

**FORBEARANCE AGREEMENT INDICATIVE TERM SHEET ISSUED TO****Betteto Frett**  
**May 7, 2019**

THE PROPOSED TERMS AND CONDITIONS CONTAINED IN THIS FORBEARANCE AGREEMENT INDICATIVE TERM SHEET DRAFT ARE PROVIDED FOR DISCUSSION PURPOSES ONLY, AND DO NOT CONSTITUTE AN OFFER, AGREEMENT, OR COMMITMENT TO PROVIDE FINANCING, CONCESSIONS AND/OR AMEND OR MODIFY ANY OF THE TERMS AND CONDITIONS UNDER THE EXISTING LOAN AGREEMENTS AND DOCUMENTS. THE SAME REPRESENTS AN OUTLINE OF THE MAJOR TERMS AND CONDITIONS UNDER WHICH THE LENDER WOULD BE WILLING TO DISCUSS AND EVALUATE WORKING WITH YOU A POTENTIAL RESTRUCTURING OF THE EXISTING LOANS. WE REITERATE THAT THIS SUMMARY TERM SHEET DRAFT DOES NOT MODIFY OR AMEND ANY OF THE TERMS AND CONDITIONS OF THE EXISTING LOAN DOCUMENTS.

**Borrower:** Betteto Frett (the "Borrower")

**Lender:** FirstBank Puerto Rico (the "Lender")

**Credit Facilities:** Term Loans 6019277 / 6019293 (the "Current Loans")

Current Unpaid Principal Balance (UPB)..... \$ 5,515,381.79<sup>a</sup>

**Loan Status:** Borrower acknowledges that it is in default of certain covenants and conditions of the Loan Documents that govern the Current Loans. Borrower has requested to enter into discussions with the Lender concerning a possible restructuring of the terms of the Loans as evidenced, secured or supported by the instruments and documents (the "Loan Documents") executed by the Borrower in connection with the Loans.

**Discussions:** The Borrower and the Lender will commence Discussions concerning the Current Loans. Neither the Borrower nor the Lender presently has, nor will have, any obligation to modify, amend and/or restructure the Loans or modify any of the Loan Documents as a result of the Discussions or otherwise. The Borrower and the Lender may each terminate the Discussions at any time, in such party's absolute discretion, with or without notice.

The Borrower acknowledges that as of the date of this letter, the Lender has not entered into any prior agreement, commitment or understanding with the Borrower to modify the Loan Documents in any way. Notwithstanding that the Borrower and the Lender may, during the Discussions, reach agreement after the date hereof on one or more or all of the issues such parties are trying to resolve, the Borrower and the Lender hereby agree that no such agreement will be binding unless and until such agreement has been reduced to a definitive written agreement approved by the Lender's appropriate Credit Committee and executed and delivered by each party hereto.

<sup>a</sup> The UPB and the Accrued Interest Receivable of the Current Loans have been affected by repayments made with funds received from an insurance settlement as hereinafter explained. If the Lender and Borrower agree to Terms and Conditions for the completion of the Hotel Project, the repayments to the Current Loans that utilized insurance funds shall be reversed and shall be made available to the Borrower for the completion of the Hotel Project. The effect of said reversal will increase the Current Loans UPB and Accrued Interest Receivable, effect that shall be disclosed to the Borrower upon the processing of the aforementioned repayments.

**Purpose:**

To negotiate the terms and conditions under which:

- The Borrower is to complete the reconstruction of the Mortgaged Property located in Road Town, BVI into a 62 room hotel (the "Hotel Project").
- The Current Loans due to the Lender that have matured will be repaid to the Lender

If the Current Loans are restructured by the Lender under mutually agreeable terms and conditions, it is hereupon agreed that these restructurings would not be deemed as an extinctive novation, but rather as a repayment concession plan of the existing obligations of the Borrower.

**Insurance Claim Settlement:**

The Borrower filed an insurance claim of \$5,134,437.96 due to the damages sustained by the collateral properties, held in support of the Current Loans, as a result of the passing of Hurricane Irma in September 2017. Borrower acknowledges that pursuant to the loan documents signed between the parties, that insurance proceeds received for claims related to the collateral granted in support of the Current Loans can be retained by the Lender and used at its discretion.

On or about April 30, 2018, the Borrower received the final insurance claim settlement payment for the damages claim that was presented. With this final payment, and other partial payments received from January 2018 to March 2018, with regard to the insurance claim, the Borrower deposited a total of \$2,398,067.00 of insurance proceeds with the Lender which represented the total settlement accepted by the Borrower in satisfaction of the claim presented.

Of the balance of the insurance proceeds received, the sum of \$673,639.76 was used by the Lender towards the repayment of the Current Loans, to bring them current, \$1,565,926.62 was disbursed for purposes of restoring and repairing the collateral properties and \$158,500.62 remain on deposit with the Lender.

**Major Conditions:**

The Lender is willing to temporarily forego its enforcement rights under the defaulted loan documents and allow the Borrower to complete the Hotel Project currently under construction in Road Town, Tortola. Upon construction completion of the Hotel Project, the Current Loans, would be converted into a term loan under terms and conditions to be agreed upon between the Lender and the Borrower.

In this regard, within the next 15 days, Borrower will provide the Lender with a detailed cost to complete indicating the direct and indirect construction costs that are required for completion of the hotel. The detail of the costs to be provided shall be in sufficient detail to allow a third party engineer or construction consultant to be contracted by the Lender to independently verify and validate the reasonableness and completeness of said costs.

**Lender Permitting Use of Insurance Proceeds**

Upon the determination of the reasonableness and completeness of the costs to complete to the satisfaction of the Lender, the Lender shall make available up to a maximum amount of \$832,140.38 (the "Remaining Insurance Proceeds"), as follows:

- \$673,639.76 of insurance proceeds received as part of the settlement for the damages inflicted by Hurricane Irma that were used to repay the Current Loans.
- \$158,500.62 of Insurance Proceeds on deposit with the Lender

The Remaining Insurance Proceeds shall be made available to the Borrower, subject to the Borrower depositing with the Lender on or before closing, in a Lender controlled account, the difference, if any, between the validated Costs to Complete and the Remaining Insurance Proceeds (the Costs to Complete shortfall).

The reconstruction period for the Hotel Project should not exceed 1 year (the "Reconstruction Period").

The Lender shall be committed to make construction advances for the completion of the Hotel only when the Remaining Insurance proceeds and the Costs to Complete shortfall on deposit with the Lender, are sufficient to cover the agreed upon Costs to Complete, and any changes thereto as a result of any change orders. Borrower shall be permitted to re-allocate funds included in the agreed upon Costs to Complete within the uses already approved and identified therein. Such re-allocation will require to have been recommended by the Bank's field inspector and approved by the Bank, which consent shall not be unreasonably withheld or delayed.

**The Current Loans**

During the Reconstruction Period, the Current Loans shall be payable on an interest only basis, payable monthly in arrears, at a rate of interest to be determined.

**The Permanent Loan**

At the conclusion of the Reconstruction Period, the Current Loans will be converted into a permanent loan financing under terms and conditions to be negotiated, with a maturity date not to exceed 2 years from the date of conversion to permanent financing.

**Repayment:**

- Current Loans –Interest Only during the Reconstruction Period.
- Permanent Loan - 24 consecutive, equal, monthly payments (comprised of principal and interest) based on a 20-year amortization schedule with a balloon payment at maturity for all principal and interest then outstanding. The exact amount of each monthly installment of principal and interest shall be determined at the time of conversion.

**General Conditions:**

1. Execution of Judgment by Consent Agreement by all Borrowers and Guarantors. The Agreement shall contain a release clause and any other customary provision as determined by FirstBank which may be applicable for this type of transaction.
2. If Borrower fails to complete the Hotel Project by the end of the Reconstruction Period, Borrower will amicably surrender the related collateral.

**Reconstruction Period:**

1. Borrower must provide a certified Cost to Complete Budget detailing the direct and indirect costs that are required for the completion of the Hotel Project. Said Budget is to be validated by a third party engineer or construction consultant to be contracted by the Lender. The cost for validation of the Cost to Complete shall be borne by the Borrower.
2. Borrower to contribute in advance any excess of the estimated Costs to Complete over the Lender Funding. Such funds must be deposited in a Lender controlled escrow account with the Lender at Closing Date.
3. Any disbursements requests made by the Borrower must be made in the format approved by the Lender and adhere to the approved Budget establishing the costs to complete of the Hotel Project. Said disbursements shall be certified and recommended for payment by Lender's Engineer or Construction Consultant.
4. At or prior to closing, Borrower shall provide evidence that all required government permits that allow for the completion and operation of the Hotel Project have been secured.

**Permanent Period:**

1. Borrower shall engage an experienced hotel operator upon completion of the Reconstruction Period.
2. Borrower shall maintain at the Lender all required operating DDA accounts.
3. Declaration and distribution of any dividends shall be prohibited.
4. Compliance with a minimum Debt Service Coverage ratio (DSCR) to be established until maturity date, measured on a quarterly basis, calculated based on the preceding trailing 12-months period.

**Late Payment Fee:**

5.00% of each installment in arrears 15 days overdue.

**Past Due Interest & Late Charges:**

Any past due interest and late charges due as of Closing Date will be paid at maturity of the permanent facility.

**Source of Repayment:**

Required principal & interest payments will be paid from the income generated by the operations of the Hotel and Rent Income from the mortgaged properties.

**Collateral & Guaranties:**

**Existing:**

- 1st charge on leasehold property, block 2937b, parcel 90/1, Road Town registration section.
- 1st charge on leasehold property, block 2033b, parcel 120/1 and 132/1, West End registration section.
- Corporate Guaranty of Turquoise Waters Limited.
- Assignment of all existing and future lease.
- Cross collateral and cross default clause.

**Property Taxes and  
Insurance Escrows:**

Borrower shall submit on an annual basis evidence of payment of the property insurance and property taxes. Otherwise, the Lender shall have the right to increase the loan monthly payment by the monthly pro rata of such annual payments.

Loan monthly payment will include the monthly pro rata of such annual payment for insurance.

**Mandatory Prepayments:**

Mandatory prepayments as per Loan Agreement; but not limited to:

1. 100% of the net proceeds received from the sale or disposition of all or any part of the assets of the Borrower, up to 100% of the face value of the Notes plus any principal, interest and/or fees in arrears or deferred.
2. 100% of all net insurance recoveries, unless as approved by Lender, said amounts are applied or assigned to the repair or replacement of the damaged property, and shall be administered according to the terms and conditions established by the credit agreement.
3. Payment in full of all amounts owed to the Lender upon any unauthorized change of control of the Borrower.
4. 100% of all the net proceeds received as a result of condemnation proceedings against part or all of the properties of the Borrower, up to 100% of the face value of the Notes plus any principal, interest and/or fees in arrears or deferred.

**Conditions Precedent:**

Conditions precedent to closing shall include, but shall not be limited to delivery, and/or review and/or completion, satisfactory to the Lender, of the following:

- I. Satisfactory completion of the Lender formal approval process by each of the Lender Credit Committees.
- II. Duly executed assignment of lease agreements of all in-place & future tenants with rental income, in form and substance acceptable to the Lender.
- III. Delivery of updated title search for the collateral property, acceptable to the Lender.

- IV. Borrower to open the following restricted reserve accounts with the Agent:
  - Taxes and Insurance
  - FF&E replacement reserve
- V. On or before closing, Borrower shall provide an Operating Cash Budget with full break-down of revenue inflows and expense outflows for Years 2020, 2021 and 2022 and, thereafter annually, on or before December 31<sup>st</sup> for the three consecutive ensuing years.
- VI. Delivery of Property Insurance, General Liability Insurance, and Flood Insurance, if applicable, endorsed to the Lender, and including the payment certification, with coverage and terms acceptable to the Lender.
- VII. Borrower shall continue depositing 100% of its revenues in a depository account with the Lender. The Lender will debit principal installments and interests payments, escrows, late charges, compensations, and fees through direct debits to such account on a first priority of payment basis. In the event of default, the Lender shall have the right to restrict the accounts for the repayment of the loans.
- VIII. No material adverse change on Borrower's business, operations, properties, and debt servicing capacity.
- IX. All reasonable fees and expenses of the Lender (including, without limitation, the fees and expenses of counsel to, and financial advisors of, the Lender shall have been paid in full by the Borrower.
- X. Any and all accounts required to be established pursuant to this loan restructure shall be maintained with the Lender.

**Documentation:**

The amendment to the Credit Agreement and Judgment by Consent shall include, but not be limited to, the ratification of the existing terms and conditions and shall be prepared by Lender's legal counsel. Any documentation that needs to be executed before a notary public shall be executed before a Notary Public selected by the Lender. All reasonable fees and expenses incurred by the Lender in connection with the drafting, negotiation and execution of the Agreement and other related documents, including without limitation any mortgages, shall be paid by the Borrower. The Agreement shall contain those additional covenants, terms, conditions and other provisions, including without limitation, a release clause in favor of the Lender, as the Lender may determine and any other requirement for this type of transaction, including the following:

- i. Delivery of Borrower's Financial Statements no later than 120 days after each fiscal year end. Fiscal year-end financial statements for the Borrower shall be audited by a Certified Public Accountant, acceptable to the Lender.
- ii. The Borrower's financial statements shall include an all-inclusive list of securities owned, checking and savings accounts, investment accounts and their balances (including the account number and address), location, and estimated values, liabilities and guarantees.
- iii. Within 30 days after the end of each quarter, the Borrower shall provide unaudited financial information regarding the Borrower consisting of consolidated financial statements as of the end of such month and related statements of income and cash flows of the Borrower and for such period, all prepared in conformity with GAAP, certified by a responsible officer of the Borrower as fairly presenting the consolidated financial condition of the Borrower as at the dates indicated and the results of their operations and cash flow for the periods indicated in accordance with GAAP.
- vi. In the case of an Event of Default which remains uncured following the appropriate Notice and Cure provisions, all tenants shall be notified by the Lender and the Borrower of the assignment of the leases and subleases with instructions to issue rental payment to the order of FirstBank and the Borrower, and to mail it directly to the Lender address (if required by the Lender). Any existing, modified or future lease or sublease contract(s) must be promptly assigned and notified as well. At the Lender's sole discretion, certain tenants may be exempted from this requirement. The Lender will notify Borrower in writing which tenants will be exempted. The Lender has the sole prerogative of changing the list of exempted tenants at any time. The Borrower shall keep the Lender informed of any default under the leases and subleases.
- vii. Evidence of renewal and payment of insurance policy premium over the properties supporting the loan.
- viii. No additional indebtedness of the Borrower, without prior Lender written consent.
- ix. Limitations on loans, advances, and guarantees to stockholders, officers, employees and other.
- x. No dividend payments or any other distribution to Borrower's members, without prior written consent of the Lender.

- xi. No change of control or ownership of the Borrower without the prior written consent of the Lender. Change of ownership interest among the existing members shall be allowed.
- xii. Limitation on reorganization, merger or sale of assets of the Borrower without the prior written consent of the Lender.
- xiii. Prior to the end of each fiscal year period, the Borrower shall submit to the Lender an updated Operating Cash Budget with full break-down of revenue inflows and expense outflows (month-by-month projections) for the next fiscal year.
- xiv. In the event of payment delinquency, the Borrower shall submit, at the Lender's request, a Management Plan and updated Operating Cash Budget to evidence the operating and financial viability for debt service, acceptable to the Tenant.

**Event of Default:**

Events of Default shall include without limitation, the following (subject to standard Notice and Cure provisions):

- i. Failure to pay principal, interest, or fees as per the terms of the restructured Loan Agreement.
- ii. Failure to comply with covenants.
- iii. Failure to comply with the Terms and Conditions of the Forbearance Agreement
- iv. Material inaccuracy of representations or warranties.
- v. Insolvency, bankruptcy, judgments, embargos, and liens.
- vi. Material adverse changes in the financial condition of the properties serving as collateral for the loan.
- vii. Borrower's incurrence of additional indebtedness, except for Permitted Debt (as to be defined), without the Lender written consent to do so.
- viii. Borrower's payment of dividend or distribution to its members without the Lender written consent to do so.

**Default Rate:**

Upon the occurrence of an Event of Default, interest on the principal balance owed at such time will accrue interest at a rate equal to 4.00% over and above the loan applicable rate at the moment of default and shall remain as such until the default is fully cured. The default rate shall be implemented retroactively to the date the default is incurred.

**Assignments & Participations:**

The Lender may assign all or a portion of its loan and commitment under the Agreement, or sell participations therein to another financial entity or persons.



**Legal Counsel:**

All documents shall be prepared by the Lender's Legal Counsel. All reasonable expenses related to the legal due diligence and documents shall be paid by the Borrower at the time of the execution of the documents in addition to all out-pocket expenses.

The Lender reserve the right to request any legal documents to maintain or protect their collateral.

**Expenses:**

In addition to any fees payable to the Lender under the Agreement, the Borrower shall reimburse the Lender promptly, upon its request, for any reasonable out of pocket expenses incurred in connection to the proposed transaction including, without limitation, legal fees, recording expenses, and applicable expenses to protect the mortgaged properties such as insurance, taxes and/or maintenance.

**Governing Law:**

The laws of the British Virgin Island.

**Confidentiality:**

This Indicative Term Sheet and its content are strictly confidential and neither its existence nor its contents shall be disclosed to any third party without the express written consent of the Lender.

**Expiration Date:**

May 17, 2019

Closing of the transaction and execution of all Loan Documents by the Borrower on or before June 15, 2019, or as otherwise agreed by the parties (the "Closing Date").

This summary term sheet is a preliminary draft provided to you for discussion purposes only. It is not a legal commitment or neither a letter of intent or offer from the Lender to provide financing or concessions to the Borrower, or to amend any of the terms and conditions of the existing Loan Agreement and other Loan Documents. All terms and conditions under the existing Loan Agreement and other Loan Documents remain in effect and full force. The Lender reserve the right at its sole discretion to change, delete, and modify the terms and conditions contained in this summary term sheet draft, as well as to add any new or additional conditions at its sole discretion.

Please acknowledge receipt and acceptance of the above terms and conditions by signing this letter and returning sending it through by email at [carlos.navarro@firstbankpr.com](mailto:carlos.navarro@firstbankpr.com).

Cordially,



Carlos R. Navarro, SVP  
FirstBank Puerto Rico

Acknowledged and Accepted by:

\_\_\_\_\_  
Mr. Betteto Frett  
Turquoise Water Limited  
Date: \_\_\_\_\_

\_\_\_\_\_  
Mr. Betteto Frett

Date: \_\_\_\_\_