Interest Commencement Date specified in the Supplemental Indenture authorizing such Series.

**Depository** or **DTC** means The Depository Trust Company, New York, New York, and its successors and assigns.

**Escrow Fund** means the Escrow Fund established by the Escrow Agreement.

**Expense Account** means the Account by that name established by the Indenture.

**FEMA** means the Federal Emergency Management Agency.

**FEMA Loan Note** means the \$127,225,000 original principal amount promissory note of the Government, dated June 14, 1996 to the order of FEMA and addendum thereto dated June 26, 1996 evidencing Community Disaster Loan No. 96L106760.

**FEMA Loan Pledge** means the liens, pledges, security interests or other rights, if any, granted by the Government to the United States federal government as security for the FEMA Loan Note.

**Fiduciary** or **Fiduciaries** means any bank or other organization acting in a fiduciary capacity with respect to any Bonds whether as Trustee, Paying Agent, Bond Registrar, tender agent, escrow agent or any or all of them, as may be appropriate.

**First Supplemental Indenture** means the First Supplemental Indenture of Trust, dated as of November 1, 1999, by and between the Authority and the Trustee, authorizing the issuance of and securing the Initial Series of Bonds.

**Fiscal Year** means the Authority’s fiscal year, which is presently October 1 to the following September 30.

**Fitch** means Fitch ICBA, Inc., or any successor thereof which qualifies as a Rating Agency hereunder.

**Fixed Interest Rate Bond** means (1) a Bond, the interest rate on which is established (with no right to vary) at the time of calculation at a single numerical rate for the remaining term of such Bond, or (ii) all of those Bonds of a specific maturity described in clause (2)(A) and (B) of paragraph (i) of the definition of Adjusted Debt Service Requirement herein.

**Fourth Supplemental Indenture** means the Fourth Supplemental Indenture of Trust, dated as of December 1, 2003, by and between the Authority and the Trustee, authorizing the issuance of and securing the Series 2003A Bonds.

**Funds** means those funds and accounts specified in Section 5.01 of the Indenture.

**Government** means the Government of the United States Virgin Islands.

**Gross Receipts Taxes** means the taxes imposed and the resulting tax revenues collected or/and to be collected by the Government pursuant to the provisions of Title 33, Section 43 of the Virgin Islands Code (together with all fines, interest, penalties and other charges assessed, imposed or otherwise payable in relation to such taxes and revenues) during the period in which the principal amount of the Bonds, together with any interest payable thereon, shall remain due and owing.

**Independent Counsel** means an attorney, or firm thereof, admitted to practice law before the highest court of any state in the United States of America, the United States Virgin Islands or the District of Columbia and not an employee on a full-time basis of either the Authority or the Trustee (but who or which may be regularly retained by any one or more of them).

**Independent Verification Analyst** means a firm retained by the Authority to prepare the certificates required by the Indenture in connection with the issuance of Additional Bonds.

**Initial Series of Bonds** means the Series 1999 A Bonds.

**Interest Commencement Date** means, with respect to any particular Deferred Interest Bonds, the date specified in the applicable Supplemental Indenture authorizing such Deferred Interest Bonds (which date must be prior to the maturity date for such Deferred Interest Bonds), after which interest accruing on such Deferred Interest Bonds shall be payable with the first such payment date being the applicable Interest Payment Date immediately succeeding such Interest Commencement Date.

**Interest Payment Date** means each date specified in a Supplemental Indenture as a date for the payment of interest to Owner of the Bond.

**Interest Payment Period** with respect to any Bond, means, if prior to the first Interest Payment Date, the period from but not including the date specified in each Supplemental Indenture as the date for commencement of accrual of interest for such Bond and after the first regularly scheduled Interest Payment Date means the period from but not including a regularly scheduled Interest Payment Date, in each case to and including the next regularly scheduled Interest Payment Date, provided that any Supplemental Indenture may adjust this definition with respect to any Bond authorized to be issued thereunder in order to provide for the proper computation of or the timely transfer of amounts payable with respect to interest borne by such Bond on any Interest Payment Date.

**Interest Subaccount** means the Subaccount by that name in the Debt Service Account established by the Indenture and the applicable Supplemental Indenture.

**Issue Date** means, for Bonds of a particular Series, the date on which the Bonds of such Series are delivered against payment therefor.

**Letter of Representation** means the Letter of Representation from the Authority to the Depository in such form as may be acceptable to the Authority and the Depository.

**Liquidity Facility** means any agreement with a Credit Provider under or pursuant to which it agrees to purchase Optional Tender Bonds provided that the debt obligations of such Credit Provider are rated in one of the two highest Rating Categories by S&P, Moody's or Fitch.

**Loan Agreement** means a loan agreement by and between the Authority and the Government, entered into in connection with the issuance of one or more Series of Bonds pursuant to a Supplemental Indenture hereto, as the same may from time to time be amended or supplemented in accordance with the terms thereof.

**Loan Note** or **Loan Notes** means the general obligation note or notes, as the case may be, of the Government, executed and delivered to the Authority pursuant to a Loan Agreement in connection with the issuance by the Authority of one Series or more of Bonds under the Indenture, each such note being in the principal amount equal to the aggregate principal amount of the Series of Bonds to which it relates and being further secured by a pledge by the Government of the Gross Receipts Taxes (other than the Required Annual Moderate Income Housing Fund Deposit) on a parity basis with all other such notes.

**Mandatory Sinking Fund Requirements** means the principal amount of Term Bonds which are required to be redeemed by mandatory sinking fund redemption, in the principal amounts at the prices and on the dates as set forth in the applicable Supplemental Indenture.

**Mandatory Tender Date** means a date on which the Bond is required to be purchased by, or on behalf of, the Authority as provided herein or in the Supplemental Indenture authorizing such Bond.

**Monthly Transfer Requirement** means the amount sufficient to fund in full all of the amounts specified in Sections 5.04(a)(i) through (vi) of the Indenture which are to be transferred during such calendar month from the Pledged Revenue Account to the various Accounts established under the Indenture.

**Moody's** means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Moody's shall be deemed to refer to any other nationally recognized securities rating agency designated by the Authority, by notice to the Trustee.

**Officer's Certificate** means a certificate signed by an Authorized Officer.

**Optional Tender Bonds** means any Bonds which by their terms may be tendered by and at the option of, or required to be tendered by, the Owner thereof for payment or purchase by the Authority or another party prior to the stated maturity thereof, or the maturities of which may be extended by and at the option of the Owner thereof; provided, however, that a Supplemental Indenture may expressly provide that specific Bonds are not "Optional Tender Bonds" if, in the reasonable judgment of the Authority, the tender requirements of such Bonds are not of the character intended to be included within this definition.

**Original Indenture** means the Indenture of Trust, dated as of November 1, 1999, between the Authority and the Trustee and, as to each Series of Bonds, the Supplemental Indenture pertaining thereto, as the Indenture or any Supplemental Indenture may from time to time be amended or supplemented in accordance with the terms hereof.

**Outstanding Bonds, Bonds Outstanding** and **Bonds then Outstanding** means as of the date of determination, all Bonds theretofore issued and delivered under the Indenture as from time to time supplemented except:

(i) Bonds theretofore canceled by the Trustee or Paying Agent or delivered to the Trustee or Paying Agent canceled or for cancellation;

(ii) for which payment or redemption moneys or securities (as provided in Article Ten) shall have been theretofore deposited with the Trustee or Paying Agent in trust for the Owners of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this Indenture or irrevocable action shall have been taken to call such Bonds for redemption at a stated redemption date;

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to the Indenture; and

(iv) Optional Tender Bonds deemed tendered in accordance with the provisions of the Supplemental Indenture authorizing such Bonds on the applicable tender, adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payments as provided therein (but not if held for reoffering).

In determining requisite percentages of the Owners of aggregate principal amount of Bonds Outstanding for the purposes of direction, consent, approval or waiver under the terms and provision of this Indenture and any



Supplemental Indenture: (1) the aggregate “principal amount” of any Bonds that are Capital Appreciation Bonds shall be determined by their Accreted Value as of the date of such determination, and (2) the aggregate “principal amount” of any Bonds that are Deferred Interest Bonds shall be determined by their Appreciated Value as of the date of such determination and provided, however, that in determining whether the Owners of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Authority shall be disregarded and deemed not to be Outstanding Bonds, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, or waiver, only Bonds which the Trustee knows to be so owned shall be disregarded.

Each Supplemental Indenture may further specify the conditions under which a Credit Provider will be deemed the Owner of Outstanding Bonds for purposes of consents hereto.

**Owner** or **Bondowner**, or any similar term, means any Person who shall be the registered owner of any Bond.

**Participants** means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Bonds as securities depository.

**Paying Agent** means any commercial bank or trust company organized under the laws of the United States Virgin Islands, any state of the United States, or the United States of America, or any national banking association designated as paying agent for the Bond, and its successor or successors hereafter appointed in the manner provided in the Indenture or a Supplemental Indenture.

**Permitted Investments** means any of the following securities, if and to the extent the same are at the time legal for the investment of funds held under the Indenture:

(i) direct obligations of the United States or obligations guaranteed as to principal and interest by the United States;

(ii) general obligations of any state, territory, possession or commonwealth of the United States with a rating at the time of purchase in either of the two highest Rating Categories as designated by any Rating Agency;

(iii) prefunded obligations of any state, territory, possession or Commonwealth of the United States or political subdivision thereof secured by cash or obligations listed in subsection (i) above, with a rating at the time of purchase in the highest Rating Category as designated by any Rating Agency;

(iv) obligations issued, or the principal of and interest on which are unconditionally guaranteed, by any agency or instrumentality of or a corporation wholly owned by the United States with a rating at the time of purchase in one of the two highest Rating Categories as designated by any Rating Agency;

(v) repurchase agreements with banks, savings and loan associations or trust companies organized under the laws of the United States Virgin Islands, the United States, or any state, territory, possession or commonwealth of the United States, provided, however, that any such bank, savings and loan association or trust company shall have a combined capital and surplus at least equal to \$200,000,000 and, further provided that (1) such agreements are fully secured by obligations set forth in (i), (ii), and (iii) above; (2) such collateral is not subject to liens or claims of third parties; (3) such collateral has a market value at least equal to 102% of the amount invested and is held by the Trustee or its agent or, in the case of uncertificated securities, are registered in the name of the Trustee as pledgee; (4) the Trustee has a valid security interest in such collateral and (5) such agreement shall provide that the failure to maintain such collateral at the level required by clause (3) for a period of 10 days will require the Trustee or its agents to liquidate the investments;

(vi) investment agreements, guaranteed investment contracts or similar funding agreements issued by insurance companies or other financial institutions, including without limitation broker/dealers or subsidiaries thereof; provided that (1) such agreements are fully secured by obligations set forth in (i), (ii) and (iii) above; (2) such collateral is not subject to liens or claims of third parties; (3) such collateral has a market value at least equal to 102% of the amount invested and is held by the Trustee or its agent or, in the

case of uncertificated securities, are registered in the name of the Trustee as pledgee; (4) the Trustee has a valid security interest in such collateral and (5) such agreement shall provide that the failure to maintain such collateral at the level required by clause (3) for a period of 10 days will require the Trustee or its agents to liquidate the investments;

(vii) U.S. dollar denominated bankers' acceptances with domestic commercial banks which have a rating on their short-term certificates of deposit on the date of purchase in the highest short-term rating category by a national rating agency and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank); and

(viii) Certificates of deposit with domestic commercial banks which have a rating on their short-term certificates of deposit on the date of purchase in the highest short-term rating category by a national rating agency and maturing no more than 360 days after the date of purchase. Certificates of deposit will be placed directly with depository institutions and secured by obligations set forth in (i), (ii) and (iii) above; (2) such collateral is not subject to liens of claims of third parties; (3) such collateral has a market value at least equal to 102% of the amount invested and is held by the Trustee or its agent or, in the case of uncertificated securities, are registered in the name of the Trustee as pledgee; (4) the Trustee has a valid security interest in such collateral and (5) such agreement shall provide that the failure to maintain such collateral at the level required by clause (3) for a period of 10 days will require the Trustee or its agents to liquidate the investments; and

(ix) Investments in a money market fund rated in the two highest rating categories including money market funds sponsored by the Authority; and

(x) Commercial Paper issued by U.S. Corporations which is rated at the time of purchase in the highest short-term rating category by a national rating agency and which matures not more than 270 days after the date of purchase.

Any such Permitted Investment may be purchased or sold by, from or through the Authority or the Trustee. The Authority will not direct the Trustee to hold investments described in (vi), (vii) and (ix) unless arrangements satisfactory to the Trustee are in place to verify and monitor compliance with such provisions.

**Person** means an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof, or any other legal entity or groups of legal entities.

**Pledge Agreement** means a Pledge Agreement entered into with a specific Series of Bonds or specific Bond within a series of Variable Rate Bonds and related to the Credit Facility for such Bonds.

**Pledged Revenue Account** means the Account by that name established by the Indenture.

**Principal Installment** means, as of any date of calculation and with respect to the Bond, so long as the Bond thereof is Outstanding, (i) the principal amount of the Bond due on a certain future date, or (ii) the unsatisfied balance of any Sinking Fund Installments due on a certain future date for the Bond.

**Principal Payment Date** means any date on which a Principal Installment is scheduled to become due on the Bond whether by scheduled maturity or Mandatory Sinking Fund Requirements or otherwise.

**Principal Subaccount** means the subaccount by that name in the Debt Service Account established by the Indenture and the applicable Supplemental Indenture.

**Project Account** means the Account of that name established by the Indenture.

**Proportionate Basis** means, when used with respect to the redemption of the Bonds of a specific series, that the aggregate principal amount of such Bonds of each maturity of such Series to be redeemed shall be determined as nearly as practicable by multiplying the total amount of funds available for redemption by the ratio which the principal amount Outstanding of such maturity to be redeemed bears to the principal amount of all Bonds of that Series then Outstanding; provided that if the amount available for redemption of Bonds of any maturity is insufficient to redeem a multiple of the minimum authorized denomination of such maturity, such amount shall be

applied to the redemption of the highest possible integral multiple of the minimum authorized denomination of such maturity. For purposes of the foregoing, Term Bonds shall be deemed to mature in the years and in the amounts of the Mandatory Sinking Fund Requirements set forth in the applicable Supplemental Indenture. Any Bonds purchased with moneys which would otherwise be applied to redemption on a Proportionate Basis on the next succeeding Payment Date shall be taken into account in determining Proportionate Basis with respect to such redemption. When used with respect to the purchase of Bonds, Proportionate Basis shall have the same meaning as set forth above, substituting “purchase” for “redemption,” and “purchased” for “redeemed.”

**Purchase Date** means the date on which any Outstanding Bonds are purchased pursuant to this Indenture or any applicable Supplemental Indenture.

**Qualified Swap Agreement** means (i) an agreement between the Authority and a Swap Provider under which the Authority agrees to pay the Swap Provider an amount calculated at an agreed-upon rate or index based upon a notional amount and the Swap Provider agrees to pay the Authority for a specific period of time an amount calculated at an agreed-upon rate or index based upon such notional amount, where the Swap Provider, or the Person who guarantees the obligation of the Swap Provider to make its payments to the Authority, has unsecured obligations rated, as of the date the swap agreement is entered into, in one of the three highest applicable Rating Categories by each Rating Agency then rating such Swap Provider or other Person who guarantees such obligation, or shall provide collateral to the Trustee with a market value maintained at levels and upon such conditions as would be acceptable to each such Rating Agency to maintain a rating on such swap agreement in one of the three highest applicable Rating Categories, or (ii) an option with respect to any agreement described in clause (i) above.

**Rating Agency or Rating Agencies** means one or more of Moody’s, S&P or Fitch or any successor or comparable nationally recognized securities rating agency which shall be maintaining a rating on any Series of Bonds.

**Rating Category** means a generic securities rating category, without regard to any refinement or gradation of such rating category by a numerical modifier or otherwise.

**Rebate Account** means the Rebate Account established in and maintained pursuant to the Indenture and the applicable Supplemental Indenture.

**Rebate Requirement** means the amount required to be paid to the United States Treasury pursuant to Section 148(f) of the Code.

**Record Date** means with respect to an Interest Payment Date for the Bonds, unless otherwise provided by any Supplemental Indenture, the fifteenth day (or if such day shall not be a Business Day, the preceding Business Day) next preceding such Interest Payment Date.

**Redemption Price** means with respect to any Bond, the principal amount of such Bond plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond, this Indenture or the applicable Supplemental Indenture of the Indenture.

**Redemption Subaccount** means the subaccount by that name in the Debt Service Account established pursuant to the Indenture.

**Related Agreements** or **Related Documents** means any Credit Facility, Credit Agreement or Pledge Agreement related to a Series of Bonds or a specific portion thereof, including security agreements or instruments heretofore or hereafter made for the benefit and with the consent of the Trustee or a Credit Provider as creditor to secure payment of any such Series of Bonds or a specific portion thereof, and shall not include documents, agreements or other items entered into only for the purposes of a different Series of Bonds or a specific portion or any amount due to a Credit Provider; but excluding the Indenture and all Supplemental Indentures; provided, that the term “Related Agreements” or “Related Documents,” when used in relation to such Series of Bonds or a specific portion thereof, shall include only such Related Agreements or Related Documents as have been entered into for such Series of Bonds or a specific portion thereof.

**Remarketing Agent** means the firm appointed as Remarketing Agent for a specific Series of Optional Tender Bonds.

**Remarketing Agreement** means the Remarketing Agreement for a Series of Bonds or a specific portion thereof, including any amendments and supplements thereto, between the Remarketing Agent and the Authority.

**Required Annual Moderate Income Housing Fund Deposit** means the first \$250,000 of Gross Receipts Taxes collected during each fiscal year of the Government which are required, pursuant to Title 33, Section 3027(a)(3) of the Virgin Islands Code, to be deposited in the Moderate Income Housing Fund of the Government, which amount shall not be subject to the liens granted by the Special Escrow Agreement and the Loan Agreement in the Gross Receipts Taxes.

**Restricted Moneys Sub-subaccount** shall mean the Restricted Moneys Sub-subaccount of the Series 2003 BANs Redemption Account established in Section 501 of the Fourth Supplemental Indenture.

**Revenues** means (i) the Gross Receipts Taxes (other than the Required Annual Moderate Income Housing Fund Deposit), any Substitute Revenues, any other amounts required to be paid by or on behalf of the Government to or for the benefit of the Authority under any Loan Agreement and any other proceeds and collections from any Loan Notes, including investment proceeds, deposited in the Pledged Revenue Account, including any investment earnings earned thereon, and (ii) any proceeds which arise with respect to any disposition of the Trust Estate.

**S&P** means Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Authority, by notice to the Trustee.

**SLGS** means United States Treasury Obligations, State and Local Government Series, as provided for in the United States Treasury Regulations 31 CFR 344.

**Series 1999 A Bonds** means the Authority's \$299,880,000 original principal amount of Revenue Bonds, Series 1999 A (Virgin Islands Gross Receipts Taxes Loan Note), issued pursuant to the First Supplemental Indenture.

**Series 2003A Bonds** means the Authority's \$268,020,000 Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note) Series 2003A, authorized to be issued pursuant to the Fourth Supplemental Indenture.

**Series 2003A Cost of Issuance Subaccount** means the Series 2003A Cost of Issuance Subaccount of the Cost of Issuance Account established pursuant to the Fourth Supplemental Indenture.

**Series 2003A Interest Subaccount** means the Series 2003A Interest Subaccount of the Debt Service Account established pursuant to the Fourth Supplemental Indenture.

**Series 2003A Loan Agreement** means the Loan Agreement, dated as of December 1, 2003, among the Government, the Trustee and the Authority.

**Series 2003A Loan Note** means the 2003 Gross Receipts Taxes Loan Note, Series A issued by the Government pursuant to the Series 2003A Loan Agreement.

**Series 2003A Principal Subaccount** means the Series 2003A Principal Subaccount of the Debt Service Account established pursuant to the Fourth Supplemental Indenture.

**Series 2003 BANs Redemption Subaccount** means the Series 2003 BANs Redemption Subaccount of the Debt Service Account established pursuant to the Fourth Supplemental Indenture.

**Sinking Fund Installment** means, with respect to any Series of Bonds, an amount so designated which is established pursuant to the Supplemental Indenture authorizing such Series of Bonds.

**Special Escrow Account** means the Special Escrow Account established under the Special Escrow Agreement.

**Special Escrow Agent** means The Bank of New York Trust Company of Florida, N.A., the special escrow agent under the Special Escrow Agreement, or any successor thereto.

**Special Escrow Agreement** means the Special Escrow Agreement dated as of November 1, 1999, as amended as of February 28, 2003, by and among the Authority, the Special Escrow Agent and the Government, as the same may be supplemented or amended from time to time.

**Special Record Date** means if the Authority shall be in default in payment of principal or interest due, a special Record Date for the payment of such defaulted principal or interest established by notice mailed by the

Trustee on behalf of the Authority; notice of such Special Record Date shall be mailed not less than 10 days preceding such Special Record Date, to the owner at the close of business on the fifth Business Day preceding the date of mailing.

**Subaccount** or **Subaccounts** means any subaccount or subaccounts, as the case may be established in an Account pursuant to the Indenture or in a Supplemental Indenture authorizing a Series of Bonds hereunder.

**Substitute Revenues** means any taxes or other revenues collected or to be collected by the Government as may hereafter be pledged by the Government pursuant to any Loan Agreement as additional or substitute security for the repayment of any Loan Notes.

**Supplemental Indenture** means any indenture amending or supplementing the Indenture in accordance with the terms hereof.

**Surplus Account** means the Surplus Account established in Section 5.01 of the Indenture.

**Surplus Available Revenues** means as of any October 1, commencing with October 1, 2007, the “available amounts” of the Government within the meaning of Treasury Regulations Section 1.148-6(d)(3)(iii) (including, specifically all amounts available to the Government for expenditure for payment of working capital expenditures, including cash or investments and other amounts held in accounts or otherwise by the Government or any related party as defined in Section 1.150-1 of the Treasury Regulations if those amounts may be used for working capital expenditures without legislative or judicial action and without a legislative, judicial or contractual requirement that those amounts be reimbursed). Surplus Available Revenues shall not include (a) sale proceeds of the Series 2003A Bonds, and (b) an amount equal to 5% of the Expenditures paid by the Government from current revenues for the prior fiscal year of the Government.

**Swap Provider** means the counter party with whom the Authority enters into a Qualified Swap Agreement.

**Tax Covenants** means the covenants of the Authority expressed in or incorporated by reference in Article VI of the Indenture, or in the corresponding section of a Supplemental Indenture providing for assurance of the preservation of the tax-exempt status of the interest on a Series of Tax-Exempt Bonds.

**Tax-Exempt Bonds** means Bonds issued pursuant to the Indenture for which the Authority receives, on the date of the closing therefor, an opinion of Bond Counsel to the effect that interest on such Bonds is excludable from the gross income of the owners thereof for federal income tax purposes under section 103 of the Code.

**Tax Opinion** means, with respect to any action requiring such an opinion hereunder, a Counsel’s Opinion to the effect that such action, of itself, will not adversely affect the exclusion of interest on any Series of Tax-Exempt Bonds from gross income for federal income tax purposes.

**Tax Regulatory Agreement** means that agreement between the Authority and the Government of the Virgin Islands dated as of the date the Bond is issued, as amended from time to time, relating to the requirements of Sections 148 and 103 of the Code for exemption of interest on the Tax-Exempt Bonds from federal income tax.

**Taxable Bonds** means any Bonds which are not Tax-Exempt Bonds on the date of original issue thereof.

**Term Bonds** means Bonds which are designated in a Supplemental Indenture as subject to scheduled Mandatory Sinking Fund Requirements prior to maturity.

**Treasury Regulations** means all final, temporary or proposed Income Tax Regulations issued or amended with respect to the Code by the Treasury or Internal Revenue Service and applicable to the Bonds. Any reference to a section of the Treasury Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to the Code and applicable to the Bonds.

**Trust Estate** means the Revenues and the rights to receive the same, the tangible and intangible properties, rights and other assets described in the Granting Clauses of the Indenture as from time to time supplemented, and, with respect to a specific Series of Bonds or specific Bonds within a Series, such funds, rights, properties and assets pledged to secure such Series of Bonds or specific Bonds within a Series pursuant to a Supplemental Indenture.

**Trustee** means The Bank of New York Trust Company of Florida, N.A. (as successor to the Bank of New York), a national association, designated as trustee under the Indenture, and its successor or successors hereafter appointed in the manner provided in the Indenture.

**Valuation Date** means with respect to any Bonds that are Capital Appreciation Bonds or Deferred Interest Bonds, the date or dates set forth as such in the Supplemental Indenture authorizing such Bonds on which specific Accreted Values or Appreciated Values, respectively, are assigned to such Bonds.

**Variable Interest Rate** means a variable interest rate or rates to be borne by the Bond. The method of commuting such variable interest rate shall be specified in the Supplemental Indenture authorizing such Bonds or Related Agreements approved thereby.

**Variable Rate Bonds** means any Bond that bears interest at a rate which is not established at the time of calculation at a single numerical rate for the remaining term of such Bond.

**Written Order** means a written direction of the Authority to the Trustee signed by an Authorized Officer.

## APPENDIX B

### SUMMARY OF CERTAIN PROVISIONS OF THE ORIGINAL INDENTURE AND THE FOURTH SUPPLEMENTAL INDENTURE

#### THE ORIGINAL INDENTURE

The following is a summary of certain provisions of the Original Indenture. Such summary does not purport to be complete or definitive and reference is made to the Indenture for a full and complete statement of the terms and provisions and for the definition of capitalized terms used in this summary and not otherwise defined under APPENDIX A – “Glossary of Certain Defined Terms.”

**Pledge of Revenues.** The Bonds shall be special, limited obligations of the Authority payable as to the principal or Redemption Price, if any, and interest thereon, in accordance with their terms and the terms and provisions of the Indenture solely from Revenues, and secured by a lien on and security interest in the Trust Estate, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture. The Authority has no taxing power and its debts are not debts of the United States Virgin Islands or any political subdivision of the United States Virgin Islands. No holder of the Bonds shall have the right to compel any exercise of the taxing power of the United States Virgin Islands to pay the principal of or interest on the Bonds.

**Authorization of Bonds.** The Indenture authorizes Bonds of the Authority to be issued and designated as “Refunding Bonds (Virgin Islands Gross Receipts Taxes Loan Note)” or “Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note)” or “Revenue and Refunding Bonds (Virgin Islands Gross Receipts Taxes Loan Note),” as applicable. The aggregate principal amount of the Bonds under the Indenture and Supplemental Indenture is not limited except as provided in the Indenture, the Act, or as may be limited by law.

**Sinking Fund Redemption; Purchase.** The Bonds of any Series issued pursuant to the Indenture and a Supplemental Indenture may be subject to optional, mandatory or extraordinary redemption or prepayment on a scheduled or other basis, provided that the Mandatory Sinking Fund Requirements of Bonds or a particular Series and maturity shall be reduced to the extent the Bonds of that Series and maturity have been optionally or mandatorily redeemed prior to or on the date scheduled for payment of the specified principal amount and at the redemption prices specified in the applicable Supplemental Indenture.

**Additional Bonds; Other Revenue Obligations.** All of the Bonds issued under a Supplemental Indenture shall collectively be a charge and lien upon the Trust Estate. Except as permitted by the Indenture, no obligations payable from Revenues or secured by a lien of a superior or equal rank on the Trust Estate (except as to any Credit Facility or Liquidity Facility which secures Bonds or a specific Series of Bonds) shall be hereafter issued. If no Event of Default has occurred or will contemporaneously, the Authority may issue Additional Bonds with a Supplemental Indenture.

#### **Conditions to the Issuance of Additional Bonds:**

(a) Bonds shall be payable from Revenues and secured by a lien on the Trust Estate on a parity basis with all Outstanding Bonds and any Additional Bonds that may be hereafter issued (except as to any Credit Facility which secures only a specific Series of Bonds or specific Bonds of a Series) if the Trustee shall receive:

(1) a certificate of the Authority that no Event of Default under the Indenture has occurred and shall continue to exist immediately following the date of the Bonds to be issued; and

(2) a certificate of an Independent Verification Analyst stating (i) (A) the actual amount of Gross Receipts Taxes collected by the Government during each of the twenty-four (24) calendar months immediately preceding the calendar month in which such Bonds are issued (the “Test Period”); (B) the actual amount of Gross Receipts Taxes collected by the Government during any twelve (12) consecutive month period within the Test Period in which collections of Gross Receipts Taxes were the greatest; and (C) the average Gross Receipts Taxes projected to be collected by the Government in the two Fiscal Years succeeding the issuance of such

Bonds; (ii) the maximum annual Adjusted Debt Service Requirement in the current or any subsequent Bond Year on Outstanding Bonds after giving effect to the issuance of the proposed Additional Bonds; and (iii) (A) that the Gross Receipts Taxes collected by the Government during the twelve consecutive calendar month period referred to in (i)(B) above equaled or exceeded 150% of the amount of maximum Adjusted Debt Service Requirement on Outstanding Bonds in the current or any subsequent Bond year after giving effect to the issuance of the proposed Additional Bonds in the current or any subsequent Bond Year or (B) the average Gross Receipts Taxes projected to be collected by the Government for the two Fiscal Years succeeding the issuance of the Bonds is projected to equal or exceed 150% of the Adjusted Debt Service Requirement in the current or any subsequent Bond Year on Outstanding Bonds and such Additional Bonds.

(b) For purposes of the certifications described in the Indenture there shall be excluded from the Adjusted Debt Service Requirement any amounts otherwise due or to become due on Outstanding Bonds which are to be refunded and will be no longer Outstanding as a result of the issuance of such Additional Bonds.

(c) Any Supplemental Indenture that authorizes Bonds under this Section shall state the dollar amount of the Debt Service Reserve Requirement, effective as of the date of issuance of such Additional Bonds, and of the portion thereof, if any, to be funded out of the sale proceeds of such Series of Bonds and/or other moneys to be delivered to the Trustee or on deposit with the Trustee.

(d) If the Bonds are subject to mandatory purchase or are to be purchased upon optional tender by the Owners thereof, any amounts required to be segregated or set aside by the Authority to fulfill its purchase obligation shall be deemed additional Adjusted Debt Service Requirements with respect to the related Series of Bonds in the amounts and at the times such amounts are required to be so set aside.

(e) The conversion of Bonds that are Variable Rate Bonds to Fixed Interest Rate Bonds shall not be treated as the issuance of Additional Bonds subject to the other requirements of this Section unless the interest rate to be borne by such Bonds from and after the date of conversion will exceed the Certified Interest Rate taken into account for the purposes of computing Adjusted Debt Service Requirements under Section 2.05(a) of the Indenture.

(f) Prior to the issuance of any Series of Bonds under the provisions of this Section, and as a condition precedent thereto, the following documents and showings shall be executed and delivered:

(i) a Supplemental Indenture, executed by the Authority and the Trustee, providing for the issuance of such Bonds and the terms and conditions thereof, and

(ii) an Authority certificate setting forth information sufficient to satisfy the Trustee that the requirements of this Section have been fulfilled.

**Refunding Bonds.** Additional Bonds may be issued pursuant to the Indenture if and to the extent needed to refund Outstanding Bonds, which refunding Additional Bonds may be on a parity with the Bonds that are being refunded and are not required to satisfy the tests of issuance of Additional Bonds set forth in the Indenture, if the aggregate Debt Service on the refunding Additional Bonds is equal to or less than the aggregate Debt Service on the refunded Bonds; and provided further, that the Authority has made provisions for the repayment of the Bonds to be refunded.

**Book-Entry System Only.** The ownership of one or more fully registered Bond for each maturity of each Series of Bonds shall be registered in the name of Cede and Company, as nominee for the Depository Trust Company ("DTC"). Payments of interest on, principal of any premium on such Series of Bonds shall be made to the account of the DTC on each payment date at the address indicated for the DTC in the Bond Register by transfer of immediately available funds. DTC maintains a book-entry system for recording ownership interests of its participants (the "Direct Participants"), and the ownership interests of a purchaser of a beneficial interest in the Bonds (a "Beneficial Owner") will be recorded through book entries on the records of the Direct Participants. With respect to Bonds registered in the name of DTC, the Authority, the Trustee and any agent thereof shall have no responsibility or obligation to any Direct Participant or to any Beneficial Owner of such Bonds. DTC may determine to discontinue providing its services with respect to the Bonds of a Series at any time by giving reasonable written notice to the Authority, the Trustee and any tender agent for a Series of Bonds and discharging its responsibilities with respect thereto under applicable law. In addition, the Authority, in its sole discretion and without the consent of any other Person, may terminate, upon provision of notice to the Trustee and any tender agent for a Series of Bonds, the services of the DTC with respect to a Series of Bonds if the Authority determines that the



continuation of the system of book entry-only transfers is not in the best interests of the Owners of the Bonds of the Series or is burdensome to the Authority. The Authority may select a new Depository or discontinue the services of a Depository and issue Bond certificates.

**General Provisions.** The Bonds shall be in minimum denominations of \$5,000, or in integral multiples thereof in the form set forth in the exhibit to the appropriate Supplemental Indenture. The Authority shall execute the Bonds by the manual or facsimile signature of the Governor of the Virgin Islands with the seal or facsimile seal of the Authority and attestation by the manual or facsimile signature of the Secretary of the Authority in accordance with the provisions of the Indenture. The Bonds shall be transferable only upon the books of the Authority by the Trustee. In all cases in which the privilege of exchanging Bonds or transferring registered Bonds is exercised, the Authority shall execute and the Trustee shall authenticate and deliver bonds in accordance with, and subject to the restrictions of, the Indenture. Neither the Authority nor the Trustee shall be required (a) to transfer or exchange Bonds for a period beginning on the Record Date next preceding an interest payment date for the Bonds and ending on such interest payment date, or for a period for fifteen days next preceding the date (as determined by the Trustee) of any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds called or tendered for redemption, in whole or in part.

**Exchanges and Transfer of Bonds.** The Indenture provides when a Bond is exchanged or transferred, the Authority shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of the Indenture. Bonds surrendered for exchange or transfer shall be canceled by the Trustee. The Authority may only make a charge sufficient to reimburse itself for any tax or other governmental charge required to be paid with respect to such exchange or transfer. The Indenture provides specific time periods when the Authority and the Trustee cannot be required to transfer or exchange Bonds.

**Redemption.** Bonds subject to mandatory, optional or extraordinary redemption prior to maturity pursuant to any Supplemental Indenture shall be redeemable, upon notice, at such times, at such Redemption prices and upon such terms in addition to the terms contained in the Indenture as may be specified in any Supplemental Indenture. At the election or direction of the Authority, the Board shall notify the Trustee of the Authority's decision to redeem and of the particulars of the redemption. If less than all of the Bonds of like maturity of any Series shall be called for prior redemption, the Trustee shall randomly select the particular Bonds or portions of the Bonds to be redeemed.

**Notice of Redemption.** When the Trustee shall receive notice from the Board, acting on behalf of the Authority, of its election or direction to redeem Bonds pursuant to the Indenture, and when redemption of Bonds is required or authorized pursuant to the Indenture, the Trustee shall give notice, in the name of the Authority, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds to be so redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice shall be mailed by the Trustee by first class mail, postage prepaid, not more than 60 days nor less than 30 days before the redemption date, to each of the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses, if any, appearing upon the Bond Register, but any defect in, or the failure of any Bondowner to receive, any such notice shall not affect the validity of the proceedings for the redemption of Bonds. Notwithstanding the foregoing, failure to mail any such notice pursuant to the Indenture to any particular Owner of a Bond shall not affect the validity of any proceedings for the redemption of any other Bond.

**Payment of Redeemed Bonds.** Notice having been given in the manner provided in the Indenture, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender thereof at the office specified in such notice, such Bonds or portions thereof shall be paid at the Redemption Price, plus interest accrued and unpaid to the redemption date. If there shall be called for redemption less than all of a Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, at the option of the Owner thereof, Bonds of like Series and maturity in any of the

authorized denominations. If, on the redemption date, moneys for the redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to the redemption date, shall be held by the Paying Agent so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date interest on the Bonds or portions thereof of such Series and maturity so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**Creation of Accounts, and Subaccounts; Deposit of and Use of Moneys.** The proceeds of each Series of Bonds and all Revenues and other sums pledged and assigned by the Indenture to the Trustee for the benefit of Bondowners are to be deposited to the Accounts established by the Indenture and shall not be subject to any lien or attachment by any Creditor of the Authority or any Credit Provider or other person other than the lien of the Indenture. The Accounts and separate Subaccounts within the Accounts created with respect to each series of Bonds under the Indenture shall be held and administered by the Trustee or the Authority in accordance with the terms of the Indenture and may include the following:

- (1) The Pledged Revenue Account, to be held by the Trustee;
- (2) The Debt Service Account, to be held by the Trustee with such separate Subaccounts as provided in the Indenture or Supplemental Indenture, including any of the following accounts therein:
  - (A) An Interest Subaccount;
  - (B) A Principal Subaccount;
  - (C) A Redemption Subaccount;
  - (D) A Credit Subaccount with respect to each Credit Facility which is not a Debt Service Reserve Account Credit Facility;
  - (E) An Expense Subaccount;
  - (F) A Purchase Subaccount;
  - (G) A Capitalized Interest Subaccount;
  - (H) Any other Account or Subaccount established by the applicable Supplemental Indenture;
- (3) The Debt Service Reserve Account, to be held by the Trustee, with such separate Credit Subaccounts therein as the Authority shall determine in any Supplemental Indenture;
- (4) The Project Account, to be held by the Trustee or the Authority, with such separate Subaccounts therein as the Authority shall determine in any Supplemental Indenture;
- (5) The Cost of Issuance Account and such Subaccounts therein as the Authority shall determine in any Supplemental Indenture, to be held by the Trustee;
- (6) A Rebate Account, to be held by the Trustee, and such Subaccounts therein as the Authority shall determine in any Supplemental Indenture authorizing a Series of Tax-Exempt Bonds; and
- (7) A Surplus Account, to be held by the Authority.

**Project Account.** There shall be paid into the Project Account the amounts required to be so paid by the provisions of the Indenture and each Supplemental Indenture. There also may be paid into the Project Account, at the option of the Authority, any moneys received by the Authority from any source unless otherwise required to be applied by the Indenture or any Supplemental Indenture. Separate, segregated Subaccounts may be created within

the Project Account and held by the Authority, the Trustee, any tender agent, or other entity in the manner provided in any Supplemental Indenture authorizing such Accounts. Money held in such Subaccounts shall be held separately from other moneys in the Project Account and shall be disposed of only in the manner provided in the Supplemental Indentures authorizing such Subaccounts. Such separate, segregated Subaccounts and all funds, investments thereof and investment income earned thereon may be pledged (and a lien and security interest therein may be granted) to secure for any period of time the payment of principal of and/or the purchase price of any or all of any Series of Bonds issued pursuant to such Supplemental Indenture incurred pursuant to such Supplemental Indenture and interest thereon to any date, all as may be more fully provided in such Supplemental Indenture in which case such pledge, lien and security interest will be prior and superior to the lien and pledge on the Project Account granted by the Indenture securing the Bonds generally. Amounts in the Project Account shall be used to pay any or all of the following: (i) the Costs of the Approved Projects and (ii) with respect to special Subaccounts created within the Project Account by a Supplemental Indenture, to pay all amounts authorized by such Supplemental Indenture. Amounts in the Project Account may be transferred to a Debt Service Account and applied to the payment of interest on or principal or redemption price of the Bonds when due, to the extent that other funds held for those purposes are insufficient and to the extent that the Authority certifies such amounts are not then obligated to pay costs of an Approved Project.

**Pledged Revenue Account.** The Trustee shall deposit to the Pledged Revenue Account as received all Revenues received, including but not limited to the Gross Receipts Taxes and any Substitute Revenues pledged under the Loan Agreements, the amounts required by the Indenture, and such other revenues as may be received by the Trustee which are designated for deposit to the Pledged Revenue Account under a Supplemental Indenture. All amounts in the Pledged Revenue Account shall be transferred daily on or before the 5:00 p.m. on each Business Day during each calendar month to Accounts and Subaccounts created under the Indenture, so long as any Bonds remain Outstanding under the Indenture, in the following amounts and in the following order of priority:

(i)(1) to each Interest Subaccount, until the aggregate amount on deposit in all existing Interest Subaccounts is equal to the sum of all Required Interest Subaccount Balances (as hereinafter defined). The Required Interest Subaccount Balance in effect during each calendar month for each Interest Subaccount shall be the greater of (A) the amount determined by multiplying (x) the portion of the Adjusted Debt Service Requirement for the applicable Series of Bonds which constitutes all of the interest accruing or to accrue on such Series of Bonds during the Interest Payment Period ending on the next Interest Payment Date, by (y) a fraction, the numerator of which is equal to one (1) plus the number of whole calendar months that have elapsed since the immediately preceding Interest Payment Date (or, in the case of the period prior to the first Interest Payment Date, one (1) plus the number of whole calendar months that have elapsed since the date interest on such Series of Bonds commenced to accrue) and the denominator of which is the number of whole calendar months in such Interest Payment Period, or (B) the amount specified in the applicable Supplemental Indenture (such transfers to be subject to the credits provided for below in clause 2 of this paragraph (i));

(2) subject in each case to any credit with respect to any amounts on deposit in the Capitalized Interest Subaccount to be used for Capitalized Interest and any earnings thereon to the extent required to be used and available for payment of interest on specific Bonds as contemplated in any applicable Supplemental Indenture and, in connection with paragraph (1) above, (A) any net payment which the Authority is required to make with respect to any Qualified Swap Agreement shall be treated in the same manner and shall have the same claim upon Revenues as interest on the Series of Bonds to which such Qualified Swap Agreement shall relate and (B) as of each Interest Payment Date for Bonds which are not Fixed Rate Bonds to the extent that the actual interest payable with respect to such Bonds for any Interest Payment Period is less than the amount deposited into the Interest Subaccount, then the excess amount so deposited shall be applied as a credit to reduce the amount otherwise required to be deposited in the next succeeding month or months pursuant to paragraph (i)(1) hereof; and then

(ii) to each Principal Subaccount, beginning in the first calendar month specified in the applicable Supplemental Indenture (the "Principal Amortization Start Month"), until the aggregate amount on deposit in all existing Principal Subaccounts is equal to the sum of all Required Principal Subaccount Balances (as hereinafter defined).The Required Principal Subaccount

Balance in effect during each calendar month for each Principal Subaccount shall be the greater of (A) the amount determined by multiplying (x) the principal (including Sinking Fund Installments) on the applicable Series of Bonds due on the next succeeding Principal Payment Date by (y) a fraction, the numerator of which is equal to one (1) plus the number of whole calendar months that have elapsed since the immediately preceding Principal Payment Date (or, in the case of the period prior to the first Principal Payment Date, one (1) plus the number of whole calendar months that have elapsed since the first day of the Principal Amortization Start Month), and the denominator of which is the number of whole calendar months between the immediately preceding Principal Payment Date (or, in the case of the period prior to the first Principal Payment Date, the first day of the Principal Amortization Start Month), and the next succeeding Principal Payment Date, or (B) the amount specified in the applicable Supplemental Indenture; and then

(iii) to each Credit Subaccount, an amount sufficient to pay any principal or interest then owing to a Credit Provider under the applicable Supplemental Indenture and Credit Agreement by reason of any drawing of amounts under the related Credit Facility for the payment of principal of or interest or premium on any Bonds, provided that the amount transferred pursuant to this Section shall in no event be greater than the sum of (1) amounts received under the related Credit Facility for payment of amounts to or for the benefit of Owners of Bonds secured by such Credit Facility and (2) interest thereon at the rate specified in the Credit Agreement; provided, that the amounts of the transfers described in (i), (ii), (iii) and (iv) shall be reduced to the extent of moneys previously transferred or required to be transferred to said Accounts under other provisions hereof or of a Supplemental Indenture; and then

(iv) to the Debt Service Reserve Account the amount of any transfer required by the provisions of the Indenture described below under the heading “**Debt Service Reserve Account**” to restore any deficiency in the Debt Service Reserve Account (or to pay any amounts then owing to a Credit Provider pursuant to a Credit Agreement relating to a Debt Service Reserve Account Credit Facility); and then

(v) to each Redemption Subaccount, the amount of Revenues required to redeem Bonds subject to redemption pursuant to the related Supplemental Indenture; and then

(vi) to each Expense Subaccount, any amounts then due and owing to the Trustee, any Paying Agent, Remarketing Agent, Bond Registrar, Credit Provider, Special Escrow Agent, Collecting Agent or other Fiduciary which are Bond Services Charges or Bond Related Costs for Bonds relating to the administration (including remarketing) and the Authority’s Annual Administrative Fee which otherwise have not been provided for in (i), (ii), (iii) or (iv) above; and then

(vii) to each Subaccount of the Rebate Account, the amount required to comply with the Indenture for Bonds and such amounts shall be applied as provided in the Indenture; and then

(viii) effective on the Refunding Date (as defined in the Second Supplemental Indenture), to the Swap Provider for Swap Agreement Termination Payments which the Authority is required to make under the Swap Option Agreement, the amount required to make such payments as set forth in the Swap Option Agreement; and then

(ix) except as may be provided in one of more Supplemental Indentures to the contrary, to the Surplus Account for application pursuant to the Indenture.

Solely for the purpose of administering these payments, any interest which is payable on Capital Appreciation Bonds or, prior to the Interest Commencement Date, on Deferred Interest Bonds, shall be deemed to be “due” in the Bond Year in which payment is scheduled to be made thereon and, for such purposes, such amounts shall be deemed to be “principal” under subsection (a)(ii) above rather than “interest” under subsection (a)(i) above.

**Debt Service Account and Subaccounts.** There shall be deposited into the Debt Service Account all amounts required to be remitted, transferred or otherwise deposited therein as provided in the Indenture together

with such additional amounts to be deposited into various specified Subaccounts within the Debt Service Account as described in this Section.

(a) **Interest Subaccount.** There shall be deposited in each Interest Subaccount, upon issuance of each Series of Bonds, the amount of accrued interest received from the sale of such Bonds and there shall be deposited thereafter all other amounts required by the Indenture. If on any Interest Payment Date there are not sufficient amounts on deposit in the Interest Subaccount to pay the total amount of interest coming due on the Bonds on such Interest Payment Date, the Trustee shall transfer to the Interest Subaccount from respectively, the Pledged Revenue Account, the Redemption Account, the Project Account, the Debt Service Reserve Account or the Principal Subaccount, in the order so listed, an amount equal to the deficiency. On each Interest Payment Date the Trustee shall withdraw from the Interest Subaccount an amount sufficient to pay the interest coming due on the Bonds on such Interest Payment Date and shall use such amounts to pay, or make provision with the Paying Agent for the payment of interest on the Bonds on such Interest Payment Date.

(b) **Principal Subaccount.** There shall be transferred to the Principal Subaccount the amounts required to be transferred from the Pledged Revenue Account pursuant to the Indenture. If on any Principal Payment Date there are not sufficient amounts on deposit in the Principal Subaccount to pay the total amount of principal coming due on the Bonds on such Principal Payment Date, the Trustee shall forthwith transfer to the Principal Subaccount from, respectively, the Pledged Revenue Account, the Redemption Account, the Project Account, the Debt Service Reserve Account or the Interest Subaccount, in the order so listed, an amount equal to the deficiency. On or before each Principal Payment Date for Bonds, the Trustee shall withdraw from the Principal Subaccount an amount sufficient to pay the scheduled principal coming due on the Bonds on such Principal Payment Date, and shall use such amounts to pay, or make provision with the Paying Agents for the payment of, principal of the Bonds on such Principal Payment Date, whether by reason of stated maturity or by reason of Mandatory Sinking Account Requirements applicable to any Term Bonds.

(c) **Redemption Subaccount.** Any amounts to be used to prepay Bonds by the Authority shall be deposited in the Redemption Subaccount related to such Series of Bonds to be redeemed and applied as provided by the Supplemental Indenture or, if no provision is made by the applicable Supplemental Indenture such amounts at the direction of the Authority shall be applied to purchase Bonds to be surrendered to the Trustee as a credit against Debt Service Requirements when due or to pay the principal of and premium, if any, of the Bonds then subject to and called for redemption. Any funds transferred to the Redemption Subaccount from a Project Account as excess proceeds shall be applied only to redeem Bonds of the Series from which such Project Account proceeds were derived, if any such Bonds are Outstanding. Other funds transferred to the Redemption Subaccount shall be applied to redeem Bonds then subject to redemption as provided in the applicable Supplemental Indenture or, if the Supplemental Indenture does not specifically so provide, as the Authority shall direct in writing.

(d) **Credit Subaccount.** To the extent so provided in the applicable Supplemental Indenture the Trustee shall create a separate Credit Subaccount within the Debt Service Account for each Series of Bonds (or specific Bonds within a Series) secured by a Credit Facility which is not a Debt Service Reserve Account Credit Facility. In addition, for any Credit Facility which constitutes a bond insurance policy or similar instrument pursuant to which the Credit Provider is entitled to subrogation rights as to amounts paid to Bond Owners secured thereby, the Supplemental Indenture relating thereto may provide for payment directly to such Credit Provider of available amounts in the Principal and Interest Subaccounts by reason of such subrogation rather than establishing a Credit Subaccount and requiring a transfer of such amounts thereto prior to payment of such amounts to such a Credit Provider.

(e) **Expense Subaccount.** The Trustee shall transfer from the Pledged Revenue Account to the respective Expense Subaccounts for each series of Bonds the amounts directed by the Indenture for the payment of amounts due and owing to the Trustee, any Paying Agent, Remarketing Agent, Bond Registrar, Credit Provider, Special Escrow Agent, Collecting Agent or other Fiduciary which are Bond Related Costs or Bond Service Charges.

(f) **Purchase or Repayment of Bonds at Request of Authority, Purchase Subaccount.** Amounts in the respective Purchase Subaccounts, if any shall be used as directed in the applicable Supplemental Indenture to purchase the related Series of Bonds.

(g) **Capitalized Interest Subaccount.** Except as provided in a Supplemental Indenture, to the extent available therein, on each date Revenues are regularly transferred to the Indenture, the Trustee shall transfer from

the Capitalized Interest Subaccount to any related Interest Subaccount, the amount of interest required to be transferred under the Indenture.

**Debt Service Reserve Account.** In connection with the issuance of the Initial Series of Bonds under the Indenture, a deposit to the credit of the Debt Service Reserve Account is to be made by the Trustee from the proceeds thereof or from such other available moneys in the amount equal to the initial Debt Service Reserve Requirement or, in lieu thereof, the Authority may cause a Debt Service Reserve Account Credit Facility to be delivered to the Trustee for such purpose. Upon delivery of each Series of Additional Bonds under the Indenture, a deposit to the credit of the Debt Service Reserve Account is to be made by the Trustee from the proceeds of such Series of Bonds or such other available moneys as are provided to the Trustee for such purpose, as specified in the applicable Supplemental Indenture, in such amount as will cause the value of the moneys and investments on deposit in the Debt Service Reserve Account to equal the Debt Service Reserve Requirement effective upon the issuance and delivery of such Series of Bonds, or in lieu thereof, the Authority may cause a Debt Service Reserve Account Credit Facility to be delivered to the Trustee for such purpose. Thereafter the Debt Service Reserve Account shall be maintained at the Debt Service Reserve Requirement by transfers to the Debt Service Reserve Account from the Pledged Revenue Account; provided, however, (i) in the event the amount on deposit in the Debt Service Reserve Account is less than the Debt Service Reserve Requirement because of a transfer to the Interest Subaccount or the Principal Subaccount by the Indenture, then the Authority shall be required to restore the deficiency caused thereby (1) to the extent there are any amounts on deposit in the Surplus Account, by the transfer to the Trustee for deposit into the Debt Service Reserve Account of the full amount on deposit in the Surplus Account or such lesser amount as will cure such deficiency in the Debt Service Reserve Account, and (2) to the extent any deficiency remains following application as provided in (i)(1) hereof, by equal monthly transfers of Revenues from the Pledged Revenue Account so as to remedy such deficiency and pay in full all amounts owed under or in connection with a Debt Service Reserve Account Credit Facility, any related Credit Agreement and any Related Agreements over the period of twelve (12) calendar months following the month in which such transfer to the Interest Subaccount or the Principal Subaccount occurs and (ii) in the event the amount on deposit in the Debt Service Reserve Account is less than the Debt Service Reserve Account Requirement because of any valuation of the investment securities as determined pursuant to the Indenture the Authority shall be required to restore the deficiency caused thereby by equal monthly transfers of Revenues from the Pledged Revenue Account over the period of twelve (12) consecutive calendar months following the month in which the determination that such deficiency was made. If on any Interest Payment Date there are not sufficient amounts on deposit in the Interest Subaccount to pay the total amount of interest coming due on any Bonds on such Interest Payment Date or if on any Principal Payment Date there are not sufficient amounts on deposit in the Principal Subaccount to pay the total amount of principal coming due on any Bonds on such Principal Payment Date, and after making the transfers required to be made from other Accounts as provided in the Indenture and (ii) prior to a transfer from the Debt Service Reserve Account, the Trustee shall transfer sums on deposit in the Debt Service Reserve Account, as provided in the Indenture to the Interest Subaccount or Principal Subaccount, as the case may be, in an amount sufficient to make up any such deficiency.

**Cost of Issuance Account.** The Trustee may establish within the Cost of Issuance Account a separate, segregated account for the benefit of one or more Series of Bonds as provided in the Supplemental Indenture creating such Series of Bonds. There shall be deposited in the Cost of Issuance Account, from the proceeds of each Series of Bonds, the amount specified pursuant to the Supplemental Indenture creating such account.

**Rebate Account.** Moneys deposited and held in the Rebate Account shall not be subject to the lien or pledge of the Indenture. If, at the time of any calculation, the amount on deposit in the Rebate Account attributable to a specific Series of Tax-Exempt Bonds exceeds the Rebate Amount for such Series of Tax-Exempt Bonds, the Trustee shall transfer the excess to the Pledged Revenue Account. If the Trustee does not have on deposit in the Rebate Account sufficient amounts to make the payments required by the Indenture, the Trustee shall direct the Authority to remit to the Trustee, in immediately available funds, within five Business Days, the amount of the deficiency Investment earnings on amount held in the Rebate Account shall be credited to the Rebate Account upon receipt.

**Surplus Account.** Moneys held in the Surplus Account may be used: (a) for transfers to the Debt Service Account and Debt Service Reserve Account to maintain the required balances therein if no other funds are available for such purposes, (b) for transfers to the Project Account or Subaccount thereof to pay costs of an Approved Project, or (c) for any other purpose as directed by the Authority now or hereafter authorized by law.

**Investments.** If there are Bonds Outstanding and no Event of Default has occurred or is continuing, an authorized Officer may invest moneys on deposit to the credit of the Project Account, Pledged Revenue Account, the Debt Service Account and the Debt Service Reserve Account.

**Events of Default.** The following constitute “Events of Default” under the Indenture:

- (a) payment of interest on any Series of Bonds shall not be made when the same shall become due and payable; or
- (b) payment of the principal or Redemption Price of any Series of Bonds or of a Sinking Fund Installment shall not be made when the same shall become due and payable; or
- (c) the Authority shall fail to observe or perform in any material way any covenant, condition, agreement or provision contained in any Bonds or in this Indenture or any Supplemental Indenture on the part of the Authority to be performed other than those set forth in (a) and (b) of this Section, and such failure shall continue for thirty (30) days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Authority by the Trustee, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Owners of not less than 25% in principal amount of any Outstanding Bonds; provided, however, that if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within the applicable period and diligently pursued until the default is corrected and an Authorized Officer of the Authority has delivered to the Trustee a certificate to that effect; or
- (d) an “Event of Default” as such term is defined in any Loan Agreement; or
- (e) the occurrence of an Act of Bankruptcy by the Authority.

**Proceedings by Trustee.** Upon the happening and the continuance of any Event of Default the Trustee in its discretion may, and at the written request of the Owners of not less than 25% principal amount of any Series of Bonds Outstanding shall: (i) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the Owners and require the Authority to enforce all rights of the Owners of Bonds, and to require the Authority to carry out any other covenant or agreement with Owners of Bonds and to perform its duties under the Indenture, (ii) bring suit upon the Bonds, (iii) by action or suit in equity to require the Authority to account as of they were trustees of an express trust, or to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners, (iv) as a matter of right, have a receiver or receivers appointed for the Trust Estate and of the revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer, (v) by mandamus or other suit, action or proceeding at law or in equity, enforce or require the Authority to enforce, all of the rights of the Authority and the Trustee under and pursuant to the Loan Agreement, the applicable Loan Notes or the Special Escrow Agreement, and to require the Government to carry out any of its other covenants or agreements or perform any of its duties thereunder. Upon the occurrence of an Event of Default under any Related Document, the Trustee may also enforce any and all rights or obligations of the Trustee thereunder.

**Rights of Owners.** Anything in the Indenture to the contrary notwithstanding, subject to the limitations and restrictions as to the rights of the Owners set forth in the Indenture, upon the happening and continuance of any Event of Default, the Owners of not less than 25% in the principal amount of any Series of Bonds then Outstanding shall have the right upon providing the Trustee security and indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee under the Indenture. The Trustee may refuse to follow any direction that conflicts with law, the Indenture or any Supplemental Indenture or would subject the Trustee to personal liability without adequate indemnification therefor.

**Restriction on Action by Owners.** No Owner of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of any trust under the Indenture, or any other remedy under the Indenture or on said Bonds, unless such Owner previously shall have given to the Trustee written notice of an Event of Default and unless the Owners of not less than 25% in principal amount of any Series of Bonds then Outstanding shall have made written request of the Trustee to institute any such suit, action, proceeding or other remedy. After the right to exercise such powers or rights of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers in the Indenture granted, or to institute such action, suit or proceeding in its or their name; nor unless there also shall have been

offered to the Trustee security and indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are thereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the trusts of the Indenture or for any other remedy under the Indenture or Supplemental Indenture; it being understood and intended that no one or more Owners of any Series of Bonds secured by the Indenture shall have any right in any manner whatever by his or their action to affect the security of the Indenture, or to enforce any right under the Indenture or under the Bonds and that all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of Outstanding Bonds, subject to the provisions of the Indenture and any Supplemental Indenture.

**Waiver of Events of Default; Effect of Waiver.** The Trustee may waive any Event of Default under the Indenture and its consequences and shall do so upon the written request of the Owners of at least a majority in principal amount of all Outstanding Bonds, provided, however, that there shall not be waived (i) any event of default pertaining to the payment of the principal of any Bond at its maturity date or redemption date prior to maturity, or (ii) any event of default pertaining to the payment when due of the interest on any Bond, unless prior to such waiver or rescission, all arrears of principal (due otherwise than by declaration) and interest, with interest (to the extent permitted by law) at the rate per annum borne by the Bonds in respect of which such event of default shall have occurred on overdue installments of interest, and all arrears of payments of principal when due, as the case may be, and all expenses of the Trustee in connection with such event of default, shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such event of default shall be discontinued or abandoned or determined adversely, then and in every such case the Authority, the Trustee and the Bondowners shall be restored to their former positions and rights under the Indenture.

**Priority of Payment.** All Bonds issued under and secured by the Indenture shall be equally and ratably secured by and payable from the Debt Service Account without priority of one Bond over any other, except as otherwise expressly provided (i) in the Indenture with respect to Bonds of a specific Series (or specific Bonds within a Series) secured by a Credit Facility, or (ii) in a Supplemental Indenture, or (iii) with respect to moneys or assets whether or not held in the Debt Service Account pledged to secure one or more Series of Bonds (or specific Bonds within a Series) and not other Bonds. Upon the occurrence of an Event of Default, all moneys collected pursuant to action taken pursuant to the Trustees' or Bondowners' remedies under the Indenture after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee and after any other prior application of such moneys has been made as is required by law shall be deposited in such Account or Accounts described in the Indenture as the Trustee deems appropriate; and all moneys in the Debt Service Account (and at the discretion of the Trustee except when otherwise required), excluding however (1) any moneys held in trust for the payment of any Bonds or interest thereon which have matured or otherwise become payable prior to such Event of Default, (2) any moneys (such as Credit Facility proceeds) pledged exclusively to secure one or more specific Series of Bonds (or specific Bonds within a Series) shall be applied as provided as set forth in the Indenture.

**Application of Moneys.** Unless the principal of Bonds shall have become due and payable, all such moneys in the respective Accounts and Subaccounts securing such obligations shall be applied consistent with the respective priorities of liens and the respective purposes for such accounts each as follows:

**FIRST:** To the payment of the persons entitled thereto of all installments of interest then due on the Bonds in the order of the maturity of the installments of such interest and if the amount available shall not be sufficient to pay in full any particular installment then to the payment ratably, according to the amounts due on such installment to the persons entitled thereto without any discrimination or privilege;

**SECOND:** To the payment of the persons entitled thereto of the unpaid principal of and redemption premium, if any, on any of the Bonds which shall have become due (other than Bonds which have matured or have otherwise become payable prior to such Event of Default and moneys for payment of which are held in trust pursuant to the provisions of the Indenture) in the order of their due dates and if the amount available shall not be sufficient to pay in full the unpaid principal and redemption premium, if any, on Bonds due on any particular due date, then to the payment ratably, according to the amount of principal and premium, if any, due on such date, to the persons entitled thereto, without any discrimination or privilege;

**THIRD:** To the payment of interest on and the principal of the Bonds as thereafter may from time to time become due, all in accordance with the provisions of the Indenture; and



FOURTH: To reimburse the Trustee for certain costs and expenses described in the Indenture and not reimbursed thereunder.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times and from time to time as the Trustee shall determine having due regard to the source of such moneys, the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall (1) fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue and (2) on or before such date set aside the moneys necessary to effect such application. The Trustee shall give to the Bondowners mailed notice of the deposit with it of any such moneys and of the fixing of any such date. Neither the Trustee nor any Paying Agent shall be required to make payment to the Owner of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation of fully paid.

Whenever all Bonds and interest thereon and all other indebtedness secured by the Indenture have been paid under the provisions of this Section and all expenses and charges of the Trustee have been paid any balance remaining shall be paid to the Authority.

**Duties, Immunities and Liabilities of Trustee.** The Trustee shall, prior to an Event of Default, and after the curing of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in the Indenture and no implied duties or obligations shall be read into the Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured) exercise such of the rights and powers vested in it by the Indenture, and use the same degree of care and skill in their exercise as a prudent individual would exercise or use under the circumstances in the conduct of his own affairs.

The Trustee is not required to risk or expend its own funds or otherwise incur any financial liability in the performance of any of its duties if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it.

In accepting the trust created by the Indenture, the Trustee acts solely as Trustee for the Owners and not in its individual capacity.

The Trustee makes no representation or warranty, express or implied, as to the compliance with legal requirements of the use contemplated by the Authority of the funds under the Indenture or any Supplemental Indenture. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Indenture or Supplemental Indenture.

The Trustee shall not be responsible for the sufficiency, timeliness or enforceability of the remedies. The Trustee shall have no responsibility in respect of the validity or sufficiency of the Indenture or any Supplemental Indenture or the security provided hereunder or the due execution of the Indenture by the Authority, or the due execution of any other document by any party (other than the Trustee) thereto, or in respect of the validity of any Bonds authenticated and delivered by the Trustee in accordance with the Indenture or to see to the recording or filing (but not refiling) of the Indenture, any Supplemental Indenture or any financing statement or any other document or instrument whatsoever.

The Trustee shall not be deemed to have knowledge of any Event of Default under the Indenture unless and until an officer of its corporate trust department shall have actual knowledge thereof.

The Trustee shall not be liable or responsible because of the failure of the Authority to perform any act required of it by the Indenture or any Supplemental Indenture or because of the loss of any moneys arising through the insolvency or the act or default or omission of any depository other than itself in which such moneys shall have been deposited under the Indenture or any Supplemental Indenture. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, invested, withdrawn or transferred in accordance with the Indenture or for any loss resulting from any such investment. The Trustee shall not be liable in connection with the performance of its duties under the Indenture except for its own misconduct, negligence or bad faith.

The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or any trust or power conferred upon the Trustee under the Indenture or any Supplemental Indenture.

**Removal, Resignation of Trustee, Successor Trustee.** The Authority in its sole discretion may remove the Trustee without cause at any time if no Event of Default has occurred and is continuing and shall remove the Trustee if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or if at any time the Trustee shall cease to be eligible or shall become incapable of acting, or shall commence a case under any bankruptcy, insolvency or similar law, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take control or charge of the Trustee or its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee, and thereupon shall appoint a successor Trustee by an instrument in writing.

The Trustee may resign by giving written notice of such resignation to the Authority and by giving notice of such resignation by mail, first class postage prepaid, to the Owners at the addresses listed in the Bond Register. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee by an instrument in writing.

Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and shall have accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee, or any Owner (on behalf of himself and all other Owners) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under the Indenture shall signify its acceptance of such appointment by executing and delivering to the Authority and to its predecessor Trustee a written acceptance of such appointment by executing and delivering to the Authority and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee in the Indenture; but, nevertheless, at the written request of the Authority or of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under the Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions set forth in the Indenture. Upon acceptance of appointment by a successor Trustee as provided in this subsection, such successor Trustee provide notice of the succession of such Trustee to the trusts hereunder by first class mail, postage prepaid, to each Paying Agent and to the Owners at their addresses listed in the Bond Register.

Any Trustee appointed shall be a trust company or bank having the powers of a trust company, having a corporate trust office in the United States, having a combined capital and surplus of at least one hundred million dollars (\$100,000,000), and subject to supervision or examination by federal or state authority.

**Merger or Consolidation of Trustee.** Any company into which the Trustee or any Paying Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee or any Paying Agent may sell or transfer all or substantially all of its corporate trust business provided such company shall be eligible under the Indenture, may succeed to the rights and obligations of such Trustee or Paying Agent, as the case may be, without the execution or filing of any paper or any further act, anything in the Indenture to the contrary notwithstanding; provided that upon the sale or transfer of corporate trust business as a result of such merger or consolidation, so long as no Event of Default has occurred and is continuing, the Authority may by an instrument in writing appoint a successor Trustee or Paying Agent other than the company resulting from such merger, conversion or consolidation by the Trustee or the Paying Agent.

**Liability of Fiduciaries.** Facts in the Indenture, in any Supplemental Indenture and in the Bonds shall be taken as statements of the Authority, and neither the Trustee nor any Paying Agent assumes any responsibility for the correctness or makes any representations as to the validity or sufficiency of the Indenture, any Supplemental Indenture or of the Bonds other than in connection with the duties or obligations therein or in the Bonds assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. Neither the Trustee nor any Paying Agent shall be liable in connection with the performance of its duties under the Indenture, except for its own negligence or default. The Trustee or any Paying Agent may become the Owner of Bonds with the same rights they would have if they were not Trustee or Paying

Agent, respectively, and, to the extent permitted by law, may act as depository for and permit any of their officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

**No Recourse on the Bonds.** No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on the Indenture against any member or officer of the Authority or any person executing the Bonds and no such member, officer or person shall be liable personally on the Bonds.

**Right to Indemnification.** The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under the Indenture, or to enter any appearance in or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts created by the Indenture or in the enforcement of any rights and powers under the Indenture, until it shall be indemnified to its satisfaction against any and all reasonable costs and expenses, outlays, and counsel fees and other disbursements, and against all liability not due to its willful misconduct, negligence or bad faith.

**Supplemental Indenture Without Consent of Bondowners.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Indenture of the Authority may be entered into, which, without the requirement of consent of Bondowners, shall be fully effective in accordance with its terms:

(a) To provide for the issuance of a Series of Bonds and to prescribe the terms and conditions pursuant to which the same may be issued, paid or redeemed; provided, however, that such Supplemental Indenture shall not conflict with the Indenture as theretofore in effect;

(b) To add to the covenants and agreements of the Authority in the Indenture, other covenants and agreements to be observed by the Authority which are not contrary to or inconsistent with the Indenture as theretofore in effect;

(c) To add to the limitations and restrictions in the Indenture, other limitations and restrictions to be observed by the Authority which are not contrary to or inconsistent with the Indenture as theretofore in effect;

(d) To confirm, as further assurances, any pledge under, and the subjection to any lien or pledge created or to be created by, the Indenture, of any moneys, securities or fund, or to establish any additional funds or accounts to be held under the Indenture;

(e) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the Indenture;

(f) To insert such provisions clarifying matters or questions arising under the Indenture as are necessary or desirable and are not contrary to or inconsistent with the Indenture as theretofore in effect;

(g) To modify the Indenture or the Bonds to permit qualification under the Trust Indenture Act of 1939 or any similar federal statute at the time in effect, or to permit the qualification of the Bonds for sale under the securities laws of any state of the United States;

(h) To make such changes as may be necessary to obtain an investment grade rating or to maintain or upgrade any rating for all or any Series of Bonds by a Rating Agency;

(i) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Owners or the Trustee;

(j) To subject to the lien and pledge of the Indenture additional revenue, properties or collateral;

(k) To evidence the appointment of a separate trustee or a co-trustee or the successor of a Trustee and/or Paying Agent under the Indenture;

(l) To modify, eliminate and/or add to the provisions of the Indenture to such extent as shall be necessary to prevent any interest on Tax-Exempt Bonds from becoming taxable under the Code; or

(m) To make any other change which in the judgment of Authority and Trustee is necessary or desirable and will not materially prejudice any non-consenting owner of a Bond.

**Supplemental Indenture With Consent of Bondowners.** Any modification or amendment of the Indenture and of the rights and obligations of the Authority and of the Owners of the Bonds thereunder, in any

particular, may be made by a Supplemental Indenture, with the written consent (a) of the Owners of at least 51% in principal amount of the Bonds Outstanding at the time such consent is given, and (b) in the case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Owners of at least 51% in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price, if any, thereof, or in the rate of interest thereon without the consent of the Owners of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Bondowners. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of the Indenture if the same adversely affects or diminishes the rights of the Owners of Bonds of such Series.

**Defeasance.** The pledge and other moneys and securities pledged under the Indenture and any Supplemental Indenture and all covenants, agreements and other obligations of the Authority to the Bondowners shall cease and be satisfied if the Authority shall pay or cause to be paid, or there shall otherwise be paid: (i) to the Owners of all Bonds the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated in the Bonds and in the Indenture and any Supplemental Indenture and (ii) to the Trustee all amounts due and owing the Trustee. Subject to the Indenture provisions, any Outstanding Bonds shall, prior to the maturity or redemption date thereof be deemed to have been paid if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee irrevocable instructions and notice of redemption, (ii) there shall have been set aside irrevocably in trust, in compliance with the Act, an amount which shall be sufficient to generate the principal of and the interest on which when due to provide moneys which, together with the moneys, if any, set aside in trust, in compliance with the Act, at the same time, shall be sufficient, to pay when due the principal or Redemption Price, if applicable, and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (iii) in the event said Bonds are not by their terms subject to redemption within the next succeeding 60 days, the Authority shall have given the Trustee in form satisfactory to it instructions to mail a notice to the Owners of such Bonds that the deposit required by (ii) above has been made with the Trustee and a verification report from an independent certified public accountant confirming the sufficiency of the Defeasance Securities received by the Trustee and that said Bonds are deemed to have been paid and stating such maturity or redemption date upon which moneys are expected to be available for the payment of the principal or Redemption Price, if applicable, on said Bonds.

**Notice.** Any Notice, demand, direction, request or other instrument authorized or required by the Indenture to be given to or filed with the Authority or the Trustee shall be deemed to have been sufficiently given or filed for all purposes of the Indenture if and when sent by registered mail, return receipt requested.

## THE FOURTH SUPPLEMENTAL INDENTURE

The following is a summary of certain provisions of the Fourth Supplemental Indenture. Such summary does not purport to be complete or definitive and reference is made to the Fourth Supplemental Indenture for a full and complete statement of the terms and provisions and for the definition of capitalized terms used in this summary and not otherwise defined under APPENDIX A – “Glossary of Certain Defined Terms.”

**Authorization and Details of Series 2003A Bonds.** The Fourth Supplemental Indenture authorizes the issuance of the Series 2003A Bonds, the proceeds of which shall be used to (i) repay the Series 2003 BANs, (ii) pay construction and acquisition costs related to the Series 2003A Projects; (iii) fund the Debt Service Reserve Account in an amount sufficient to meet the Debt Service Reserve Requirement, (iv) pay accrued interest on the Series 2003A Bonds from December 1, 2003 through the date of the delivery thereof; and (vii) pay the costs associated with the authorization, sale and issuance of the Series 2003A Bonds.

**Bonds Equally and Ratably Secured.** Except as provided in the Fourth Supplemental Indenture, the Series 2003A Bonds shall in all respects be equally and ratably secured.

**Details of the Series 2003A.** The Series 2003A Bonds shall be dated the date of delivery, shall be issuable as fully registered bonds in the denomination of \$5,000, or any multiple thereof, and shall bear interest paid semiannually on each April 1 and October 1 in the years and amounts specified in the Fourth Supplemental Indenture.

**Securities Depository Provisions.** Initially, one certificate for each maturity of each Series of Series 2003A Bonds will be issued and registered to the Securities Depository, or its nominee, in a book-entry system.

**Optional Redemption.** As directed by the Authorized Representative of the Authority, the Series 2003A Bonds are subject to redemption upon payment of the redemption prices specified in the Fourth Supplemental Indenture. If less than all of the Series 2003A Bonds of any Series are called for redemption, they shall be called in such order of maturity as the Authority may determine. The portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof, owner upon the surrender thereof. Notice of redemption shall be given in the manner set forth in Indenture.

**Funds and Accounts.** There shall be established within the Debt Service Account the Series 2003A Interest Subaccount, the Series 2003A Principal Subaccount and the Series 2003 BANs Redemption Subaccount. Moneys in such subaccounts shall be used in accordance with the Indenture.

There shall be established within the Cost of Issuance Account the Series 2003A Cost of Issuance Subaccount. Moneys in the Series 2003A Cost of Issuance Subaccount shall be used in accordance with the provisions of the Indenture.

**Security for Series 2003A Bonds.** The Series 2003A Bonds shall be equally and ratably secured under the Indenture with any other Bonds issued pursuant to the Indenture, without preference, priority or distinction of any Bonds over any other Bonds, as provided in the Indenture.

**Rebate Account.** There shall be established within the Rebate Account, the Series 2003A Rebate Subaccount to be held by the Trustee. Moneys deposited in the Series 2003A Rebate Subaccount shall be applied in accordance with the Indenture.

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## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE SERIES 2003A LOAN AGREEMENT

The following is a summary of certain provisions of the Series 2003A Loan Agreement. Such summary does not purport to be complete or definitive, and reference is made to the Loan Agreement for a full and complete statement of its terms and provisions and for the definition of capitalized terms used in this summary and not otherwise defined under APPENDIX A – “Glossary of Certain Defined Terms.”

**The Loan.** The Authority, on the terms and conditions set forth in the Series 2003A Loan Agreement, shall issue, sell, and deliver the Series 2003A Bonds to the Underwriter and make a Loan of the proceeds of the Series 2003A Bonds to the Government.

**Repayment of the Loan.** The Government promises to repay the Loan and observe the terms and provisions of the Series 2003A Loan Agreement. The Loan shall be evidenced by the Government’s 2003 Gross Receipts Taxes Loan Note, Series A in the principal amount of \$268,020,000. The Government shall repay the Series 2003A Loan Note in installments of principal not later than the second Business Day preceding October 1 in each year in amounts equal to the amounts due for principal or Redemption Price of, and interest on, the Series 2003A Bonds. The Series 2003A Loan Note will accrue interest at rates equal to the rates of interest accruing on the Bonds, payable semiannually not later than the second Business Day preceding each April 1 and October 1, commencing April 1, 2004 and ending on the second Business Day preceding the final maturity thereof. Interest on the Series 2003A Loan Note shall be computed on the basis of a 360 day year composed of twelve (12) thirty (30) day months.

**Redemption of the Series 2003A Loan Note.** The Series 2003A Loan Note may, at the option of the Government, be redeemed, in whole or in part, prior to its maturity at the times, in the manner of and on the same maturities as an optional redemption of the Authority’s respective Series 2003A Bonds and at a redemption price equal to the principal amount of, plus accrued interest thereon to the date of redemption and any premium required to provide for the payment of the optional redemption of the Authority’s respective Series 2003A Bonds. In addition, in the event the Series 2003A Bonds are subject to mandatory redemption in whole or in part or in the event the Series 2003A Bonds are tendered by the holders thereof for purchase and are purchased by the Authority for retirement and cancellation then, upon payment of the Redemption Price or purchase price of such Bonds, the Government shall be deemed to have made a prepayment on the Series 2003A Loan Note, in accordance with the terms of the Series 2003A Loan Agreement, in a principal amount equal to the aggregate principal amount of the Series 2003A Bonds so redeemed or purchased.

**Monthly Funding of Series 2003A Loan Note Payments.** In order to provide for the timely payment of the principal of, the purchase price of, Redemption Price, if any, of and interest on the Series 2003A Loan Note on the dates specified in the Series 2003A Loan Agreement and all other amounts due thereunder, the Special Escrow Agent will make, or cause the Collecting Agent to make on its behalf, transfers to the Trustee for deposit into the Pledged Revenue Account at the times and in the amounts specified in the Special Escrow Agreement. To the extent such amounts so transferred by or on behalf of the Special Escrow Agent to the Trustee are not sufficient to fund in full any installment of principal, interest or other amount payable on the Series 2003A Loan Note by the date which is thirty (30) days prior to the due date thereof in the amounts set forth therein and in the Series 2003A Loan Agreement, the Trustee shall promptly provide written notification to the Government and the Authority of such deficiency and the Government shall on or before the date which is fifteen (15) days prior to such due date, remit or cause to be remitted to the Trustee for deposit in the Pledged Revenue Account immediately available funds out of any other monies of the Government legally available therefore an amount equal to such deficiency.

**Application of Proceeds and Transferred Proceeds.** The Authority shall deposit all funds received from the proceeds of the Series 2003A Bonds into the respective Accounts and Subaccounts in accordance with the Series 2003A Loan Agreement.

**Security.** The Series 2003A Loan Note is a general obligation of the Government and is secured by its full faith and credit and taxing power. As further security for the payment of the Series 2003A Loan Note, the Government grants and pledges to the Trustee a lien and security interest in the Gross Receipts Taxes (with the

exception of the Required Annual Moderate Income Housing Fund Deposit), on a parity with the outstanding 1999A Bonds and any other additional parity indebtedness and to the extent provided in the Series 2003A Loan Agreement, the Substitute Revenues, and consents to the deposit of the Gross Receipts Taxes into the Special Escrow Account, as provided for in the Special Escrow Agreement and the Collecting Agent Agreement.

**Representations and Warranties of the Government.** The Government makes the following representations and warranties to the Authority:

(a) As of the date hereof, the amount of Gross Receipts Taxes anticipated to be collected by the Government is a sum which, during the period the Series 2003A Loan Note is outstanding, is reasonably expected to be in excess of the amount necessary to pay the principal of, interest on and all other amounts payable under the Series 2003A Loan Note and parity obligations as the same becomes due.

(b) The Government is duly authorized and has full power and authority to execute, deliver and perform its obligations under the Series 2003A Loan Agreement, the Special Escrow Agreement, the Series 2003A Loan Note and the Collecting Agent Agreement.

(c) As of the date hereof, the aggregate principal amount of outstanding public indebtedness of the Government is and, as of the date of issuance and delivery of the Series 2003A Bonds, will be, in compliance with the limitation on such public indebtedness contained in Section 8(b) of the Revised Organic Act (48 USC § 1574(b)(ii)(A)).

(d) The execution, delivery and performance by the Government of the Series 2003A Loan Agreement, the Special Escrow Agreement, the Series 2003A Loan Note and the Collecting Agent Agreement (i) have been duly authorized by all necessary action on the part of the Government; (ii) do not conflict with, or result in a violation of, any provision of law or any order, writ, rule or regulation of any court or governmental agency or instrumentality binding upon or applicable to the Government; (iii) do not and will not conflict with, result in a violation of, or constitute a default under, any agreement, resolution, mortgage, indenture or instrument to which the Government is a party or by which the Government or any of its property is bound; and (iv) do not and will not result in, or require, the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest or other charge or encumbrance of any nature (other than as permitted or arising under this Agreement) upon or with respect to any property of the Government.

(e) No authorization, consent, approval, permit, license, exemption of or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality is or will be necessary for the valid execution, delivery or performance by, or enforcement against or by, the Government of the Series 2003A Loan Agreement, the Special Escrow Agreement, the Series 2003A Loan Note or the Collecting Agent Agreement.

(f) The Series 2003A Loan Agreement, the Special Escrow Agreement, the Series 2003A Loan Note and the Collecting Agent Agreement when executed and delivered by the other parties thereto, constitute, the legal, valid and binding obligations of the Government enforceable against the Government in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws hereinafter enacted or principles of equity affecting the enforcement of creditors' rights generally as such laws may be applied in the event of insolvency, reorganization or other similar proceeding of, or moratorium applicable to, the Government.

(g) The Government is duly authorized under all applicable laws to issue the Series 2003A Loan Note as a general obligation indebtedness of the Government, secured by its full faith and credit and taxing power and to further secure the Series 2003A Loan Note by pledging and assigning the Gross Receipts Taxes (other than the Required Annual Moderate Income Housing Fund Deposit) for the payment of principal and interest on the Series 2003A Loan Note and all amounts payable hereunder and thereunder. The Gross Receipts Taxes pledged and assigned by the Series 2003A Loan Agreement to the payment of principal and interest on the Series 2003A Loan Note, subject to the provisions of Section 7(c) of the Series 2003A Loan Agreement regarding the issuance of parity indebtedness and the Series 1999 A Bonds, will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to or of equal rank with, the pledge created by the Series 2003A Loan Agreement, and all action on the part of the Government to that end has been and will be duly and validly taken. Upon deposit of the Gross Receipts Taxes (other than the Required Annual Moderate Income Housing Fund Deposit) into the Special Escrow Account pursuant to the Special Escrow Agreement, such amounts so deposited shall not be subject to any



prior lien or attachment by any creditor of the Government or any other person other than the lien created by the Series 2003A Loan Agreement, the Special Escrow Agreement or the Indenture.

(h) There are no suits, actions, proceedings or investigations pending or, to the best knowledge of the Government, threatened against or affecting the Government or any of its properties, before or by any court or governmental department, commission, board, bureau, agency or instrumentality, which involve or would materially adversely affect any of the transactions contemplated by the Series 2003A Loan Agreement or by the Series 2003A Loan Note, the Special Escrow Agreement or the Collecting Agent Agreement, or which, if determined adversely, could have a material adverse effect on the financial condition, properties or operations of the Government, or adversely affect the authority of the Government to perform its obligations hereunder or under the Series 2003A Loan Note, the Special Escrow Agreement or the Collecting Agent Agreement.

(i) The Government is not, in any material respect, in breach of or in default under any applicable law or administrative regulation of the United States Virgin Islands or of the United States, relating, in each case, to the Issuance of debt securities by the Government, or any applicable judgment, decree or loan agreement, note, resolution, ordinance, agreement or other instrument to which the Government is a party or is otherwise subject, the consequence of which or the correction of which would materially and adversely affect the financial condition or operations of the Government as a whole.

(j) The statements of the Government contained in certain specified sections of the Official Statement fairly present the plan of finance for the Bonds, the security for the Series 2003A Bonds, the Gross Receipts Taxes, the economic and demographic information, the financial position and results of operations of the Government, respectively, as of the dates and for the periods therein set forth, and as of the date of delivery of the Series 2003A Loan Note, the Government's assumptions underlying all estimates and projections contained in the Official Statement are reasonable under the circumstances described therein.

(k) At the time of issuance of the Series 2003A Loan Note, there are no other bonds, notes or other evidences of indebtedness of the Government outstanding that are secured by the Gross Receipts Taxes (other than the FEMA Loan Note and the Series 1999 A Bonds and the Series 2003 BANs).

**Affirmative Covenants of the Government.** The Government covenants and agrees that so long as the Series 2003A Loan Note shall remain outstanding and the principal thereof, interest thereon, and all other amounts payable thereunder shall be unpaid or unprovided for, the Government shall, unless the Authority and the Trustee shall otherwise consent in writing:

(a) Observe and comply with the terms and conditions of and perform all of its obligations under the Series 2003A Loan Agreement, under the Series 2003A Loan Note, the Special Escrow Agreement and the Collecting Agent Agreement, and pay all amounts payable by it under the Series 2003A Loan Agreement and the Series 2003A Loan Note according to the terms of the Loan Agreement and the Series 2003A Loan Note.

(b) Promptly notify the Authority and the Trustee in writing of the occurrence of (i) any Event of Default under the Series 2003A Loan Agreement and (ii) any default under documents governing any debt of the Government.

(c) In furtherance of the pledge of Gross Receipts Taxes set forth in the Series 2003A Loan Agreement, to ensure (1) the receipt of and the maximization of Gross Receipts Taxes and, if applicable, the Substitute Revenues, and (2) the deposit of all Gross Receipts Taxes, and, if applicable, the Substitute Revenues, in the Special Escrow Account of the Government maintained by the Collecting Agent, as agent for the Special Escrow Agent, pursuant to the Special Escrow Agreement and the Collecting Agent Agreement, or such other place as the Government, with the consent of the Authority and the Trustee, may designate in writing.

(d) Observe and comply with the terms and conditions of and perform all of its obligations under the Special Escrow Agreement and the Collecting Agent Agreement.

(e) At all times while the Series 2003A Loan Note is outstanding, to the extent permitted by law, defend, preserve and protect the pledge of the Gross Receipts Taxes and, if applicable, the Substitute Revenues, under the Series 2003A Loan Agreement and the security interest under the Special Escrow Agreement in all amounts on deposit or required to be deposited in the Special Escrow Account and all rights of the holder of the Series 2003A Loan Note against all claims and demands of all third parties.

(f) Consent to the assignment, pursuant to the Indenture, of all right, title and interest of the Authority herein, and all amendments, modifications and renewals thereof, to the Trustee, reserving to the Authority, however, the rights providing that notices and other communications be given to the Authority.

(g) Provide to the Authority and the Trustee within 180 calendar days of the end of each Fiscal Year a financial report summarizing annual receipts of Gross Receipts Taxes and, if applicable the Substitute Revenues.

(h) In the event the Gross Receipts Taxes collected by the Government during any period of twelve (12) consecutive calendar months are less than 150% of maximum annual Adjusted Debt Service Requirement on all Outstanding Bonds and any outstanding Parity Indebtedness permitted by the Series 2003A Loan Agreement during the current or any Subsequent Bond Year, the Government will use its best efforts to identify an additional stream of revenues (the "Substitute Revenues") and to pledge such Substitute Revenues to repayment of the Series 2003A Loan Note. Any such pledge of Substitute Revenues shall remain in effect until such time as the Gross Receipts Taxes collected by the Government during any period of twelve (12) consecutive calendar months occurring thereafter equal or exceed 150% of the maximum Adjusted Debt Service Requirement on Outstanding Bonds and any outstanding Parity Indebtedness permitted by the Series 2003A Loan Agreement, for the current and any Subsequent Bond Year.

(i) In the event of the occurrence of a default in payment under the FEMA Loan Note, the Government shall use its best efforts to pursue all available alternatives under applicable federal laws, rules, regulations and policies to (1) prevent an acceleration of the indebtedness evidenced by the FEMA Loan Note, (2) obtain an agreement from the United States federal government not to attach any collateral given to secure the FEMA Loan Note, including, without limitation, the Gross Receipts Taxes, and (3) have the indebtedness evidenced by the FEMA Loan Note to be forgiven.

(j) The Government has covenanted to require the independent certified public accounting firm that has contracted with the Government to perform its annual audit (the "Auditor") to perform on a quarterly basis certain agreed-upon procedures on Gross Receipts Tax deposits made to the Collecting Agent. As part of its contract, the Auditor will be required to deliver an agreed-upon procedures report (the "Report") comparing the Gross Receipts Tax payments documented in the Government's financial management system with the total revenues deposited with the Collecting Agent and the deposit receipts remitted by the Collecting Agent to the Revenue Audit section of the Department of Finance, the Authority and the Trustee. The Report will be delivered within 45 days of the end of each fiscal quarter (of the Bond Year) beginning with the quarter ending March 31, 2004.

(k) Provide to the Authority and the Trustee the financial statements, reports and notifications required by the Indenture at the times set forth therein.

**Negative Covenants of the Government.** The Government covenants and agrees that so long as the Series 2003A Loan Note shall remain outstanding and the principal thereof or interest thereon shall be unpaid or unprovided for, the Government shall not unless the Authority and the Trustee otherwise consent in writing:

(a) Revoke or amend in any way the Special Escrow Agreement or the Collecting Agent Agreement or terminate the Special Escrow Agreement or Collecting Agent Agreement.

(b) Cause or permit the Authority to issue any Additional Bonds under the Indenture other than in conformance with the terms thereof.

(c) Issue any bonds, notes or other obligations or incur any liability for funded indebtedness secured by a pledge, lien, charge or encumbrance of the Gross Receipts Taxes and, if applicable, the Substitute Revenues, which is of a rank superior to or, subject to the immediately following sentence, equal to, the pledge created by the Series 2003A Loan Agreement. Notwithstanding the immediately preceding sentence, the Government may issue its bonds, notes or other obligations for funded indebtedness on a rank equal to the pledge created by the Series 2003A Loan Agreement (hereinafter referred to as "Parity Indebtedness"), provided it has delivered or caused to be delivered to the Authority and the Trustee a Certificate of an Independent Verification Analyst (as defined in the Indenture) satisfying the requirements of the Indenture.

(d) Take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest represented by the Series 2003A Bonds, under Section 103 of the Code. The Government will not directly or indirectly use or permit the use of any proceeds of the Series 2003A Bonds or take or omit to take any action that would cause the Series 2003A Bonds to be "arbitrage

bonds” within the meaning of Section 148 of the Code or private activity bonds with the meaning of Section 141 of the Code. To that end, the Government will comply with all requirements of Section 148 of the Code and Section 141 of the Code to the extent applicable to the Series 2003A Bonds.

(e) Except as is otherwise disclosed in this Official Statement, take any actions that would, directly or indirectly result in (1) the repeal, rescission or other termination of the effectiveness of Title 33, Section 43 of the Virgin Islands Code (the “Gross Receipts Taxes Act”), (2) a reduction in the rate or rates at which the Gross Receipts Taxes are imposed or levied, or (3) a restriction or reduction in the application of the Gross Receipts Taxes; provided, however, that the covenants contained in this subsection (e) shall not restrict the Government’s right to provide exemptions to any eligible businesses which apply for new or renewal benefits pursuant to Title 29, Chapters 12 and 13 of the Virgin Islands Code, pertaining to the industrial development program or any similar incentive program determined by the Government to be in the best economic interest of the Government, so long as the grant of any such exemptions do not cause the aggregate Gross Receipts Taxes estimated to be collected thereafter in any fiscal year of the Government to be less than 150% of the maximum Adjusted Debt Service Requirement on Outstanding Bonds and all outstanding Parity Indebtedness permitted by the Series 2003A Loan Agreement, for the current and any subsequent Bond Year, such determination to be made only as of the date of the grant of any such exemptions.

(f) Except as is otherwise disclosed in this Official Statement, take any actions or fail to take any actions which will limit, restrict, or in any way impair the collection, transfer, deposit, or disbursement of the Gross Receipts Taxes in accordance with the terms of the Series 2003A Loan Agreement, the Special Escrow Agreement and the Collecting Agent Agreement.

(g) Take any action or fail to take any action which would allow, permit or suffer to exist any prior or parity lien, attachment or pledge of the amounts on deposit or required to be deposited in the Special Escrow Account (other than the Required Annual Deposit Moderate Income Housing Fund Deposit) by or in favor of any creditor of the Government or any other Person other than the pledges and liens created by this Agreement and the Special Escrow Agreement.

**Affirmative Covenants of the Authority.** If the Authority shall pay or cause to be paid, or there shall otherwise be deemed to be paid to the Owners of all the Authority’s Bonds the principal, Redemption Price, if applicable, or purchase price of, and interest due or to become due thereon and such other amounts as are set forth therein, at the times and in the manner stipulated in the Bonds and in the Indenture, and the Trustee and Paying Agent shall pay over or deliver to the Authority all moneys or securities held by them upon defeasance pursuant to the Indenture, then the Authority shall credit ratably (or otherwise as directed in writing by the Government) against amounts due under the Series 2003A Loan Note any moneys and securities thereupon remaining and held under the Indenture, including amounts, if any, on deposit in the Debt Service Reserve Account created under the Indenture, and transfer such remaining money and securities to, at the direction of, or on behalf of the Government.

The Authority shall use its best efforts to cause the Government to comply with the covenants set forth in the Series 2003A Loan Agreement.

**Event of Default.** The occurrence of any of the following events shall be an “Event of Default” under the Series 2003A Loan Agreement:

(a) The Government shall fail to pay when due any amount payable on the Series 2003A Loan Note;  
or

(b) The Government shall fail to deposit or cause to be deposited into the Special Escrow Account, within one Business Day after the date required under the Special Escrow Agreement, any Gross Receipts Taxes collected by the Government or, in the event such failure is caused by reason of “*force majeure*” (as defined in the Series 2003A Loan Agreement), on the first Business Day on which, in the reasonable judgment of the Government, the condition which gave rise to such *force majeure* no longer prevents the Government from making such deposit. The determination of whether a failure to make a deposit of Gross Receipts Taxes as required by the Special Escrow Agreement is due to *force majeure* shall be made in the reasonable judgment of the Government, upon telephonic written notice to the Trustee, if possible; or

(c) The Government shall fail to perform or observe any term, covenant or agreement contained in the Series 2003A Loan Agreement, the Special Escrow Agreement or the Collecting Agent Agreement (other than the covenant referred to in paragraph (b) above) on its part to be performed or observed and any such failure shall

remain unremedied for thirty (30) days after written notice thereof shall have been given to the Government by the Authority or the Trustee, provided, however, that if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Government within the applicable period and diligently pursued until the default is corrected; or

(d) An “Event of Default” under the Indenture.

**Rights on Default.** If an Event of Default shall happen and shall not have been remedied, then, and in every such case, the holder of the Series 2003A Loan Note may (i) sue to collect sums due under such Series 2003A Loan Note, (ii) compel to the extent permitted by law, by mandamus or otherwise, the performance by the Government of any covenant made in the Series 2003A Loan Agreement or the Series 2003A Loan Note, and (iii) examine the books and records of the Government to account for all moneys and securities constituting the Gross Receipts Taxes and all other revenues of the Government.

**Continuing Obligation.** Until the date on which all amounts due and owing to the Authority from the Government pursuant to the Series 2003A Loan Note shall have been paid in full or otherwise provided for, the Series 2003A Loan Agreement is a continuing obligation of the Government and shall (i) be binding upon the Government, its successors and assigns and (ii) inure to the benefit of and be enforceable by the Authority and the Trustee and their respective successors, transferees and assigns.

**Amendments, Changes and Modifications.** The Government and the Authority, with the consent of the Trustee, may cause to be executed an amendment or supplement to the Series 2003A Loan Agreement curing any ambiguity or curing, correcting or supplementing any defect or inconsistent provision contained in the Series 2003A Loan Agreement or making such provisions in regard to matters or questions arising in the Series 2003A Loan Agreement as may be necessary or desirable and as shall not materially adversely affect the interests of the holder of the Series 2003A Loan Note. Such amendment or supplement shall become effective upon the filing with the Government an instrument of the Trustee approving such supplement. In addition, the Government and the Authority may cause to be executed an amendment or supplement to the Series 2003A Loan Agreement at any time and from time to time modifying any provision of the Series 2003A Loan Agreement with the consent of the Trustee, except as provided in the Indenture.

## APPENDIX E

### UNITED STATES VIRGIN ISLANDS ECONOMIC AND DEMOGRAPHIC INFORMATION

#### **Economic and Demographic Information**

##### *Geography, Landscape and Climate*

The United States Virgin Islands — also known as the U.S. Virgin Islands or more commonly the Virgin Islands — is located some 1,600 miles southeast of New York City, about 1,075 miles from Miami, and 60 miles east of Puerto Rico. Approximately 70 small islands, islets and cays make up the Virgin Islands.

The principal islands are St. Croix, St. Thomas, St. John and Water Island. St. Croix, the largest of the four islands, has an area of 84 square miles and lies entirely in the Caribbean Sea. It is marked by undulating hills that rise gently to the north and lagoons that lie on the south coast. It has two main urban centers — Christiansted to the north and Frederiksted to the west — which both lie on a broad central plain. St. Thomas, which lies approximately 35 miles north of St. Croix, is 32 square miles in area. It is distinguished by a ridge of east-west hills that rise abruptly from the sea. It is marked by numerous sandy beaches along the shoreline, including Magens Bay, considered one of the finest beaches in the Caribbean. The main urban center, Charlotte Amalie, which also is the capital of the Virgin Islands, is surrounded by a protected deep water harbor. St. John is a 20-mile square area located approximately three miles east of St. Thomas. Its topography is similar to St. Thomas with steep, rugged hills and white-sandy beaches. About two-thirds of the island is preserved as the Virgin Islands National Park. Water Island is located approximately one-half mile from the harbor in Charlotte Amalie. Water Island was transferred to the Virgin Islands in December 1996 from the exclusive jurisdiction of the Department of Interior.

The Virgin Islands boasts a near-perfect climate throughout the year, with temperatures ranging between 70°F and 90°F with an average of 78°F. Humidity is low and annual rainfall averages 40 inches. However, three hurricanes in the last 15 years – Hugo, Marilyn and Bertha – did cause considerable damage.

##### *Population*

In 2002 the population of the Virgin Islands was estimated at 110,026. St. Thomas has the largest population — 51,822 people. There are 53,898 people on St. Croix and 4,306 people on St. John. In 2002, the population of the Virgin Islands decreased by 5.8% from 1999.

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**Table 1**  
**Comparative United States Virgin Islands**  
**and United States Population Growth**  
**1950-2002**

<b>Year</b>	<b>United States Virgin Islands Population</b>	<b>Annual Percentage Increase (Decrease)</b>	<b>United States Population</b>	<b>Annual Percentage Increase (Decrease)</b>
1950	26,665	–	151,325,798	–
1960	32,099	2.0	179,323,175	1.9
1970	62,468	9.5	203,302,031	1.3
1980	96,569	5.5	226,542,199	–
1990	101,809	0.5	248,718,301	1.0
1999	116,770	1.0	279,040,168	1.2
2000	108,612	(7.0)	281,421,906	0.9
2001	109,344	0.7	284,796,887	1.2
2002	110,026	0.6	280,540,330	(1.5)

Sources: U.S. Census Bureau and United States Virgin Islands Bureau of Economic Research.

*Per Capita Income*

In 2002, per capita income of the Virgin Islands was \$17,236, an increase of approximately 2.0% from 2001. In comparison, the per capita income in the United States was \$31,039, an increase of approximately 2.5% for the same period.

**Table 2**  
**Comparative Per Capita Income**  
**United States Virgin Islands and United States**  
**1980-2002**  
**(current dollars)**

<b>Year</b>	<b>United States Virgin Islands</b>	<b>Annual Percentage Increase (Decrease)</b>	<b>United States</b>	<b>Annual Percent Increase (Decrease)</b>
1980	6,230	–	10,183	–
1990	12,799	10.5	19,572	9.2
1999	16,242	2.8	27,843	3.5
2000	16,567	2.0	29,469	5.8
2001	16,898	2.0	30,271	2.7
2002	17,236	2.0	31,039	2.5

Sources: U.S. Bureau of Economic Analysis and United States Virgin Islands Bureau of Economic Research.

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## Employment

Civilian employment grew during 1999, 2000 and 2001. The improvement in the job market was largely a result of an increase in private sector jobs, particularly in tourist trade and construction. Civilian employment decreased slightly by 0.8% in 2002, and the labor force fell to 48,974 for the first three quarters of 2003 from 49,507 for the corresponding period in 2002. The general economic decline in the United States, combined with the continued effects of the terrorist attacks in New York City and Washington, D.C. on September 11, 2001, deepened the downturn in the manufacturing and industrial sectors, interrupted the pace of growth in the tourism and construction sectors, and exacerbated the weaknesses in the tourist-related service sector. Notwithstanding this, modest growth in employment is expected due to tourism-related development activity, and construction through Government capital improvement programs is anticipated to continue through 2003.

The Virgin Islands' unemployment rate increased to 7.0% in 1999 and remained relatively stable in 2000 and 2001. The unemployment rate rose to 8.7% in 2002 from 7.1% in 2001. Negative growth in the tourism and hospitality, and manufacturing sectors was the major influence on the overall weakening of the economy. The former sector was harmed by the general economic decline in the United States and the continuing effects of the terrorist attacks in New York City and Washington, D.C. on September 11, 2001; and the latter sector suffered from falling demand and the high cost of production. The increased unemployment rate was also attributable to large increases in the labor force and stagnant job creation. The unemployment rate rose to 9.5% in 2003.

**Table 3**  
**United States Virgin Islands Labor Force,**  
**Employment and Unemployment Rates and**  
**United States Unemployment Rates**  
**1999-2002**

<b>Year</b>	<b>Labor Force</b>	<b>Employment</b>	<b>Unemployment Rate United States Virgin Islands</b>	<b>Unemployment Rate United States</b>
1999	46,400	43,140	7.0%	4.2%
2000	47,730	44,500	6.8	4.0
2001	49,900	46,370	7.1	4.7
2002	49,457	44,975	8.7	5.8

Sources: United States Virgin Islands Department of Labor, Bureau of Labor Studies Reports, and the U.S. Department of Labor, Bureau of Labor Statistics.

About 70% of the Virgin Islands' jobs are provided by the private sector. Private sector employment growth is fueled by tourism and related services. Although the services sector experienced negative growth during 2002, this sector accounted for 36.7% of private employment. Wholesale and retail trade accounted for 32.1%, while construction, mining and manufacturing accounted for 9.9%. Average employment in the private sector fell by 3% for the first nine months of 2003 to 29,764 from 30,799 in 2002.

Total public sector employment, which accounts for approximately 30% of jobs in the Virgin Islands, remained virtually at the same level for 2002 and 2003. There are currently 12,545 public sector jobs compared to 12,617 in 2002. Federal and local government are the largest employers in the public sector, with local government as the source of over 90% of all public sector jobs. The number of local government jobs was 11,711 in 2002 compared to 12,570 jobs in 1999. This trend of decreases in local government employment is expected to continue in 2003 and 2004 as part of the Government's cost-cutting measures, although the decline is likely to occur at a decreasing rate. United States federal government jobs averaged 919 in 2003, up slightly from 905 in 2002. This increase is largely due to the addition of federal security agents at the Virgin Islands' airports.

**Table 4**  
**Annual Wage and Salary Employment**  
**United States Virgin Islands**  
**1999-2002**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Private sector:				
Construction & mining .....	1,690	1,950	3,697	3,017
Manufacturing.....	2,430	2,480	2,191	2,148
Transportation, communication & public utilities .....	2,360	2,450	2,507	2,446
Wholesale & retail trade .....	8,820	8,950	9,602	9,787
Finance, insurance & real estate .....	1,940	1,950	1,931	1,918
Services.....	<u>10,450</u>	<u>11,240</u>	<u>12,113</u>	<u>11,198</u>
<b>Total Private Sector .....</b>	<b><u>27,690</u></b>	<b><u>29,020</u></b>	<b><u>32,041</u></b>	<b><u>30,516</u></b>
U.S. federal government .....	880	860	888	905
Territorial government.....	<u>12,570</u>	<u>12,170</u>	<u>11,438</u>	<u>11,711</u>
<b>Total Government.....</b>	<b><u>13,450</u></b>	<b><u>13,030</u></b>	<b><u>12,326</u></b>	<b><u>12,617</u></b>
<b>Total .....</b>	<b><u>41,140</u></b>	<b><u>42,050</u></b>	<b><u>44,367</u></b>	<b><u>43,132</u></b>

Source: United States Virgin Islands Department of Labor, Bureau of Labor Statistics.

Total tourism-related employment grew in 2000 by 5.0% while remaining relatively flat in 2000 to 2002. In 2002, hotels and other lodging places accounted for 44.1% of the total tourism-related employment, eating and drinking places accounted for 25.8%, gift shops and other retail stores accounted for 23.9% and transportation accounted for 6.2%.

**Table 5**  
**Selected Tourism-Related Employment**  
**United States Virgin Islands**  
**1999-2002**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Hotels & Other Lodging Places.....	4,030	4,230	4,054	3,930
Gifts Shops & Other Retail Stores.....	1,970	2,050	2,101	2,130
Eating & Drinking Places .....	2,010	2,100	2,294	2,300
Transportation .....	<u>510</u>	<u>570</u>	<u>556</u>	<u>550</u>
<b>Total.....</b>	<b><u>8,520</u></b>	<b><u>8,950</u></b>	<b><u>9,005</u></b>	<b><u>8,910</u></b>

Source: United States Virgin Islands Department of Labor, Bureau of Labor Statistics.

Presented below are the ten largest private sector employers in the Virgin Islands as of March 2003.

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**Table 6**  
**United States Virgin Islands**  
**Ten Largest Employers**  
**(March 2003)**

<u>Name of Employer</u>	<u>Principal Business</u>	<u>Approximate Number of Employees</u>
Hovensa L.L.C.....	Oil Refining	960
Kmart Corporation.....	Department Store	730
VI Telephone Corp.....	Utility	470
Ritz-Carlton Hotel VI Inc. ....	Resort Hotel	470
Caneel Bay, Inc.....	Resort Hotel	470
Renaissance Grand Beach Hotel..	Resort Hotel	350
FLBN Corporation.....	Oil Refining	300
First Bank VI.....	Bank	250
Banco Popular de Puerto Rico.....	Bank	200
G.E.C., LLC.....	Oil Refining	190

Source: United States Virgin Islands Department of Labor, Bureau of Labor Statistics.

Hovensa L.L.C., a limited liability joint venture between Amerada Hess and Petróleos de Venezuela, is the largest manufacturer in the Virgin Islands and the industry’s strongest performer. The company owns and operates one of the largest crude oil refineries in the world located in St. Croix. In July 2002, the company completed the construction of a new 58,000 barrels per day delayed coking unit at the refinery. This coker unit began commercial operations in August 2002, and integration and performance testing was completed in September 2003. The Authority and the Government have issued bonds to provide reimbursement to Hovensa L.L.C. for certain costs of the construction of the new coking unit. See “UNITED STATES VIRGIN ISLANDS – Outstanding Indebtedness of the Government.”

**Tax Incentives Programs**

*Economic Development Commission*

The Government offers various tax incentives that promote industrial and economic development in the Virgin Islands. The most notable incentive program was created by the Legislature in October 1975. The Government of the Virgin Islands Industrial Development Commission, subsequently renamed as the Economic Development Commission (the “Commission” or the “EDC”), was created to promote the growth, development and diversification of the economy of the Virgin Islands (the “EDC”). Qualifying businesses—corporations, partnerships or sole proprietorships—receive various benefits if they meet certain criteria set forth in the legislation. Gross Receipts Taxes are eligible for abatement by the Commission that could result in a reduction of Gross Receipts Taxes payable to the Government.

To qualify for tax incentives, investors must invest at least \$100,000, exclusive of inventory, in an eligible business and employ at least ten Virgin Islands residents full-time. Small, locally-owned manufacturers of import substitutes or tourist souvenirs may receive EDC benefits for up to five years if they invest at least \$20,000 and have two employees. A beneficiary receives a substantial reduction in, or an exemption from, all taxes imposed on businesses, including the Gross Receipts Taxes. Most importantly, the industrial development legislation permits a 90% income tax reduction, resulting in a maximum tax rate of less than 4% on income for approved operations. Tax benefits also extend to passive income from certain qualifying investments, such as the Virgin Islands government obligations. The 90% reduction extends to dividends received by a beneficiary’s Virgin Islands resident shareholders. Currently, 95 enterprises are operating with incentive benefits granted pursuant to the EDC Program, 51 enterprises have been approved for benefits but are not yet in operation and an additional 29 enterprises are awaiting final certification to the Commission. Investors receiving tax benefits under this program include hotels and other tourism-related businesses, goods-producing enterprises, and businesses serving customers outside the Territory. See “GROSS RECEIPTS TAXES.”

While the Commission has had certain compliance monitoring requirements, it lacked adequate personnel to fully enforce compliance with the Commission program requirements. The Commission has completed the process of developing more effective compliance monitoring mechanisms, including revocation and suspensions hearings which allow the Commission to collect retroactive taxes owed by beneficiaries who have failed to comply with Commission conditions. Such revocation and suspensions hearings typically occur three times in each Fiscal Year. Additionally, the Commission has four compliance officers to oversee compliance issues.

The following is a table setting forth the Commission’s historical applicant information:

**Table 7**  
**Economic Development Commission**  
**Historical Applicant Information**  
**1999-2003**

	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
Number of Applications Received....	22	28	24	48	78
Number of Applications Approved...	14	21	19	45	53
Number of Applications Denied .....	3	4	2	0	3
Applications Pending .....	5	3	3	3	15
New Job Opportunities .....	557	1,163	619	1,202	1,097
Approximate Wages by New Applicants .....	\$30,489,677	\$26,168,955	\$18,321,940	\$36,955,860	\$43,285,393
Minimum Potential Investment of New Applicants .....	\$63,485,640	\$100,894,409	\$199,676,900	\$162,022,016	\$25,617,699

Source: Government of the Virgin Islands Economic Development Commission.

The EDC Program allows some qualifying investors to receive limited extensions or renewals of tax benefits, provided such investors fulfill certain criteria, including the ability to continue to promote industrial development in the Virgin Islands. The Commission is currently trying to limit the numbers of extensions or renewals of benefits in favor of granting benefits to new businesses in growing industries such as financial services industries, tourism and medical technology-based enterprises, which will further stimulate the economy of the Virgin Islands by providing positions for skilled labor and college educated personnel. The decrease in the minimum potential investment of new applicants from 2002 to 2003 was due to the absence of a major hotel operator application in 2003.

*Section 934 Tax Incentives*

Pursuant to 26 U.S.C. § 934 (“Section 934 Tax Incentives”), the Government may provide certain tax reductions in income tax liability incurred to the Virgin Islands. Such income tax reductions are permitted for (i) income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands, (ii) income tax liability paid by citizens or residents of the United States, and (iii) income derived by qualified foreign corporations from sources outside the United States and which is not effectively connected with the conduct of a trade or business within the United States.

Section 934 Tax Incentives may have the effect of reducing the amount of income tax paid to the Government. However, such tax incentives may increase the conduct of business in the Virgin Islands.

**Transportation**

The Virgin Islands are accessible by air from around the world. The Cyril E. King Airport Terminal on St. Thomas was completed and opened in October 1990. The expansion of the runway to 7,000 feet was completed and opened in December 1992.

The Henry E. Rohlsen Airport Terminal on St. Croix has undergone major renovation and expansion. The terminal’s square footage has doubled its previous size to 181,000 square feet. The runway has been further expanded to 10,000 feet.

Approximately 65 flights per week travel between the Virgin Islands and the United States mainland on five major airlines.

Over a dozen flights per day travel between St. Thomas and St. Croix, taking approximately 30 minutes, as well as regular ferry service. The island of St. John can be reached by seaplane and private ferry boat. Inter-island ferry service provides, several times daily, passenger service between St. Thomas and the nearby British Virgin Islands.

The Virgin Islands' internal transportation needs are served by a large number of taxis, taxivans, open-air buses, the public transit system (VITRAN) and rental cars.

### **Utilities and Energy Use**

The Virgin Islands Water and Power Authority, an instrumentality of the Government ("WAPA"), owns and operates electric power generation and distribution facilities on St. Thomas and St. Croix and currently is the sole provider of electricity in the Virgin Islands with the exception of a limited number of commercial entities that produce electricity for their own use. WAPA provides electricity to approximately 50,000 customers. WAPA also operates a water production and distribution system and provides water service to approximately 10,000 customers. Gas is available from various companies throughout the Virgin Islands.

Electricity sales in 2002 increased by 5% from 2001 electricity sales, with sales to industrial users representing 48% of such sales, sales to residential users representing 35% of such sales and the remaining sales being to commercial users. Fuel consumption in 2002 increased by 6.2% from 2001.

### **Tourism**

Tourism is the Virgin Islands' largest industry and represents the largest segment in the private sector.

#### *Visitor Arrivals*

In 2001, the Virgin Islands recorded its third consecutive year of growth in visitor arrivals. That year, a record 2.5 million visitors arrived in the Virgin Islands, 4.4% more than the preceding year. This improved performance was mainly on the strength of cruise passenger arrivals since air travel decreased slightly, 2.9%, as a result of the terrorist attacks in New York City and Washington, D.C. on September 11, 2001. Cruise passenger arrivals grew at a record pace to approximately 1.9 million in 2001, an increase of 7.0% from 2000.

The impact of the terrorist attacks in New York and Washington, D.C. on September 11, 2001 was lessened because, prior to September 2001, the industry experienced impressive growth and the prime tourist season had just concluded; however, the tourism industry did face sharply reduced demand in 2001 and growth for that year was far lower than expected. With United States visitors accounting for nearly 75% of tourist arrivals, the industry experienced a sudden drop in arrivals that continued into 2002. Nevertheless, the number of visitors in 2002 was basically the same as the number of visitors in 2000.

In 2002, visitor arrivals totaled 2.337 million, 6.6% less than the preceding year. Air visitor arrivals declined by 1.9% over 2001 and cruise ship passengers declined by 8.1% over 2001. The absence of ships calling on St. Croix from June to September led to a 49% drop in cruise ship passenger arrivals to that island and contributed to the overall loss in visitor arrivals. Despite the difficulties faced by the Virgin Islands' tourism industry in 2002, it fared better than many other Caribbean destinations, which suffered double-digit reductions in arrivals.

The performance in the tourism sector was uneven during the first eight months of 2003. Total visitor arrivals fell to 1.892 million, a 5.2% decrease from the corresponding period in 2002. Cruise passenger arrivals fell by 7.5% as compared to the first eight months of 2002. The continuing absence of ships calling on St. Croix led to a 78% drop in cruise ship passenger arrivals to that island and again contributed to the overall loss in visitor arrivals.

**Table 8**  
**United States Virgin Islands**  
**Visitor Arrivals**  
**1999-2002**  
(000's)

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<b>St. Thomas/St. John:</b>				
Air Visitors .....	428.2	481.1	469.4	474.5
Cruise Passengers .....	<u>1,363.3</u>	<u>1,719.8</u>	<u>1,790.5</u>	<u>1,671.3</u>
Total Visitors .....	1,791.5	2,200.9	2,259.9	2,145.8
Number of Cruise Ship Visits* .....	776	949	909	812
<b>St. Croix:</b>				
Air Visitors .....	132.4	146.6	140.2	123.3
Cruise Passengers .....	<u>164.6</u>	<u>232.4</u>	<u>237.4</u>	<u>120.5</u>
Total Visitors .....	297.0	379.0	377.6	243.8
Number of Cruise Ship Visits* .....	89	139	138	60
<b>Total U.S. Virgin Islands:</b>				
Air Visitors .....	560.7	627.7	609.4	597.8
Cruise Passengers .....	<u>1,403.6</u>	<u>1,768.4</u>	<u>1,891.4</u>	<u>1,738.7</u>
Total Visitors .....	1,964.3	2,396.1	2,500.8	2,336.5
Number of Cruise Ship Visits* .....	795	1,014	976	845

\* Actual, not thousands

Source: United States Virgin Islands Bureau of Economic Research.

#### *Hotel Occupancy*

Hotel occupancy increased slightly in 2002 to 57.0%, from 56.6% in 2001, having decreased from 58.6% in 2000. For the first eight months of 2003, the hotel occupancy rate increased slightly to 62.0%, from 61.6% for the same period in 2002. The number of hotel and condominium rooms increased to 5,092 in 2002, up slightly from 5,049 in 2001. For the first eight months of 2003 the number of hotel and condominium rooms fell slightly to 5,064. The closure of a few small hotels, particularly on St. Croix, accounted for the drop in available rooms. Total occupied room nights increased in 2002 to 1,057,488, a 1.7% increase from the 2001 rate of 1,039,699. Occupied rooms nights for June 2003 year-to-date were 593,671, 1% less than the same period in 2002.

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**Table 9**  
**United States Virgin Islands**  
**Hotel and Other Tourist Accommodations**  
**1999-2002**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<b>St. Thomas/St. John:</b>				
Total rooms/units.....	3,768	3,789	3,835	3,899
Number of hotels.....	30	30	30	30
Hotel rooms.....	3,060	3,053	3,094	3,127
Condominium/other units.....	708	735	741	772
Occupancy rate (percent).....	57.7	60.9	59.5	61.0
<b>St. Croix:</b>				
Total rooms/units.....	1,079	1,208	1,213	1,193
Number of hotels.....	18	19	18	17
Hotel rooms.....	765	881	888	864
Condominium/other units.....	314	327	326	330
Occupancy rate (percent).....	48.6	50.7	46.9	43.4
<b>Total U.S. Virgin Islands:</b>				
Total rooms/units.....	4,848	4,997	5,049	5,092
Number of hotels.....	48	49	48	47
Hotel rooms.....	3,825	3,934	3,981	3,991
Condominium/other units.....	1,022	1,063	1,067	1,101
Occupancy rate (percent).....	55.7	58.6	56.6	57.0

Source: United States Virgin Islands Bureau of Economic Research.

*Visitor Expenditures*

Total expenditures by all visitors (tourists, cruise passengers and other excursionists) to the Virgin Islands totaled \$1.2 billion in 2002, an annual increase of 3.7% from 2001.

**Table 10**  
**United States Virgin Islands**  
**Visitor Expenditures**  
**1999-2002**  
**(in millions)**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Tourists.....	\$ 540.9	\$ 693.7	\$ 688.1	\$ 768.3
Excursionists:				
Day-trip by air.....	21.4	22.8	18.1	18.4
Cruise passengers.....	<u>392.7</u>	<u>460.2</u>	<u>489.9</u>	<u>453.4</u>
Total .....	<u>414.1</u>	<u>483.0</u>	<u>508.0</u>	<u>471.8</u>
<b>Total Expenditures .....</b>	<b><u>\$ 954.9</u></b>	<b><u>\$1,176.7</u></b>	<b><u>\$1,196.1</u></b>	<b><u>\$1,240.1</u></b>

Source: United States Virgin Islands Bureau of Economic Research.

The Virgin Islands benefits from a \$1,200 duty-free exemption for articles purchased in the Virgin Islands and either mailed or brought back to the United States mainland from the Virgin Islands once each 30 days without regard to the length of stay abroad while other countries in the Caribbean basin only have a \$600 duty-free exemption (a two-to-one advantage). The United States House of Representatives recently approved a bill increasing the duty-free exemption for the Virgin Islands to \$1,600 and for other countries in the Caribbean basin to \$800, still retaining the current comparative advantage. The United States Senate is considering a similar bill. In addition, each adult is permitted to return with up to one gallon of duty-free liquor as compared to one quart from other areas. In response to falling U.S. tariff rates and increased competition from Caribbean neighbors, local

customs duties and excise taxes were removed from selected tourist-oriented merchandise in 1982. As a result, prices of various luxury items, such as jewelry, china, cameras, leather goods, perfumes, watches and clocks, can be significantly below average United States mainland prices.

### Construction and Real Estate

The construction sector recorded the highest rate of employment growth in 2002. Growth in construction sector employment was driven by private sector projects, such as Hovensa L.L.C.'s approximately \$615.0 million coker unit and the expansion and refurbishing of the Ritz-Carlton Hotel and Timeshare. Public sector infrastructure development projects, such as the St. Croix Henry E. Rohlsen Airport expansion, also fueled the growth in construction. Construction activity slowed in 2002 with the completion of the Hovensa L.L.C. coker and hotel construction projects, and the number of construction jobs fell nearly 39% as of June 2003 year-to-date.

The value of approved building construction permits, an indicator of current and future industry activity, decreased approximately 22.6% in 2000 and 18.7% in 2001. In 2002, permit value rose 57.5% due to increases in private residential and non-residential construction during this period. However, total construction permit value dropped nearly 52% for the first quarter of calendar year 2002. The slow implementation of public sector projects and obstacles to several projects in the private sector have limited growth in the construction sector. To increase construction activity, the Government is planning to (i) fast-track the construction of a number of public sector capital projects such as roads, port facilities and housing developments and (ii) expedite the permitting process for a number of private sector tourism-related projects.

**Table 11**  
**United States Virgin Islands**  
**Value of Construction Permits**  
**1999-2002**

<b>Year</b>	<b>Total USVI (millions)</b>	<b>Percent Increase (Decrease)</b>	<b>St. Thomas/ St. John (millions)</b>	<b>Percent Increase (Decrease)</b>	<b>St. Croix (millions)</b>	<b>Percent Increase (Decrease)</b>
1999	260.9	36.2	159.9	10.0	101.0	118.6
2000	202.0	(22.6)	144.0	(9.9)	58.0	(42.6)
2001	164.3	(18.7)	106.6	(26.0)	39.9	(31.2)
2002	258.6	57.5	189.9	78.1	68.8	72.5

Source: United States Virgin Islands Bureau of Economic Research.

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**Table 12**  
**United States Virgin Islands**  
**Residential Real Estate Market Sales Analysis**  
**1999-2002**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<b>St. Thomas/ St. John:</b>				
Number of Homes Sold.....	205	209	218	224
Average Home Sales Price (\$) .....	267,117	317,285	365,879	408,219
No. of Condominium Sales.....	142	158	168	218
Average Condominium				
Sales Price (\$) .....	159,522	112,732	117,210	133,435
<b>St. Croix:</b>				
Number of Homes Sold.....	174	192	N/A	N/A
Ave. Home Sales Price (\$) .....	212,399	231,187	N/A	N/A
No. of Condominium Sales.....	118	145	N/A	N/A
Average Condominium				
Sales Price (\$) .....	101,053	126,880	N/A	N/A
<b>Total U.S. Virgin Islands:</b>				
Number of Homes Sold.....	379	401	N/A	N/A
Average Home Sales (\$) .....	241,996	270,054	N/A	N/A
No. of Condominium Sales.....	260	303	N/A	N/A
Average Condominium				
Sales Price (\$) .....	132,986	119,503	N/A	N/A

Source: United States Virgin Islands Bureau of Economic Research.

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The table below presents the largest real property taxpayers in the United States Virgin Islands in 2002.

**Table 13**  
**Largest Real Property Taxpayers of the**  
**United States Virgin Islands**  
**2002**

<u>Taxpayer</u>	<u>Assessment*</u>	<u>2002 Taxes</u>
Hovensa L.L.C.....	\$1,867,000,000	\$14,000,000
Lockhart (Family)(St. Thomas & St. Croix).....	90,513,085	566,508
Topa Equities (St. Thomas & St. Croix).....	60,667,350	461,255
Tutu Park Mall.....	38,922,228	291,916
St. Thomas Partnership Ltd. ....	32,781,150	245,859
Hartman (Family) .....	40,663,298	221,107
Four Winds Plaza.....	17,614,701	135,360
Davis Bay (Carambola) .....	17,997,721	134,982
Banco Popular de Puerto Rico .....	16,233,083	121,748
Sunny Isles Shopping Center (de Chabert Family).....	25,981,042	114,319
Innovative Telephone (St. Thomas & St. Croix) .....	23,852,860	109,150
St. Thomas Liquor Co. ....	14,001,829	107,864
B&W Realty Investment, Ltd. ....	12,140,135	96,701
Boschulte Family .....	12,276,917	95,366
Cabrita Development Corp. ....	15,330,972	91,133
Dunhill Golf Associates.....	12,599,377	59,401
Buccaneer & Armstrong Group.....	10,763,451	51,116

\* Assessments are at 100%.

Source: United States Virgin Islands Office of the Tax Assessor.

**Capital Program**

Since 1998, the significant capital projects funded by the Government are summarized below:

<u>Project</u>	<u>Funded Amount (\$ millions)</u>	<u>Source of Funding</u>
Hazard Mitigation.....	\$42.0	Bond proceeds and Federal funds
Wastewater Treatment Facilities.....	40.8	Bond proceeds, Federal funds, General Fund and other funding
School Construction.....	40.2	Bond proceeds
Crown Bay Cruise Ship Terminal.....	35.0	Bond proceeds
Road and Other Repairs.....	33.3	Federal funds
Correctional Facilities.....	24.4	Bond proceeds
Enighed Pond Port .....	16.0	Bond proceeds
Government House Renovation.....	12.0	Bond proceeds and other funding
WAPA Infrastructure Project St. Croix ...	10.7	Bond proceeds
Flood Control.....	10.3	Bond proceeds, Federal funds and other funding
Frederiksted Waterfront Development.....	6.0	Bond proceeds
Red Hook Ferry Terminal Improvement...	6.0	Bond proceeds
Henry E. Rohlsen FAA Tower .....	4.5	Federal funds
Charles Harwood Phase I.....	4.0	Bond proceeds
Cruz Bay Parking Facility.....	2.1	Other funding
Sugar Estate Head Start .....	2.1	Federal funds



Highlights of certain of the projects funded or promoted, or currently contemplated to be funded or promoted, by the Government are set forth below:

1. Carifest Theme Park

Carifest is a theme park that is intended to showcase the Caribbean culture and heritage and to provide entertainment, parking, education, food and beverage, and shopping on land located at Estate Liverpool and Estate Thomas in St. Thomas. The project site is owned by, and leased from, The West Indian Company Limited (“WICO”) to Carifest Corporation, a private for-profit Virgin Islands Corporation. Carifest is intended to preserve and promote the Caribbean culture and to provide other cultural, civic and economic benefits to the people of the Virgin Islands; to stimulate economic activity, job creation, and tourism; and to provide cultural, historical and educational opportunities that will enhance the overall welfare of the people of the Virgin Islands and tourists alike. The current cost estimate of the project is \$90.0 million.

2. Kings Alley Hotel and Retail Walk

Kings Alley Walk has long been known for its array of retail shops, cafés, nightlife and boutique hotels. The land on which Kings Alley Walk sits is owned by the Virgin Islands. The Authority is currently undertaking a major \$2.0 million redevelopment of the Kings Alley Hotel. It is expected to upgrade this facility to a first class hotel appropriate to accommodating both business and leisure travelers. Once complete, the renovated hotel is expected to complement the already well-occupied promenade of shops in this area and add life and vitality to the surrounding waterfront and clientele base. The Authority is in the process of preparing a Request for Qualifications and Request for Proposal for the management and operation of the Kings Alley development.

3. St. Croix Conference Center and Hotel

The Authority is soliciting expressions of interest from qualified firms to serve as developer for the planning, design, required governmental approvals, construction, and commissioning of a full-service hotel and conference center to be located on St. Croix. The Authority currently is seeking a high-quality property with chain affiliation and finishes that will attract a wide range of professional groups and meeting events.

4. Yacht Haven Marina

IN-USVI is the developer of a new hotel and marina, retail and commercial facilities, and a boardwalk-style esplanade linking Havensight and Yacht Haven to downtown Charlotte Amalie. It also includes the rehabilitation of a public park at the west end of the land of WICO. This site is the location of a hotel that was destroyed by Hurricane Marilyn in 1995. A Coastal Zoning Management permit has been secured, which will allow demolition of the existing marina and hotel; construction of a new 120-room hotel; a 160-slip marina with a fuel dock; and construction of a 9,522 square-foot yacht club, including a 104-seat restaurant; four other restaurants, and extensive retail and office space. Legislature ratification of the permit is the final step before IN-USVI can begin demolition of the old hotel. In addition to the rehabilitation of Yacht Haven, IN-USVI is expected to contribute \$150,000 to improving nearby historic downtown Charlotte Amalie, and another \$300,000 toward improvements to park and public housing properties around the Yacht Haven project.

5. Crown Bay Cruise Ship Terminal

The Virgin Islands Port Authority has embarked on a project to expand the Crown Bay dock so that it can accommodate two mega-cruise ships, one on either side, and at the same time to develop the adjacent land. The land development is expected to be a mixed-use facility that is to be utilized by office and retail tenants. An aggregate of \$35.0 million has been allocated for funding of this project as set forth in the table above. Situated on six acres, Crown Bay will total about 57,000 square feet. Occupying some 3,500 square feet of the complex will be a combined visitor center and environmental/historical interpretive resources center to be operated by the Tourism and Planning and Natural Resources Departments. Construction of this project has already commenced. The Virgin Islands Port Authority plans to lease 60% of the available commercial space to businesses serving local residents and the other 40% to businesses serving visitors.

6. Enighed Pond Port/Red Hook Ferry Terminal

The United States Federal Highway Administration and the Authority have executed an agreement which provides advance construction funding of \$18.5 million for two critical marine access projects in the Virgin Islands: a commercial port with a pier at Enighed Pond on St. John, and a full service ferry and marine terminal at Red Hook on St. Thomas. An aggregate of \$22.0 million has been allocated for funding of this project as set forth in the table above. Both projects are underway. Since federal highway funds will be utilized to repay the principal, debt service and other costs, funding for this project will not constitute a debt of the Government.

## APPENDIX F

### DTC BOOK-ENTRY-ONLY SYSTEM

The Depository Trust Company (“DTC”), New York, New York will act as securities depository for the Series 2003A Bonds. The Series 2003A Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2003A Bond certificate will be issued for each series and maturity of the Series 2003A Bonds, each 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. DTC holds securities that its participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation and Emerging Markets Clearing Corporation, also subsidiaries of DTCC, as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The DTC Rules applicable to Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2003A Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for such Series 2003A Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2003A 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 Series 2003A Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2003A Bonds, except in the event that use of the book-entry system for the Series 2003A Bonds is discontinued.

To facilitate subsequent transfers, all Series 2003A Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2003A Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2003A Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2003A Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect 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. Beneficial Owners of Series 2003A Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2003A Bonds, such as redemptions, tenders, defaults and proposed amendments to the Series 2003A Bond documents. For example, Beneficial Owners of Series 2003A Bonds may wish to ascertain that the nominee holding the Series 2003A Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners.

Redemption notices shall be sent to DTC. If less than all of the Series 2003A Bonds within a 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. (nor any other DTC nominee) will consent or vote with respect to the Series 2003A Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. 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 Series 2003A Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2003A Bonds will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detailed information from the Authority or the Trustee, on the payable date in accordance with their respective holdings shown on DTC's records. 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, or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2003A Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, such Series 2003A Bond certificates will be printed and delivered. The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Series 2003A Bond certificates will be printed and delivered.

The above information concerning DTC and DTC's book-entry system has been obtained from sources that the Authority and the Underwriter believe to be reliable, but none of the Authority or the Underwriter take responsibility for the accuracy thereof. The Beneficial Owners should confirm the foregoing information with DTC, the Direct Participants or the Indirect Participants.

So long as Cede & Co. is the registered owner of the Series 2003A Bonds of a series, as nominee for DTC, references herein to Bondholders or registered owners of the Series 2003A Bonds of such series (other than under the caption "TAX MATTERS") shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of such Series of Series 2003A 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 Trustee to DTC only.

**NONE OF THE AUTHORITY, THE UNDERWRITER NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2003A BONDS UNDER THE RESOLUTIONS; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2003A BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2003A BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2003A BONDS; OR (VI) ANY OTHER MATTER.**

## APPENDIX G-1

### FORM OF AUTHORITY CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”), dated December 17, 2003, is executed and delivered by and between the Virgin Islands Public Finance Authority (the “Authority”) and The Bank of New York Trust Company of Florida, N.A., a national banking association (the “Trustee”), in connection with the issuance by the Authority of its \$268,020,000 original principal amount of Virgin Islands Public Finance Authority Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Notes) Series 2003A (the “Series 2003A Bonds”). Capitalized terms used in this Disclosure Agreement which are not defined herein shall have the respective meanings specified in the Indenture of Trust, dated as of November 1, 1999, between the Authority and the Trustee and, as to each Series of Bonds, the Supplemental Indenture pertaining thereto, as the Indenture or any Supplemental Indenture may from time to time be amended or supplemented in accordance with the terms thereof.

#### The Undertaking

1. Purpose of this Disclosure Agreement. This Disclosure Agreement is being executed and delivered for the benefit of the holders of the Series 2003A Bonds and delivered in order to assist the underwriter of the Series 2003A Bonds (the “Underwriter”) in complying with the provisions of Section (b)(5)(i) of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, as the same may be amended from time to time.

2. Disclosure. (a) The Authority shall provide certain financial and operating information in accordance with the provisions of Section (b)(5)(i) of the Rule as follows:

(i) Annual Financial Information with respect to each Fiscal Year of the Authority. “Annual Financial Information” means, collectively: (A) financial statements for the Authority prepared in accordance with government accounting standards and audited by an independent firm of certified public accountants in accordance with auditing standards generally accepted in the United States; (B) an update of the tabular information presented in the Official Statement dated December 5, 2003 with respect to the Series 2003A Bonds under the headings “GROSS RECEIPTS TAXES,” “UNITED STATES VIRGIN ISLANDS” and APPENDIX E – “United States Virgin Islands Economic and Demographic Information;” (C) updated information with respect to the percentage of Gross Receipts Tax collections from the top 5 and the top 10 taxpayers; (D) the information regarding amendments to this Disclosure Agreement required pursuant to this Disclosure Agreement; together with (E) such narrative explanation as may be necessary to avoid misunderstanding and to assist the reader in understanding the presentation of financial and operating data concerning the Gross Receipts Taxes, the Authority and the United States Virgin Islands; and

(ii) the Authority shall provide summaries of the information provided by the Virgin Islands Bureau of Internal Revenue on Gross Receipts Taxes collected as reported by the Bureau of Internal Revenue and the quarterly review of Gross Receipts Taxes transferred to the Collecting Agent for deposit into the Special Escrow Account by the certified public accounting firm in accordance with the terms of the Loan Agreement, dated as of December 1, 2003, among the Government, the Trustee and the Authority.

The descriptions contained in clause 2(a)(i)(B) above constituting Annual Financial Information are of general categories of financial information and operating data. When such descriptions include information that no longer can be generated because the operations to which it related have been materially changed or discontinued, a statement to that effect shall be provided in lieu of such information.

The financial information described in clause 2(a)(i) and 2(a)(ii) above are hereinafter referred to collectively as the “Continuing Disclosure.”

(b) The Authority will provide annually the financial information described in clause (2) above as follows: (i) with respect to the Annual Financial Information described in clause 2(a)(i)(A) above, within 180 days after the end of the Authority’s Fiscal Year, (ii) with respect to the Annual Financial Information described in clause 2(a)(i)(B), (C) and (D) above, within 180 days after the end of the Authority’s Fiscal Year, commencing

not later than March 31, 2005 for the Authority's Fiscal Year ending September 30, 2004, and (iii) with respect to the information described in clause 2(a)(ii) above, within sixty (60) days after the end of each fiscal quarter during the Authority's Fiscal Year, commencing not later than February 29, 2004 for the fiscal quarter ending December 31, 2003. The Continuing Disclosure will be provided to each nationally recognized municipal securities information repository ("NRMSIR") and to the appropriate state information depository ("SID"), if any is hereafter created.

(c) Any of the Continuing Disclosure may be included by specific reference to other documents previously provided to each NRMSIR and to the appropriate SID, if any is hereafter created, or filed with the SEC; provided, however, that any final official statement incorporated by reference must be available from the Municipal Securities Rulemaking Board (the "MSRB").

(d) The Authority will provide in a timely manner to each NRMSIR or the MSRB and with the appropriate SID, if any is hereafter created, notice of the occurrence of any of the following events with respect to the Series 2003A Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on any credit enhancement reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Series 2003A Bonds;
- (7) modifications to the rights of Series 2003A Bondowners;
- (8) Series 2003A Bond calls, other than mandatory sinking fund redemptions;
- (9) defeasance of all or any portion of the Series 2003A Bonds;
- (10) release, substitution or sale of property securing repayment of the Series 2003A Bonds; and
- (11) rating changes.

(e) The Authority will provide in a timely manner to each NRMSIR or the MSRB and to the appropriate SID, if any is hereafter created, notice specifying any failure of the Authority to provide the Continuing Disclosure by the date specified.

3. Remedies. The sole and exclusive remedy for breach or default under this Disclosure Agreement to provide the Continuing Disclosure is an action to compel specific performance of the undertakings contained herein, and no person or entity may recover monetary damages hereunder under any circumstances; provided, however, that the Trustee shall not be required to take any enforcement action except at the written direction of the holders of not less than 51% in aggregate principal amount of Series 2003A Bonds then outstanding. Failure by any party to perform its obligations hereunder shall not constitute an Event of Default under the Indenture or any other agreement executed and delivered in connection with the issuance of the Series 2003A Bonds.

4. Amendments. (a) Without the consent of any of the holders of the Series 2003A Bonds, the Authority, the Government and the Trustee at any time and from time to time may enter into amendments or changes to this Disclosure Agreement for any purposes if:

(i)(A) the amendment is made in connection with a change in circumstances that arises from a change in legal requirements, a change in law, or a change in the identity, nature or status of the Authority, the Government or the Trustee or any type of business or affairs conducted by either of the Authority, the Government or the Trustee; (B) the undertakings set forth herein, as amended, would have complied with the requirements of the Rule on the date hereof, after taking into account any amendments to, or former authoritative interpretation by the staff of the SEC of, the Rule; (C) the amendment adds to the covenants of the Authority for the benefit of the holders of the Series 2003A Bonds, or surrenders any right or power herein conferred upon the Authority; and (D) the amendment does not materially impair the interests of the holders of the Series 2003A Bonds, as determined by the Trustee or by nationally recognized bond counsel. (In determining whether or not the interest of the holders of the Series 2003A Bonds are materially impaired, the Trustee may rely upon an opinion of nationally recognized bond counsel); or

(ii) the amendment adds or changes a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto.

(b) Annual Financial Information of the Authority for any fiscal year containing any amended operating data or financial information for such fiscal year shall explain, in narrative form, the reasons for such amendment and the impact of the change on the type of operating data or financial information in the Annual Financial Information being provided for such fiscal year. If a change in accounting standards is included in any such amendment, such Annual Financial Information shall present a comparison between the financial statements or information prepared on the basis of the amended accounting standards and those prepared on the basis of the former accounting standards for the fiscal year in which such change is made. Such comparison shall include a qualitative discussion of the differences in the accounting standards and the impact of the change in the accounting standards on the presentation of the financial information. To the extent reasonably feasible, the comparison also should be quantitative. A notice of the change in accounting standards shall be sent by the Authority to each NRMSIR or the MSRB, and to the appropriate SID, if any is hereafter created.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Disclosure Agreement on December 17, 2003.

VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

By: \_\_\_\_\_  
Authorized Officer

THE BANK OF NEW YORK TRUST COMPANY OF  
FLORIDA, N.A.

By: \_\_\_\_\_  
Authorized Officer

Acknowledged and Accepted:

GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

By: \_\_\_\_\_

Dated: December 17, 2003

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## APPENDIX G-2

### FORM OF GOVERNMENT CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”), dated December 17, 2003, is executed and delivered by the Government of the United States Virgin Islands (the “Government”) and The Bank of New York Trust Company of Florida, N.A., a national banking association (the “Trustee”), in connection with the issuance by the Virgin Islands Public Finance Authority (the “Authority”) of its \$268,020,000 original principal amount of Virgin Islands Public Finance Authority Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Notes) Series 2003A (the “Series 2003A Bonds”). Capitalized terms used in this Disclosure Agreement which are not defined herein shall have the respective meanings specified in the Indenture of Trust, dated as of November 1, 1999, between the Authority and the Trustee and, as to each Series of Bonds, the Supplemental Indenture pertaining thereto, as the Indenture or any Supplemental Indenture may from time to time be amended or supplemented in accordance with the terms thereof.

#### The Undertaking

1. Purpose of this Disclosure Agreement. This Disclosure Agreement is being executed and delivered for the benefit of the holders of the Series 2003A Bonds and delivered in order to assist the underwriter of the Series 2003A Bonds (the “Underwriter”) in complying with the provisions of Section (b)(5)(i) of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, as the same may be amended from time to time.

2. Disclosure. (a) The Government shall provide certain financial and operating information in accordance with the provisions of Section (b)(5)(i) of the Rule as follows:

(i) Annual Financial Information with respect to each Fiscal Year of the Government. “Annual Financial Information” means, collectively: (A) financial statements for the Government prepared in accordance with accounting principles generally accepted in the United States and audited by an independent firm of certified public accountants in accordance with auditing standards generally accepted in the United States when available and, until such time, statements of revenues and expenditures prepared by the Commissioner of Finance; (B) an update of the tabular information presented in the Official Statement dated December 5, 2003 with respect to the Series 2003A Bonds under the headings “GROSS RECEIPTS TAXES,” “UNITED STATES VIRGIN ISLANDS” and APPENDIX E – “United States Virgin Islands Economic and Demographic Information;” (C) updated information with respect to the percentage of Gross Receipts Tax collections from the top 5 and the top 10 taxpayers; and (D) the information regarding amendments to this Disclosure Agreement required pursuant to this Disclosure Agreement; together with (E) such narrative explanation as may be necessary to avoid misunderstanding and to assist the reader in understanding the presentation of financial and operating data concerning the Gross Receipts Taxes and the United States Virgin Islands; and

(ii) the Government shall provide summaries of the information provided by the Virgin Islands Bureau of Internal Revenue on Gross Receipts Taxes collected as reported by the Bureau of Internal Revenue.

The descriptions contained in clause 2(a)(i)(B) above constituting Annual Financial Information are of general categories of financial information and operating data. When such descriptions include information that no longer can be generated because the operations to which it related have been materially changed or discontinued, a statement to that effect shall be provided in lieu of such information.

The financial information described in clause 2(a)(i) and 2(a)(ii) above are hereinafter referred to collectively as the “Continuing Disclosure.”

(b) The Government will provide annually the financial information described in clause (2) above as follows: (i) with respect to the Annual Financial Information described in clause 2(a)(i)(A) above, within 365 days after the end of the Government’s Fiscal Year, commencing with the Government’s Fiscal Year ending September 30, 2004, (ii) with respect to the Annual Financial Information described in clause 2(a)(i)(B), (C) and (D) above, within 180 days after the end of the Government’s Fiscal Year, commencing not later than March 31, 2004

for the Government's Fiscal Year ended September 30, 2003, and (iii) with respect to the information described in clause 2(a)(ii) above, within sixty (60) days after the end of each fiscal quarter during the Government's Fiscal Year, commencing not later than February 29, 2004 for the fiscal quarter ending December 31, 2003. The Continuing Disclosure will be provided to each nationally recognized municipal securities information repository ("NRMSIR") and to the appropriate state information depository ("SID"), if any is hereafter created.

(c) Any of the Continuing Disclosure may be included by specific reference to other documents previously provided to each NRMSIR and to the appropriate SID, if any is hereafter created, or filed with the SEC; provided, however, that any final official statement incorporated by reference must be available from the Municipal Securities Rulemaking Board (the "MSRB").

(d) The Government will provide in a timely manner to each NRMSIR or the MSRB and to the appropriate SID, if any is hereafter created, notice specifying any failure of the Government to provide the Continuing Disclosure by the date specified.

3. Remedies. The sole and exclusive remedy for breach or default under this Disclosure Agreement to provide the Continuing Disclosure is an action to compel specific performance of the undertakings contained herein, and no person or entity may recover monetary damages hereunder under any circumstances; provided, however, that the Trustee shall not be required to take any enforcement action except at the written direction of the holders of not less than 51% in aggregate principal amount of Series 2003A Bonds then outstanding. Failure by any party to perform its obligations hereunder shall not constitute an Event of Default under the Indenture or any other agreement executed and delivered in connection with the issuance of the Series 2003A Bonds.

4. Amendments. (a) Without the consent of any of the holders of the Series 2003A Bonds, the Government and the Trustee at any time and from time to time may enter into amendments or changes to this Disclosure Agreement for any purposes if:

(i)(A) the amendment is made in connection with a change in circumstances that arises from a change in legal requirements, a change in law, or a change in the identity, nature or status of the Government or the Trustee or any type of business or affairs conducted by either of the Government or the Trustee; (B) the undertakings set forth herein, as amended, would have complied with the requirements of the Rule on the date hereof, after taking into account any amendments to, or former authoritative interpretation by the staff of the SEC of, the Rule; (C) the amendment adds to the covenants of the Government for the benefit of the holders of the Series 2003A Bonds, or surrenders any right or power herein conferred upon the Government; and (D) the amendment does not materially impair the interests of the holders of the Series 2003A Bonds, as determined by the Trustee or by nationally recognized bond counsel. (In determining whether or not the interest of the holders of the Series 2003A Bonds are materially impaired, the Trustee may rely upon an opinion of nationally recognized bond counsel); or

(ii) the amendment adds or changes a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto.

(b) Annual Financial Information of the Government for any fiscal year containing any amended operating data or financial information for such fiscal year shall explain, in narrative form, the reasons for such amendment and the impact of the change on the type of operating data or financial information in the Annual Financial Information being provided for such fiscal year. If a change in accounting standards is included in any such amendment, such Annual Financial Information shall present a comparison between the financial statements or information prepared on the basis of the amended accounting standards and those prepared on the basis of the former accounting standards for the fiscal year in which such change is made. Such comparison shall include a qualitative discussion of the differences in the accounting standards and the impact of the change in the accounting standards on the presentation of the financial information. To the extent reasonably feasible, the comparison also should be quantitative. A notice of the change in accounting standards shall be sent by the Government to each NRMSIR or the MSRB, and to the appropriate SID, if any is hereafter created.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Disclosure Agreement on December 17, 2003.

GOVERNMENT OF THE UNITED STATES VIRGIN  
ISLANDS

By: \_\_\_\_\_  
Authorized Officer

THE BANK OF NEW YORK TRUST COMPANY OF  
FLORIDA, N.A.

By: \_\_\_\_\_  
Authorized Officer

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**APPENDIX H**

**SPECIMENS OF MUNICIPAL BOND INSURANCE POLICIES**

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**FINANCIAL  
SECURITY  
ASSURANCE®**

## **MUNICIPAL BOND INSURANCE POLICY**

ISSUER:

Policy No.: -N

BONDS:

Effective Date:

Premium:

FINANCIAL SECURITY ASSURANCE INC. ("Financial Security"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of Financial Security, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which Financial Security shall have received Notice of Nonpayment, Financial Security will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by Financial Security, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in Financial Security. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise it will be deemed received on the next Business Day. If any Notice of Nonpayment received by Financial Security is incomplete, it shall be deemed not to have been received by Financial Security for purposes of the preceding sentence and Financial Security shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, Financial Security shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by Financial Security hereunder. Payment by Financial Security to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of Financial Security under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless Financial Security shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to Financial Security which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

Financial Security may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to Financial Security pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to Financial Security and shall not be deemed received until received by both and (b) all payments required to be made by Financial Security under this Policy may be made directly by Financial Security or by the Insurer's Fiscal Agent on behalf of Financial Security. The Insurer's Fiscal Agent is the agent of Financial Security only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of Financial Security to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, Financial Security agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud, whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to Financial Security to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of Financial Security, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, FINANCIAL SECURITY ASSURANCE INC. has caused this Policy to be executed on its behalf by its Authorized Officer.

[Countersignature]

FINANCIAL SECURITY ASSURANCE INC.

By \_\_\_\_\_

By \_\_\_\_\_  
Authorized Officer

A subsidiary of Financial Security Assurance Holdings Ltd.  
350 Park Avenue, New York, N.Y. 10022-6022

(212) 826-0100

Form 500NY (5/90)



## FINANCIAL GUARANTY INSURANCE POLICY

**Obligor:**

**Bonds:**

**Bond Trustee:**

**Insurance Trustee:**

**Policy Number:**

**Premium:**

**Radian Asset Assurance Inc.** ("Insurer"), a corporation organized under the laws of the State of New York, in consideration of the payment of the premium and subject to the terms of this Policy, hereby unconditionally and irrevocably guarantees the payment of the Obligation (hereinafter defined) to the Insurance Trustee for the benefit of the Holders (hereinafter defined) from time to time of the Bonds. This Policy does not insure against any risk other than nonpayment of the Obligation by or on behalf of the Obligor or any other obligor to the Bond Trustee. Nonpayment includes recovery from a Holder of Bonds or the Bond Trustee of any portion of the Obligation pursuant to a final judgment by any court of competent jurisdiction holding that such payment constituted a voidable preference within the meaning of any applicable bankruptcy law.

Upon receipt by the Insurer of telephonic or telegraphic notice, such notice subsequently confirmed to the Insurer in writing by registered or certified mail, from the Insurance Trustee that the Obligor (or other obligor responsible for payment of the Obligation) has failed to provide the Bond Trustee with sufficient funds for payment of the Obligation on the Due Date (hereinafter defined), the Insurer shall, not later than such Due Date or the first business day after receipt of such notice, whichever is later, pay to the Insurance Trustee for the benefit of the Holders of the Bonds an amount which shall be sufficient to pay the Obligation, but only upon receipt by the Insurer, in a form reasonably satisfactory to it, of (a) evidence of the Holder's right to receive such payment and (b) evidence, including any appropriate instruments of assignment, that all the Holder's rights with respect to such payment shall thereupon vest in the Insurer. "Due Date" means, when referring to the principal of the Obligation, the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund prepayment and does not refer to any earlier date on which payment is due by reason of any other call for redemption, acceleration or other advancement of maturity unless the Insurer shall elect, in its sole discretion, to pay such principal due upon such redemption, acceleration or other advancement of maturity together with any accrued interest to the date of redemption, acceleration or other advancement of maturity. Tendering of payment, to the Bond Trustee, of such principal due upon such redemption, acceleration or other advancement of maturity, together with any accrued interest to the date of such redemption, acceleration or other advancement of maturity, shall satisfy the Insurer's obligations under this Policy, in full. When referring to interest on the Obligation, "Due Date" means the stated date for payment of interest.

The Insurer shall, to the extent of any payment made by it pursuant to this Policy, be deemed to have acquired and become the Holder of the Bonds or portions thereof or interest thereon paid from such payment and shall be fully subrogated to all rights to payment thereof.

As used herein, the term "Holder" or "Holders" means the registered owners of the Bonds as indicated in the registration books maintained by the Bond Trustee for such purpose at the time of nonpayment of the Obligation. The terms "Holder" or "Holders" shall not include the Obligor or any person or entity whose direct or indirect obligation constitutes the underlying security for the Obligation. As used herein, the term "Bond Trustee" means the Bond Trustee above named and any successor trustee duly appointed. As used herein, the term "Insurance Trustee" means the Insurance Trustee above named and any successor insurance trustee duly appointed. As used herein, the term "Obligation" means the payment of principal and interest regularly scheduled to be paid on the Bonds, which shall have become due for payment but shall be unpaid on the Due Date, but does not include any premium payable with respect to the Bonds, nor any redemption (except mandatory sinking fund redemption), acceleration or other advancement of maturity.

This Policy is non-cancelable for any reason. Premiums paid on this Policy are not refundable for any reason including without limitation the payment prior to maturity of the Bonds.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be issued to the Insurance Trustee for the benefit of the Holders from time to time of the Bonds and to be executed and delivered by its duly authorized officer to become effective and binding upon the Insurer by virtue of the execution and delivery thereof on this [DATE].

RADIAN ASSET ASSURANCE INC.

By: \_\_\_\_\_  
 Name: [ANALYST]  
 Title: [TITLE]

\_\_\_\_\_  
 Countersignature

<b>INSURANCE GUARANTY FUND NOTICES</b>	
Connecticut	In the event the Company becomes insolvent, any claims arising under this Policy are excluded from coverage by the Connecticut Insurance Guaranty Association.
Florida	The insurance provided by this Policy is not covered by the Florida Insurance Guaranty Association created under part II of chapter 631 of the Florida Insurance Code.
New York	This Policy is not covered by the Property/Casualty Insurance Security Fund established by Article 76 of the New York Insurance Law.
Texas	In the event the insurer is unable to fulfill its contractual obligation under this Policy, the policyholder is not protected by the Texas Property and Casualty Insurance Guaranty Act.
U.S. Virgin Islands	Pursuant to 22 Virgin Islands Code Sec. 232, the U.S. Virgin Islands Guaranty Fund does not cover claims under the policy if the Insurer becomes insolvent.

**ACA Financial Guaranty Corporation**  
**140 Broadway, 47th Floor**  
**New York, NY 10005**  
**For information, contact:**  
**(212) 375-2000**  
**(888) 427-2833**

## **BOND INSURANCE POLICY**

**Policy Number:**

**Effective Date:**

**Issuer:**

**Bonds:**

ACA FINANCIAL GUARANTY CORPORATION (“ACA”), a Maryland stock insurance company, in consideration of the payment of the premium and subject to the terms and conditions contained in this Policy (which includes each endorsement hereto), hereby unconditionally and irrevocably agrees to pay to the trustee (the “Trustee”) or paying agent (the “Paying Agent”) (as designated in the documentation providing for the issuance of and securing the Bonds) for the benefit of any Owner, or, at the election of ACA, directly to such Owner, that portion of the principal of and interest on the Bonds which shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

ACA will make such payments to or for the benefit of each Owner on the later of the day on which such principal or interest becomes Due for Payment or the Business Day next following the Business Day on which ACA shall have received Notice of Nonpayment. ACA will disburse to or for the benefit of the Owner the face amount of principal of and interest on the Bond which is then Due for Payment but is unpaid by reason of Nonpayment by the Issuer but only upon receipt by ACA, in form reasonably satisfactory to it, of (i) evidence of the Owner’s right to receive payment of the principal or interest then Due for Payment and (ii) evidence, including any appropriate instruments of assignment, that all of the Owner’s rights to payment of such principal or interest then Due for Payment shall thereupon vest in ACA. Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. Eastern prevailing time on such Business Day; otherwise, it will be deemed received on the next Business Day. Upon disbursement in respect of a Bond, ACA shall become the owner of the Bond, appurtenant coupon, if any, or right to payment of principal of or interest on such Bond and shall be fully subrogated to all of the Owner’s rights thereunder, including the Owner’s right to payment thereof to the extent of any payment by ACA hereunder. Payment by ACA to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligations of ACA under this Policy.

This Policy is non-cancelable for any reason and the premium on this Policy is not refundable for any reason, including the payment of the Bonds prior to their maturity.

The following terms shall have the meanings specified for all purposes of this Policy. The term “Owner” means, as to a particular Bond, the person other than the Issuer or any party whose direct or indirect obligation constitutes the underlying security for the Bonds, who at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof. “Due for Payment” means (a) when referring to the principal of a Bond, the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless ACA shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a bond, the stated date for payment of interest. “Nonpayment” with respect to a Bond means the failure of the Issuer to have provided sufficient funds to the Trustee or the Paying Agent for payment in full of all principal and interest Due for Payment on such Bond. “Nonpayment” shall also include any payment of principal or interest made to an Owner by or on behalf of the Issuer of such Bond which has been recovered from such Owner pursuant to a final, non-appealable order of a court of competent jurisdiction that such payment constitutes an avoidable preference to such Owner within the meaning of any applicable bankruptcy law. “Notice” means telephonic or electronic notice, subsequently confirmed in writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to ACA which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. “Business Day” means any day other than a Saturday, Sunday or a day on which banking institutions in the State of Maryland or the Insurer’s Fiscal Agent are authorized or required by law to remain closed.

ACA may appoint a fiscal agent (the “Insurer’s Fiscal Agent”) for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer’s Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent (a) copies of all notices required to be delivered to ACA pursuant to this Policy shall be simultaneously delivered to the Insurer’s Fiscal Agent and to ACA and shall not be deemed received until received by both and (b) all payments required to be made by ACA under this Policy may be made directly by ACA or by the Insurer’s Fiscal Agent on behalf of ACA. The Insurer’s Fiscal Agent is the agent of ACA only and the Insurer’s Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer’s Fiscal Agent or any failure of ACA to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

There shall be no acceleration payment due under this Policy except at the sole option of ACA.

IN WITNESS WHEREOF, ACA has caused this Policy to be affixed with its corporate seal and to be executed on its behalf by its duly authorized representative.

**ACA FINANCIAL GUARANTY CORPORATION**  
**[SEAL]**

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Authorized Representative

## APPENDIX I

### FORM OF PROPOSED OPINION OF BOND COUNSEL

Upon delivery of the Bonds, Bond Counsel proposes to issue its approving opinion in substantially the following form:

United States Virgin Islands  
Public Finance Authority  
24 Honduras  
Frenchtown  
St. Thomas, U.S. Virgin Islands 00802

Re: \$268,020,000 Virgin Islands Public Finance Authority  
Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note) Series 2003A

Ladies and Gentlemen:

We have examined the record of proceedings in connection with the issuance by the Virgin Islands Public Finance Authority (the "Authority") of its Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note) Series 2003A in the aggregate principal amount of \$268,020,000 (the "Series 2003A Bonds"). The Series 2003A Bonds are issued under and pursuant to (i) Section 1574 through 1574c of the Virgin Islands Revised Organic Act of 1954, as amended (48 USC §1541 *et seq.*) (the "Revised Organic Act"), (ii) Title 29 of the Virgin Islands Code, 2002 United States Virgin Islands Act No. 6514, as amended by 2002 United States Virgin Islands Act No. 6533 and 2003 United States Virgin Islands Act No. 6587, as amended by 2003 United States Virgin Islands Act No. 6591 and 2003 United States Virgin Islands Act No. 6593 (collectively, the "Enabling Act" and, together with the Revised Organic Act, the "Act"), (iii) Bond Resolution No. 02-08, adopted by the Authority on September 27, 2002, as amended by Resolution No. 03-02, adopted by the Authority on March 27, 2003 and Resolution No. 03-013, adopted by the Authority on November 26, 2003 (collectively, the "Resolutions"), and (iv) an Indenture of Trust, dated as of November 1, 1999, by and between the Authority and The Bank of New York Trust Company of Florida, N.A. (as successor to The Bank of New York), as Trustee (the "Trustee"), as heretofore supplemented and amended, and as supplemented by a Fourth Supplemental Indenture of Trust, dated as of December 1, 2003, by and between the Authority and the Trustee (collectively, the "Indenture").

All capitalized terms not otherwise defined herein shall have the meaning given such terms in Article I of the Indenture.

Under the Act, the Series 2003A Bonds are being issued for the purpose of providing funds to (i) repay the Authority's Revenue Bond Anticipation Notes, Series 2003 (Virgin Islands Gross Receipts Taxes Loan Note), (ii) fund certain necessary public safety and other public sector capital development projects of the Government of the United States Virgin Islands (the "Government"), (iii) fund the Debt Service Reserve Account in an amount necessary to meet the Debt Service Reserve Requirement, and (iv) pay the costs of issuing the Series 2003A Bonds.

The Series 2003A Bonds are equally and ratably secured by the Indenture, which pledges and assigns to the Trustee the Trust Estate.

The proceeds of the Series 2003A Bonds are being loaned by the Authority to the Government pursuant to a Loan Agreement, dated as of December 1, 2003 (the "Series 2003A Loan Agreement"), by and among the Authority, the Government and the Trustee, against delivery by the Government of its \$268,020,000 principal amount 2003 Gross Receipts Taxes Loan Note, Series A (the "Series 2003A Loan Note").

The Series 2003A Bonds are dated the date of delivery, bear interest from that date on the unpaid principal amount thereof, at the rates set forth therein and in the Indenture, and mature on the dates set forth therein and in the Indenture. The Bonds are subject to redemption prior to maturity, in the manner and upon the terms and conditions set forth in the Indenture and the Series 2003A Bonds.

The Internal Revenue Code of 1986, as amended, and the regulations and rulings of the United States Treasury Department thereunder (collectively, the “Code”) establishes certain requirements which must be met at and subsequent to the date of issuance and delivery of the Series 2003A Bonds in order that interest on the Series 2003A Bonds will be and remain excludable from gross income for federal income tax purposes. Included among these continuing requirements are certain restrictions and prohibitions on the use of bond proceeds, restrictions on the investment on bond proceeds and other moneys or properties and the rebate to the United States of certain earnings in respect of investments. Failure to comply with the continuing requirements may cause the interest on the Series 2003A Bonds to be includible in gross income for federal income tax purposes retroactive to the date of their issuance irrespective of the date on which such non-compliance occurs. The Authority and the Government have covenanted in the Indenture and the Series 2003A Loan Agreement, respectively, and in documents relating to federal tax matters delivered at the time of delivery of the Series 2003A Bonds (the “Tax Certificate”) to comply with certain procedures, and have made certain representations and certifications, designed to assure satisfaction of the requirements of the Code.

We have examined and relied on the record of proceedings of the Authority and the Government in connection with the authorization and issuance of the Series 2003A Bonds and have made such investigation of law and such further review, inquiry or examination as we deemed necessary or desirable in rendering the opinions set forth herein. Further, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents as we have deemed necessary or appropriate for the purposes of the opinions rendered below. In such examination, we have assumed the genuineness of all signatures, the authenticity and due execution of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to any facts material to our opinion, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents, without having conducted any independent investigation.

Based on the foregoing, we are of the opinion that:

1. The Authority is duly created and validly existing under provisions of the Act.
2. The Series 2003A Bonds have been duly authorized and issued in accordance with the Act and the Resolutions, and constitute valid and binding special limited obligations of the Authority payable solely from the Trust Estate.
3. The Indenture has been duly authorized, executed and delivered by the Authority and, assuming the due authorization, execution and delivery thereof by the Trustee, constitutes a legally binding agreement of the Authority, pledges the Trust Estate created by the Indenture to the Trustee as security for payment of the principal of and premium, if any, and interest on the Series 2003A Bonds and is enforceable against the Authority in accordance with its terms.
4. Under existing statutes, regulations, administrative interpretations and court decisions as of the date hereof, interest on the Series 2003A Bonds will not be included in gross income for federal income tax purposes and is not an “item of tax preference” for purposes of computing the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2003A Bonds held by a corporation (other than an S corporation, regulated investment company, real estate investment trust or real estate mortgage investment conduit) is included in adjusted current earnings for purposes of calculating certain taxes including the federal alternative minimum tax imposed on corporations.
5. Under existing statutes, interest on the Series 2003A Bonds is exempt from personal income taxes imposed by the United States Virgin Islands, by any state, other territory or possession on the United States or any political subdivision thereof, or by the District of Columbia.

We have examined an executed Series 2003A Bond and, in our opinion, the form of such Bond and its execution are regular and proper.

In rendering the opinions set forth in paragraph 4 above, we have assumed the accuracy of certain factual certifications made by the Authority and by the Government in the Tax Certificate and the continuing compliance by the Authority and the Government with the covenants, provisions and procedures set forth in the

Indenture, the Series 2003A Loan Agreement and the Tax Certificate, as may be applicable. In the event of the inaccuracy or incompleteness of any of the certifications made by the Authority or the Government, or of the failure by the Authority or the Government to comply with the covenants, provisions and procedures set forth in the Indenture, the Series 2003A Loan Agreement or the Tax Certificate, as may be applicable, the interest on the Series 2003A Bonds could become includible in gross income for federal income tax purposes retroactive to the date of the original execution and delivery of the Series 2003A Bonds, regardless of the date on which the event causing such inclusion occurs. We render no opinion as to the exclusion from gross income of interest on the Series 2003A Bonds for federal, territorial, state or local income tax purposes on or after the date on which any change occurs or action is taken or omitted under the Indenture, the Series 2003A Loan Agreement or the Tax Certificate by the Authority or the Government, or under any other relevant documents without the advice or approval of, or upon the advice or approval of any bond counsel other than Buchanan Ingersoll PC. We have not undertaken to determine in the future (or to inform any person) whether any actions taken or not taken or events occurring or not occurring after the date of issuance and delivery of the Series 2003A Bonds may affect the tax status of interest on the Series 2003A Bonds. No assurance can be given that future legislation or amendments to the Code, if enacted into law, will not contain provisions which could directly or indirectly reduce the benefit of the exclusion of the interest on the Series 2003A Bonds from gross income for federal income tax purposes.

The opinions contained in paragraphs 2 and 3 above are qualified to the extent that the enforceability of the Indenture, the Fourth Supplemental Indenture and the Series 2003A Bonds may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally or as to the availability of any particular remedy. Except as stated in paragraphs 4 and 5 above, we express no opinion as to the federal, territorial, state or local tax consequences caused by the receipt or accrual of interest on the Series 2003A Bonds and holders of the Series 2003A Bonds should consult their tax advisors with respect thereto.

Our services as bond counsel to the Authority with respect to the issuance and delivery of the Series 2003A Bonds have been limited to delivering the foregoing opinion based on our review of such proceedings and documents as we deem necessary to approve the validity of the Series 2003A Bonds and the tax-exempt status of the interest on the Series 2003A Bonds.

Very truly yours,